India's Federal Democracy as a Model for the European Union

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Working Paper

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Executive summary

Europe today is facing problems of a magnitude not seen in 70 years: an ongoing debt crisis and ensuing economic disaster in the south, a large influx of refugees from an imploding Middle East, and renewed military aggression originating from an increasingly autocratic Russia. Considering the current state of affairs, it is to us more obvious than ever before that the nations that make up Europe need to cooperate to effectively address their shared problems in a true Union of European Nations. Radical and alienating as it may seem to some, a political union that spans the continent is the obvious and only way to solve our common problems.

India has preceded us by forming a political Union out of a large and diverse range of peoples with a common history. Their history has many valuable lessons for Europe, and the Indian example can in many cases improve the European Union. We propose to:

1. **Draft, approve and ratify a democratically formed European Constitution.**
    - A directly elected Constituent Assembly should draft a Constitution in public.
    - The European Peoples should ratify it.
    - It should be revised until it is acceptable to the European Peoples.
2. **Form a real EU government based on the parliamentary system.**
    - The head of government should be chosen from and elected by the parliament.
    - The government should produce and enact a legislative programme.
    - The parliament approves and dismisses members of the government both together and individually.
3. **Introduce a powerful bicameral Parliament through the creation of a Second Chamber.**
    - The second chamber (the Senate) will add a further layer of scrutiny.
    - This chamber should be elected by national parliaments, giving nations a clear voice in federal politics.
    - The second chamber should be less powerful than the first (the Assembly).
    - The European Parliament should be redeployed as the first chamber, but should be given real power to hold the EU government accountable.
4. **Introduce an Intergovernmental Council to allow national governments to consult the Union government.**
    - The Council of the EU should be redeployed to this role, stripped of its present legislative role in favour of a consultative role.
5. **Introduce a Supreme Court and a series of Federal Courts to enforce Union law.**
    - The Supreme Court should protect the European Constitution.
    - The Federal Courts should review Union and some National legislation, and uphold the Subsidiarity Principle.
    - The CJEU should be redeployed to this role.

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1. Introduction and scope

The future of the European Project is Federalism.

The European Union accounts for more than 508 million citizens, 28 Member-states, and accordingly needs a legitimised powerful central government to best represent the interests of its citizens in all policy areas, especially in crucial geopolitical and economic matters. Recent events as the Financial / Economic, Ukraine and Refugee Crises have unveiled the disadvantages of a lack of a central Union government.

By carrying out the Federalism Project, the ALDE party seeks to systematically collect knowledge for the forming of its policy towards a liberal, democratic and more efficient federal Union.

Participating in these common efforts, our Working Group (WG) has attempted to identify what we considered to be the most important features of the Indian federal model, which could be successfully applied to the European Union.

The following approach was chosen:

- The main institutions of India and the EU were identified.
- The main characteristics were analysed and compared.
- Functionalities and authorities of the institutions were assessed.
- Proposals for the EU were formed.

We have appreciated that the legitimacy of the current decision-making procedure is a weak point of the EU, and have taken this aspect into account for our proposals.

Further, we appreciate that the context for Europe's evolution into a federation is very different from the Indian case: There is an institutional difference between a federal state and a federal *union* of states. Further, almost all EU countries are characterised by significant differences in culture and mentalities. This has been taken into account in our proposals.

Additionally, in forming proposals we tried to take into account current geopolitical and economic factors, such as the mentioned crises, and trade balance surpluses and deficits in different sectors of the economy. We appreciated these important factors when forming a strategic approach for the power allocation within the European institutions, including the institutions of the Member-States (MS).

As the proposals are not only theoretical but attempt to form the policy, we identified that practicability issues were as important as theoretically perfectly sound proposals for systems of government. "Practicability" should be interpreted in the following two dimensions:

- The implementation costs would exceed its potential benefits.
- The implementation would not be realistic for political reasons (the MS would never agree to go on with them).

Thus, if a feature of the Indian federal model appeared to be a very good idea, however we believed it to be impracticable, we did not proceed to propose it.

However, this does not mean that a strong federation can be created without any substantial changes. These changes may mean dealing with strong resistance in giving up and transferring authorities from the MS to a central federal government. Therefore, we have included proposals which would be very difficult to implement, but we believe are necessary for the evolution of the European Union into a strong federation. In this way, balancing the tenets of federalism with the reality of modern Europe, we hope our findings and proposals will be used not in the context of a homogeneous 'United States of Europe', but a diverse, decentralised, and tolerant 'Union of European Nations'.

We have not considered that the following are within the scope our project:

- To make a full comparison of the legal aspects of transition.
- To provide details of the administration of the individual member states.
- To provide details of the Indian administration (in all levels of federal government).
- To take into account possible legal conflicts which arise from the provisions of the constitutions of the individual MS or conflicts which arise from current European legislation.

The mentioned comparisons between the EU and India were documented using a developed tool, which includes references to the legal or other basis for the stated features. The results of the tool application have been included in the appendices.

2. Brief history of development of the EU's multi-level governance system and the Subsidiarity Principle

The European Project by necessity has led to the development a system of government which relies on multiple layers of authority; this has come from the fact that it aims to create a political union of European nation-states, each with their own established forms of government and democratic legitimacy. In this way, it follows the principles of federalism, first pioneered by the United States in 1789, and later adopted by various countries such as Switzerland, Germany and more recently, India.

Beginnings of federalism, 1951: The European Coal & Steel Community

The EU's form of multilevel governance was first established in the founding treaty of the European Project; the Treaty of Paris, 1951, which created the European Coal & Steel Community. Key signs of federalism were present, most importantly the supranational High Authority; an authority which existed above the nation-states that became members of the Community (Belgium, Luxembourg, the Netherlands, France, West Germany and Italy), and took certain decisions on all their behalves. Like in a federal model, the High Authority was assigned competences which it alone could exercise on behalf of the entire union, leaving other competences to the member-state governments. In this case, the High Authority had a very narrow set of competences, specifically designed to regulate the new Coal and Steel market created out of the former six individual national markets. While there was little democratic underpinning of this new authority, its role being restricted to market regulation meant that this was considered unnecessary.
There were three checks on the Authority to ensure accountability: The Council of Ministers, attended in the main by national economic and/or industry ministers, had tight control over the budget of the Authority and limited control over the Authority's actions; its approval was necessary for a range of issues, which often required national government participation. The Council could block the actions of the High Authority, though it could not amend them. The Common Assembly, formed of national parliamentarians from the member-states, had no legislative powers as the Council did, however it could demand written and oral replies from the Authority, as well as the power of censure over its annual report. In the case of a 2/3 majority in favour of censure, the Authority was obliged to resign. Finally, the Court of Justice was established to adjudicate on the actions of the High Authority, and declare those it determined illegal void. Jean Monnet consistently refers to these institutions as federal ones in his memoirs.

The European Defence and Political Communities, 1952-1954: two communities too far

With the outbreak of the Cold War and the US intention to rearm the newly formed West Germany, a proposal was put forward to form the European Defence Community (EDC), the treaty for which was signed in 1952. First proposed by French Prime Minister René Pleven, the final proposal would see 40 divisions placed under a European command; these soldiers would wear the same uniform, and the command, comprising of a 9-member Commissariat (differing from the originally proposed European Defence Minister) would be kept in check by a council of ministers as with the ECSC's High Authority. The Commissariat would set up its own institutions, have a budget with which to manage the European divisions' military procurement, ensuring it had its own arms. Finally, a European Assembly was also provided for in the Treaty, which would begin drafting a plan for a European political authority; under Article 38 there were provisions also for creating a democratic source of control over this new European military, the basis for a European Political Community (EPC) which was intended to follow later.

The plan stalled however with the Treaty's rejection by the French National Assembly in 1954; there were several factors involved in this including concerns over German rearmament, the absence of the British in the plan and among Communist deputies, the idea of France being tied to the capitalist USA. However, a major sticking point across the political spectrum was the idea that French national sovereignty was being subsumed to a European authority, and that the indivisibility of the French Republic was being put into question. The EDC was simply a step too far towards a truly federal European authority, a fact which was clear to any who had read the Treaty and its sections on the role of the proposed Common Assembly, whose key task was to construct a democratic government to control the European Military. The proposal put forward by the ad hoc Constitutional Committee of the ECSC's Assembly in 1953 for a European Political Community had clear federal ambitions (the Draft Treaty embodying the Statute of the European Community). Overtly federalist ideas simply were not acceptable even in the early days of the European Project, before any sense of 'euroscepticism' arose. If Europe was to move towards a united and integrated federal entity, it would have to be gradual and unnoticeable to those involved.

The European Economic Community, 1957-1986: integration before federation

The High Authority was effectively transformed into the European Commission in 1957 with the Treaties of Rome, which created the European Economic Community and the Common Market, as well as Euratom to investigate and research nuclear power and other modern technology. In these treaties, the Commission was given the back seat role of proposing legislation but being unable to bring it into force without the consent of the Council, now with the ability to amend proposals. The Council now acted as the centre of power in the process of European law-making. Nevertheless, due to the wider nature of the Rome Treaties, and the specifically defined role of the Commission, it gained significant powers as the Common Market's regulator and main authority.

The European Court of Justice (ECJ) became effectively the Supreme Court of the Community, having the final say on all adjudications on European Law and rulings involving the treaty (known as the *acquis communautaire*), and the ability to rule on national legislation which impacted the Common Market. The Assembly, later to become the European Parliament, whilst at the time not directly elected, was the first and only democratic body involved in the Community's law-making process. Its powers were incredibly weak at the time, could not propose or influence bills or the budget and would struggle to force the Commission's resignation. However together, and alongside the Council acting as the centre of the decision-making process, these supranational bodies formed the effective federal level of a European political entity. While its competences were small at the time, and most integration was undertaken by the member-state governments, these bodies would become the basis for a federal government. A clear sign of this is the Common Agricultural Policy – a

policy managed by the supranational institutions on behalf of the entire union. Furthermore, the Treaties set up the European Social Fund and the European Investment Bank, to ensure Community funds and investment went to where support was needed for integration.
With the direct elections of the European Parliament in 1979 following the European Elections Act 1976, there were moves to increase further the powers of this federal entity considering the newfound legitimacy provided by the Parliament's mandate. They first came in the form of the draft treaty pioneered by Altiero Spinelli, one of the authors of the Ventotene Manifesto. He aimed to use the new democratic legitimacy of the Parliament to overhaul the European Community along more democratic and overtly federalist lines. This met severe resistance among the member states' governments however, and though his proposal (Draft Treaty establishing the European Union) was passed by the parliament, it was rejected by the member-states, the second time overtly federalist proposals were rejected in the history of the European Project. With its rejection, in 1986 the draft treaty was followed up by the Single European Act (SEA), after several resolutions were passed by national parliaments in favour of Spinelli's draft treaty (similar to how American states call for a Convention to amend the constitution), as well as an intervention by French President François Mitterrand. The SEA was different from Spinelli's proposal, instead stipulating that the legal differences and variations in the member-states were another barrier to trade and therefore there should be a single set of laws which govern the 'Single Market' of the Community (now numbering 12 members) to further facilitate free trade across the Community. Whilst economic integration was prioritised over a push towards true federal principles, the SEA was the legal basis for the legislation which came out of the Brussels institutions for the next 30 years. It was now necessary for the Community to have the powers to legislate on a much wider variety of policy areas to ensure a truly single market across the entire Community, allowing the easy establishment of enterprise across Western Europe. Again the ECJ was given the powers to adjudicate on the laws to be written, and they would be developed by the Commission in conjunction with the Council and Parliament, which could now delay proposed legislation. With the SEA however, significant areas of legislation had been transferred from national parliaments to the unelected Commission and the national governments.

European Union, 1992-2016: the long road to a federal Europe

With the Maastricht Treaty (1992) and its successors Amsterdam (1997), Nice (2001) and Lisbon (2007), the federal level of the Community's government obtained powers which went beyond market regulation. In Maastricht was the decision to create a single currency for the Community, as well as a single monetary policy to be governed by a new supranational institution, the European Central Bank (ECB). Furthermore, the Stability & Growth Pact committed member-states to fiscal tightness and limited government spending, to be monitored by the Commission. Two new areas of policy outside the market were also formed which were to be harmonised and given a European voice; Justice and Home Affairs (JHA) and the Common Foreign and Security Policy (CFSP). Finally, Maastricht provided the now European Union with the concept of European citizenship; though deriving from national citizenship, it guaranteed a series of Union-wide political rights including in voting, and rights regarding the freedom of movement. Amsterdam included the Schengen Convention into the EU *acquis*, as well as creating the new office of High Representative for Foreign Affairs to support further harmonisation of Union foreign policy. The extension of the co-decision procedure greatly expanded the powers of the Parliament and meant that it was given equal footing with the Council in several policy areas. The Union proclaimed the Charter of Fundamental Rights around the time of the Nice Treaty (2001), however its reach was reinforced by its inclusion in the Lisbon Treaty. The Charter essentially took the European Convention on Human Rights and enshrined it in European Law, resulting in required adherence by member-states (excluding the British and Polish opt-outs). Nice also reformed the rules of voting in the Council so that several policy areas which were once voted on unanimously were now placed under the rules of Qualified Majority Voting, taking the Union in the direction of German federalism with its institution of the Bundesrat. All these treaties increased the powers of the Parliament and its ability to influence and affect European law-

making. Finally, in response to the failed Treaty Establishing a Constitution for Europe, the first democratic attempt to create a European Constitution to replace the Treaties and add democratic legitimacy to the Union, the Lisbon Treaty instead clarified the changes which had taken place in the powers and processes of the European Union since the SEA. It acts as the de facto constitution for Europe, despite not being written democratically.
Among federal principles, the Lisbon Treaty outlined to a degree the lists and rules for legislating in the EU, as well as the rule that the EU could not legislate in areas which member-states had already legislated on, and had sole competence to legislate in areas where it had already legislated on. Federal-type institutions like Frontex (established 2004) and Europol (established 1998) have been set up since Maastricht, with Europe-wide authority. Lisbon also introduced the double majority voting system, giving each member-state one vote in the Council but also giving weight to their populations; 55% of the states, and 65% of the Union's population are required for a winning majority. This accompanied the Subsidiarity Principle introduced in the Maastricht Treaty, in response to the growing powers of European institutions which still rested on the Council as a diplomatic body, and the Commission as a heavily bureaucratic body. The Principle states that law-making in the EU should take place as close as possible to the citizen, and tried to ensure that the federal level did not overstep its competences; the Committee of the Regions was given the exclusive power to approach the European Court of Justice to invoke this principle and have the offending legislation reviewed by the Court. Lisbon also introduced the yellow and orange card system; means by which national parliaments can raise their concerns over legislation at the Union level, and demand explanations and changes to any proposed bill; National parliaments have the right to review EU legislation since the Nice Treaty. All of these safeguards were introduced in response to the growing competences of the federal level of the EU; despite this however, there is still significant tension between national governments and the Union de facto government, and a feeling among the European peoples' that the Union is distant, unresponsive and disconnected from the reality in many local and regional communities.
The tension in the Union can be explained by the fact that the EU style of multilevel government still differs significantly from a federal state. Certainly the Union's development is in contrast to a federal state, in which the integration process is not taken in a series of steps, but decided and defined in a single event – often in a constitution-forming process. Here is the first key difference then; the Union lacks a democratically conceived constitution, and all changes to the functioning of the Union have been made by national governments with little citizen involvement. Constitutions underpin all democratic states, as they are the collective will of the people writing the rules for their own government. Without this, the functioning of the Union is opaque and distant from the citizens, which is a problem for democracy. Secondly, there are no clear lists of competences which determine where the Union government can legislate and where the national governments can legislate. Without this, it is often unclear and difficult to determine where the Union has over-stepped its powers and thus where it can be legally challenged. This results in the Subsidiarity Principle lacking significant legal force to make it relevant in the process, the Union over-legislating in some areas and a distancing from the federal principle of there being a clear division of competences. The Subsidiarity Principle also suffers due to the fact the Committee of the Regions is the only body which can invoke it, and also that it is poorly defined in legal terms. Thirdly, the Union lacks significant funding and finance abilities for it to act independently of the member-states; a required attribute of any federal structure. This makes it difficult to track spending and the flows of finance from the citizen to the Union government, and undermines its ability to act on its own initiative. Finally, and connected to this, is the fact that member-state governments still play far too active a role in the Union law-making process, which has a series of knock on effects which divides the Union and makes it slow to act and timid in geopolitical terms. We can see this when looking at the Union's response to the Refugee Crisis, that the EU has an incredibly small budget for its size, that legislation can take incredibly long times to pass, the fact that the Union has no real common foreign and defence policy, that certain taxes have not been harmonised etc. With much of the power still in the hands of member-state governments where there could be a more effective federal voice, decisions are still taken from the national perspective and not a European one.

Furthermore, it could also contribute to the sense of separation that most European peoples' feel with regards to each other; a common demos has not been forged despite over 60 years of integration.
The institutional element of this problem is the European Council and the Council of the EU - an institution first created in 1951 in the Paris Treaty. It is here where much of the Union's decision-making power is concentrated, making the Union more of a confederation than a federation. This is the key difference between the Council and the aforementioned German Bundesrat; by contrast, the Bundesrat has far more limited powers than the Council, with the locus of legislative power in Germany being the lower house, or Bundestag. This semi-federalism was supposed by the functionalist school of thought to give a drive in the European Project towards full federal Union. However, time and again the Union has resisted full-federalist principles in favour of maintaining member-state prerogatives, for fear of a 'United States of Europe' super-state. This paper hopes to address these issues and fears, embodied together in the counter idea of the 'Union of European Nations.

3. Introduction to India's federal model

3.1. Constitution

India's Constitution was adopted in 1949 and is the supreme law of the Republic of India; it governs the fundamental principles (including federalism), procedures, institutions and powers of the Indian government. A key feature of the Constitution is that it holds supremacy rather than the Indian Parliament, and therefore cannot be overridden by the Parliament (in contrast to Great Britain for example, where parliament is sovereign). This is a result of the fact India's Constitution was drafted and adopted exclusively by a Constituent Assembly, elected in 1946 and made up of 292 representatives of the Indian states, 4 of the British Chief Commissioner provinces, and 93 representing the Princely States of India. The Assembly met for the first time in December 1946. Problems began when the Assembly's 72 Muslim League members demanded a separate Assembly for India's Muslim population; this led to widespread violence between India's Hindu and Muslim populations, and the British government abandoning attempts at a peaceful transition, instead passing the Indian Independence Act 1947, bringing Indian Independence forward to 1947 and creating the separate states of India and Pakistan. The Constituent Assembly thus became the sovereign body of India and assumed the authority previously held by the British Parliament – the members representing areas now part of Pakistan ceased to be members of the Assembly, which now reorganised itself and convened in December 1947 to begin drafting the Indian Constitution. As India's sovereign body, it adopted this Constitution in November 1949, coming into effect in January 1950; there never was a referendum on the Indian Constitution. The Assembly then became the first Parliament of India. The Assembly was not entirely directly elected, and the part which was, was not elected on the basis of Universal Adult Suffrage. Only nine representatives were women, and special representation was given to Muslims and Sikhs as minorities. It met in public for 166 days, spread over almost 3 years; the Constitution was hand-written in both Hindi and English. The Union (later Republic of India) was created thus with 29 states, 7 union territories, 2 official languages, 22 regional languages with official status, and 6 major religions.

3.2. President

The President of India is the Head of the executive power, as stated in article 53 of the Constitution of India. It is further specified, that this power will be exercised by him/her directly or by subordinates to him on his authority in accordance with the Constitution.

However, in effect the executive power is mainly carried out by the Council of Ministers (see subsection 3.3.). This is a body appointed by the President according to the composition of the parliament and then on the advice of the Prime Minister – presidential actions are often taken on advice of this body.

Further the President holds the supreme command of the defence forces of India, as specified in the same article (article 53) of the Constitution of India.

The term of the President's office is 5 years (article 56 of the Constitution of India). According to article 54 of the Constitution of India, the election of the President is done by the Electoral College, consisting of elected members of the Upper House, elected members of the Lower House and elected members of the Legislative Assemblies of the States. In order to account for the correct representation of the population in this indirect voting procedure, the votes of the Electoral College Members are weighted according to India's population.

Even though through the correct representation of the population is accounted for in theory by the weighting method described above, there are (in the case of some States severe) distortions in the people's representation, as the census of 1971 is applicable until 2026 (article 55 of the Constitution of India). Thus, an important legitimacy issue is created by the non-correct representation of the population in the voting procedure of the President.

3.3. Council of Ministers

The executive power of the government of the Indian Union is mainly focussed in the body known as the Council of Ministers, similar to the British HM Government, as laid out in Part V, Chapter I, articles 74-78 of the Constitution of India. It is from this body that the legislative programmes of governments are set out and developed; whilst all decisions are carried out in the name of the President, who must be informed on all government business, the decisions are taken by the Council, and often a smaller executive body known as the Union Cabinet (Similar to the Cabinet of the UK or the French Council of Ministers). The Council is led by the Prime Minister. In the Constitution of India, it states that the Council and Prime Minister shall "advise the President who shall, in the exercise of his functions, act in accordance with such advice". It is the President who appoints the Prime Minister however (similar to the British Monarch), who then advises on appointment of the other Ministers; they collectively however are responsible to the Lok Sabha, the Lower House of the Indian Parliament. The Council cannot exceed 15% of the members of the Lok Sabha, so that they do not hold excessive influence over whether the House approves or rejects bills. Ministers (including the Prime Minister) who wish to hold office for more than 6 months must be a member of one of the two houses of Parliament. There are no fixed terms on the composition of this body – it is stated instead that Ministers hold office at the pleasure of the President.

3.4. Parliament

India's Centre has a bi-cameral parliament: the upper house, representing the States of India, is called the Rajya Sabha and the lower house, representing the people of India, is called the Lok Sabha.

The Indian constitution distinguishes three areas ("Lists") for making laws: The Union List, State List, and Concurrent (= joint) List. The Indian Parliament has the exclusive right to make laws on topics on the Union List, while the right to make laws on topics from the Concurrent List is shared with State legislatures. For the Concurrent List, Parliament-sponsored laws trump State-sponsored laws. Topics on the State List are the domain of the States, unless there is a 2/3 majority in the upper house to mandate the Indian Parliament to overrule a State.

The Union List mandates the Indian Parliament to make laws on foreign affairs, defence, armed forces, weapons, atomic energy, intelligence, federal police, citizenship & immigration, interstate trade, transport & communication, the central bank, crucial economic matters, higher education, and certain taxes.

The lower house is in general more powerful than the upper house:

- The lower house consists of 545 members, while the upper house has only 245 members. If the two houses cannot agree on an Ordinary Bill, a joint session is held where every Member of Parliament has one vote, meaning that the lower house can out-vote the upper house by approximately two to one.

- The upper house cannot dismiss the government or individual ministers. The lower house does have that power: it can pass a Motion of no confidence in the Union government, after which the PM and the entire Council of ministers have to resign.

- The lower house can originate Money Bills (laws dealing with taxation and spending), while the upper house cannot: it can merely advise on those Bills. The lower house does not have to accept proposed amendments to Money Bills by the upper house.

Decision making in both the upper and the lower house is, in most cases, by majority of the votes cast.

Representatives in the lower house are directly elected through a district system, where a district is represented by one person: the “first past the post”. 84 seats are reserved for representatives of Scheduled Castes (= historically disadvantaged castes) and 47 for Scheduled Tribes (= historically disadvantaged peoples), proportional to the size of these groups. 2 seats are reserved for the Anglo-Indian community and these representatives are appointed by the President of India if he/she thinks that the community is underrepresented in the House.

The representatives in the upper house are sent by the parliaments of the States of India, and are thus indirectly elected. More populous states send more representatives, so that the number of people per representative is the same across the nation. 12 seats in the upper house are reserved for people from science, culture, art, and history, and they are not elected by the States’ Legislative Assemblies but instead are appointed by the President of India.

Members of the lower house serve for five years, while the members of the upper house serve for six years. A third of the latter’s members retire every second year. The President of India has the power to dissolve the lower house before its five years have passed. The President does not have a similar power over the upper house.

3.5. States

The Indian States are described in Part VI of the Constitution of India, including their institutions, representation at the Union level and the rules which they are to operate by. Indian states are governed by Governors which are chosen by the President of India, at the pleasure of the President; thus there are no fixed terms for the office of Governor. The Governor cannot be a member of the state legislature. Most executive power however is concentrated in the hands of the Council of Ministers and Chief Minister, who are chosen from the legislature; the Councils of the States operate along the same rules as at the Union level. The legislatures in Indian states are in some cases unicameral and others bicameral, the lower (or single house) known as the Legislative Assembly, the upper house known as the Legislative Council. The rules under which the legislatures of all Indian states must operate are stipulated in Part VI, Chapter III of the Constitution of India (including numbers of members, voting procedures and term-lengths). Every Indian state has a High Court as the highest court in that state, which must abide by the rulings of the Supreme Court of India and whose judges are officially

appointed by the President as under the rules of the Supreme Court of India. Any citizen of India take part in the election of the state's government and legislature in which they reside (with certain rules on the election of Legislative Councils in the states which have them). In this way, all the states operate under the same rules, have developed at the same time with similar and connected traditions, and have little divergence in terms of political culture. These states were founded by the constitution, not pre-existing it as in the European context.

3.6. Supreme Court and Judiciary

The Indian Supreme Court underpins the entire Justice System of India and has the final word on all questions of Indian law. Its provisions are laid out in Part V. Chapter IV of the Constitution of India; here all the rules under which the Union Judiciary must operate are explained. The Indian Supreme Court is the final court of appeal in the Indian Judicial system; it is also an original (meaning cases can originate from here) and an advisory court (the court provides advice and reviews constitutional issues). The Supreme Court thus adjudicates on matters of dispute between 2 or more governments in India (the Union government and the State governments), and it can also be appealed to from the High Courts of the States of India. The Court is also charged as the protector of fundamental rights in India, and reviews and advises on constitutional issues on request of the President of India; it also has the power to choose issues independently it wishes to review. The judgements of the Supreme Court are binding on all courts in the Indian Union. Currently there are 30 judges making up the Supreme Court, as well as the Chief Justice of India. Judges are appointed to the Supreme Court by the President of India on the recommendation of a body known as the Collegium; a closed group formed of the Chief Justice, 4 senior judges of the Supreme Court and the senior most judge of the High Court from which the appointment will come. The Union Council of Ministers has the right however to reject a recommendation. The Collegium has a set of eligibility criteria for appointments and is supported by a secretariat to help it sift through suggestions. The removal of judges on the Supreme Court is a difficult process, requiring either house of the Indian Parliament to voice its desire to remove a judge, which must then be passed by a two-thirds majority in both houses. To voice its desire, either the Lok Sabha must have 100 of its members sign a notice expressing this, or 50 members of the Rajya Sabha.

4. Which experiences from India can be useful and applied for the EU

4.1. Constitution

India's Constitution, as with all democratic states, acts as the legal basis of the Indian government, legitimising its actions and institutions and providing clear direction in the government of the state. The Constitution was drafted and approved by reasonably democratic methods, and was a publically transparent process so that many could be involved. The Constitution also ensures there is a legal basis for the actions of the government, and can be used to determine whether the government is acting legally and in the spirit and interests of the nation.

As we also intend the European Union to be a democratic state, we propose that the Union also elects a Constituent Assembly to hold a Constitutional Convention, where at a European Constitution should be drafted, debated, amended and then approved for ratification by the people. We believe this constitution should have several elements drawing from the Indian example, such as Policy lists, processes of government including parliamentary voting and elections, the powers of the institutions of government, the rights of citizens of the Union, and principles such as most crucially, federalism. We also propose that like the Indian model, the Union should have constitutional rather than parliamentary sovereignty, thus the European

Parliament should not be able to overturn parts or all of the Constitution, except with a large supermajority. The European Court of Justice as the Union's proposed Supreme Court should act as the Constitution's guardian and rule on where legislation is unconstitutional. The Constituent Assembly should be elected and should debate in public, as with the Indian example. Furthermore, national governments should not have a say over, and should not be able to amend the Constitution as they did during the Laeken process 2002-2004. More detailed elements of our proposed Constitution with be mentioned in the following sections.

4.2. President

In India the President is not elected directly by the voters but by an Electoral College.

It is proposed that the President of the EU is also not elected directly by the voters, i.e. the citizens of the EU.

4.3. Commission and Executive Power

India's central government is effective and powerful enough to act because of its strong decision-making body, the Council of Ministers, headed by a Prime Minister. It is here that executive power is concentrated, leadership is provided and the government's legislative programme is drafted.

For the European Union to have a strong and effective government, an executive arm of the proposed Union government must be created with the role of leadership and directing that government and its legislation. For this we propose along the lines of many European states and the Indian example a council-style government to compliment the parliamentary system, headed by an executive collegiate body known as a cabinet. We have chosen this system to reflect the wide diversity of opinion in Europe, which is best represented in a parliament of several parties; this reflects the established parliamentary tradition of European states as well as India. The council of ministers and cabinet are invested with power by and responsible to the Parliament. It is in this council of ministers that executive power shall be concentrated, and it shall operate in a collegiate manner. For this to be put into action, we propose the following changes to the current institution of the European Commission:

- The Commission's role as executive in the EU system must be converted into a fully-fledged European government, with ministerial offices, clear political mandates, directly linked to and placed under the direct control of the parliament.

- The Commission President must be given the equivalent role of Prime Minister – comparison with the Indian example suggests this would mean the Commission President would have to command a majority in the Lower House, be chosen from the Lower House, be able to choose their fellow Commissioners (ministers) and direct the legislative programme of his/her 'government'. A government that has to command a majority in the Lower House will more often have to carve out compromises with other parties than a presidential government, and hence promote sharing of power between a wider range of groups. Given the diversity in the EU, we consider this a good thing. Whilst the exact powers may differ from the Indian example, following it, and by extension the model chosen by most European governments (parliamentary style government) seems the most acceptable to the European peoples. We propose the Lower House of Parliament should elect the Commission President after general elections; each party will put up a Spitzenkandidat(in) as is the case now, however they will then have to go before the chamber to be invested with the power to propose a government. After the Commission President has proposed the College, that College must then be approved by the Parliament.

- The College of Commissioners must be transformed into a Cabinet, or Council of Ministers (drawing from the Indian example). This means they must be drawn from the

Parliament, chosen by the Commission President (as Prime Minister) and have a political, legislative programme which they campaign on during elections. This would make the College into a more responsive, democratic and coherent body which acts like a government rather than an opaque bureaucracy. Whilst it may be possible to appoint Commissioners from outside the Parliament in certain cases, under normal circumstances we propose that they be elected members drawn from the Parliament. If not, then they must obtain a seat in the Parliament after a specified time-period, as in India. Legislative decisions and proposals of the College must be approved by both chambers of the European Parliament, and must be amendable and rejectable; the College must be responsible to the Lower House. The College must be removable in full or in part by the Lower House through motions of no confidence, and challengeable in motions of censure. The Lower House must have the power to accept or reject the College as proposed by the Commission President. The College must not exceed in numbers a certain percentage of the Lower House (Indian example, 15%), in order to ensure they do not have sufficient influence in either chamber to determine the course of votes on bills. The process of establishing a College of Commissioners will be that the Commission President will appoint the College, which must then be approved of by the Lower House.

Martin Schulz, President of the European Parliament, has made clear similar proposals about the conversion of the Commission to a "real European government", in an article on 4th July 2016 in the Frankfurter Allgemeine Zeitung. In his proposals, he states the government should be under the parliamentary control of the European Parliament and a Second Chamber of representatives of the member-states. He says, like in the German Bundestag, the parliament should elect and hold democratically accountable the head of that government. This has been described by political scientist at the University of Munich, Berthold Rittberger, as "full parliamentarisation" of the EU system of government, and is in essence our proposal, with consideration of the Indian model.

4.4. Parliament

Bicameral Parliament

Following the Indian bicameral model, we propose the EU transform the European Parliament into a more powerful lower house (European Assembly), representing the citizens of Europe, and create a new institution of an Upper House (European Senate), representing the Member States.

Because Europe is diverse, with many different peoples, states, and cultures, the European Member states will play an important role in a future federal European system, just as they do in the Indian federal model. A bicameral system therefore seems right for the EU, where the Member States are represented by the Upper House, even though we hope that, eventually, the significance of the Member States diminishes and that power in the EU rests with its citizens directly and solely. From a practical point of view, it seems unlikely that Member States will give up sovereignty without being represented at the Union level. This also adds another layer of scrutiny and from a different legitimate perspective.

Composition & election of the chambers

Just as in India, the European Lower House should be elected directly and proportionately by citizens of the EU, however through the Proportional Representation voting system, with transnational lists.

The Upper House representatives should be elected by national parliaments, as in India. Each MS should send an equal number of representatives that all have an equally weighted vote.

This would ensure that equality of states is preserved and previous sovereignty of smaller states is respected. 10 representatives per state would lead to a 280-member chamber. Whilst it is accepted blocking majorities could be formed from a bloc of small-population states, it seems unlikely small member-states would accept any less in return for giving up their sovereignty to the Union. Small states must not become irrelevant in Upper House votes. This does create a legitimacy problem: in the most extreme case, Member-states representing about 20% of the population could block bills with a 2/3 majority in the Upper House.

Having Member States' parliaments send representatives has a number of advantages:

- It enables a diverse and inclusive representation of the Member States' political currents, adding legitimacy to the house's proceedings.
- Compared to representatives appointed by the Member States' governments, indirectly elected representatives are farther removed from national politics and are able to scrutinize bills from a less partisan point of view. On the other hand, compared to directly elected representatives, indirectly elected ones have a stronger bond to their home country. This will help better the scrutiny of bills coming from the Lower House and the Union government from the point of view of Member States interests.
- The Upper House does not challenge the legitimacy of the Lower House: they are not elected by the same people, nor do they have as strong a mandate to legislate. To reflect this, the Upper House would require a 67% majority to reject-outright bills from the Lower House to reflect this.
- It is more cost-effective than direct election.
- From a practical point of view, it would allow the Member State institutions some control over who represents them at the Union level. This respects the legitimate and established democracies of the Member States and would be more acceptable to them.

Term-lengths of the chambers

The Indian Upper House has a longer term than the Lower House. This allows the Upper House to look at bills from a less partisan and more collegiate perspective. We propose to copy the 6-year term of the Indian Upper House and also its staggered retirement of 1/3 of its members every 2 years. The staggered term provides continuity in the Upper House. There is a legitimacy issue in this proposal, considering that newly elected member-state parliaments would not be able to immediately change their representation in the Upper House. However, for continuity problems with committees on drafting and scrutinising bills, and to ensure the atmosphere of the Upper House is more collegial and non-partisan, we believe that staggered 6-year terms would benefit the Upper House the best.

Powers of Parliament

If the EU is going to have a democratic government, it should be held accountable to a directly elected parliament. The European Parliament could take on this role, but its powers would need to be significantly expanded, at the cost of the Council of the EU's powers. The two chambers of parliament will work together with the Union government to direct legislation – proposal, amendment and rejection will rely on both chambers. This enables at the Union level sufficient member-states influence over bills and the voices of the European Peoples (in the form of national parliaments) to be heard through the Upper House, with slightly more power in the hands of the Lower House representing the combined voice of Europe's citizens. With this balance, we hope self-government and effective government (the spirit of federalism) as well as practicability, accountability and legitimacy issues are all taken into account and correctly provided for.

A number of ideas from India are useful for the EU:

- Proposing laws: Unlike the Commission, the EU Council, and both houses of parliament in India, the European Parliament cannot propose any laws itself – this also differs from most national legislatures. The power to formally initiate laws would enable the opposition parties in the European Lower and Upper House to be heard and force the government to consider legislation that it does not prioritize. This would be a secondary role of the Upper House, whose primary role should be scrutiny and control of bills from the Lower House. However, it would enable national parliaments to influence legislation and discussion at the European level in a constructive and democratic way, without themselves being able to create bills – the Upper House should be able to function as an independent body, but crucially with the national perspective in mind when discussing bills.

- Competences & law-making process: During Special and Non-Legislative Procedures, proposed laws are discussed in areas in which the EP's vote does not count to whether laws are passed or not, where it cannot amend legislature it does not approve of, or where it is not consulted at all. This is undemocratic and should be changed. We propose that both houses can originate bills. After one house accepts a bill, it is sent to the other house. If a disagreement arises, the bill should go back to the Lower House. After any changes are made - which is not necessary - then the Upper House should be able to reject it only if a qualified majority is reached, e.g., 67%. This should ensure that there are not deadlocks all the time. The European Parliament will only vote on issues included in the competencies Lists (as prescribed in the Constitution). Thus, too much blocking would not be necessary – the Union level will be acting with legitimacy. In India, the same effect is achieved through a different mechanism: the houses are brought together in case of a deadlock, and the Indian Lower House has more voting power in the joint meeting.

- Dismissing individual ministers: The current Parliament lacks an appropriate option in between complaining and dismissing the entire Commission. The Indian Lower House has the power to dismiss individual ministers: a measure that should be at the European Lower House's disposal as well. Again similar to the Indian model, the Upper House should not necessarily have the power to dismiss the government in part or in full because control of government should rest with the citizens of Europe first and foremost. There could be different thresholds also for different members of the government: 50% to remove an individual Commissioner, 66% to remove Commission President and thus the College (replacement President with workable majority could be required, along German lines). Even without the ability to remove the government however, the Parliament's ability to appoint the government would, nevertheless, be a significant change in the power of Member States over the Union government.

- Decisions by majority: The Qualified Majority Voting and unanimity voting systems of the Council of the EU are not suited to take decisions that promote the greater good over individual Member States' interests: often, the interests of a few Member States are being harmed by a proposed solution to an EU-wide problem. The current voting system diminishes the Council's ability to solve problems, e.g., regarding economic policy and migration. We propose to copy the Indian Upper House decision making process: it makes decisions mostly by majority of votes cast. Only when an Upper House decision would go against a Lower House decision would a 67% majority be required in the Upper House.

- Powers of parliament versus Member States:

    - Overruling Member States: In general, the Indian parliament's laws trump State laws when they are conflicting. For a well-functioning federation, this Supremacy Principle is required, so we recommend the EU copy this from India.

    - Division of policy areas: The three lists that are mentioned in the Indian constitution that assign policy areas to the Centre, the States, or both, can help

to clarify the mandate of the EU versus the Member States. Such lists would not replace the Subsidiarity Principle, but rather be a way to codify this principle in detail. This would not only reduce confusion and the resulting political battles between the EU and the Member States, but also make the EU more transparent to its citizens. See Appendix A for a candidate proposal for the EU.

Upper House mandate

The Indian Upper House cannot strike down or amend Money Bills. Since we propose that there be a division of tax-collection and allocation so the Union has an independent income, we believe the Upper House should not necessarily be able to amend or reject Money bills, only the Lower House should be consulted on all matters of supply. There are several ways in which the power of the Upper House could be augmented to reflect the fact the member-states still have a key role to play in the Union. For example, there's the potential that both chambers have to approve of the College as proposed by the Commission President. In such a case, the ability of the government to be overthrown before its term is over is perhaps unnecessary. Perhaps government could only be overthrown with a 66-75% majority in the Lower House, or a 50% in both chambers. Control over approval of government could be given to the Senate after election of the Commission President by the Assembly. Control over money bills could be left to both chambers, or some control could be given to the Senate (such as approval or debate without amendment powers). Finally, the Upper House could be given the power to only approve new taxes. The ability of the chamber to reject bills completely without further discussion or amendment is a key power of the body. Another could be the approval of all appointments made by the government. Thus, the mandate of the Upper House would be weaker, with less control over the government and programme of legislation, and more of a role in the debate, amendment and passing of legislation.

Proportional representation

The Indian constitution requires that the number of people that vote for a seat in the lower House is approximately equal for all seats. This is an improvement over the representation of the European people in the European Lower House, where citizens of smaller states have relatively more voting power. Firstly, since all EU citizens should have an equal vote, representation should be proportional. Secondly, Member States are already represented in the Upper House, so there is no need for additional power for smaller Member States in the European Lower House.

For the Upper House, we deviate from the Indian model that has the number of representatives proportional to a State's population. We propose that each Member State is represented by an equal number of representatives. (See section 5.2)

4.5. Local governments

Functions

In the Indian constitution the functions attributable to the local governments are specified. This could contribute a great deal to the efficient and effective management of government.

Thus, it is proposed that the functions of the local government of the EU MS are also defined in the European constitution.

Financing

In India the power to impose taxes must be endowed by State Legislature. This could facilitate the forming and the implementation of policies on a European level. Thus, it is proposed to introduce the areas in which the local governments can decide for themselves to impose taxes.

This would also contribute to the fair and necessary competition between the different locations/municipalities of the European Union.

4.6. States

Intergovernmental Council

The Intergovernmental Council is an Indian institution formed by the state-level governments who provide comments and give a consultation on proposed legislation on the Concurrent List of Indian laws. It was proposed by the Sarkaria Commission in 1983; in Chapter II of the commission's report, this reference to the proposed body can be found:

"Further, whenever the Union proposes to undertake legislation with respect to a matter in the Concurrent List, there should be prior consultation not only with the State Governments, individually, but also, collectively, with the Intergovernmental Council which, as we have recommended should be established under Article 263 [Part XI Chapter II of the Constitution of India]. A résumé of the views of the State Governments and the comments of the Intergovernmental Council should accompany the Bill when it is introduced in Parliament."

Article 263 of the Constitution stipulates the grounds for a temporary Inter-State Council to be set up by the President on specific issues; the Sarkaria Commission recommended the formation of a permanent body to fulfil this function with regards to all proposed legislation on the Concurrent List to ease relations between the Centre and the States.

We propose that a similar institution be established to maintain member-state governments' involvement in the Union-level legislative process, without giving those governments undue influence over the direction of Union legislation, or the ability to block or delay this legislation. The influence of member-states will instead be transmitted mainly through the proposed second-chamber composed of members chosen by national parliaments. We propose that the Council of the European Union be redeployed to this new function of advice and consultation, relinquishing its legislative role in favour of a more democratic institution to fulfil that role. As Jean Monnet said in the first meeting of the Council of Ministers (forerunner of the Council of the EU), "The council's task is to arrive at a common view, not to seek a compromise between national interests". With its current power, it has over-stepped its original task and hindered rather than helped the functioning of the Union. Thus its role should be scaled back to that of the Intergovernmental Council, with the Committee of Permanent Representatives (COREPER) no longer acting as the fulcrum of EU policy-making; a role also proposed in the Draft Treaty embodying the Statute of the European Community.

Division of Competences

The Indian Constitution provides for three clear lists of competences, divided between the different levels of government in the Indian federal system. One marked the 'States List' clearly outlines the competences which can be solely exercised by the states, making it clear where the Union government would be infringing on the rights of States to legislate. Likewise, it is clear to all Indian citizens where popular sovereignty is exercised instead at the Indian, federal level (the 'Union List'). Finally, the third list ('Concurrent List') outlines areas where both the States and the Union have a role to play in legislating. Here the Intergovernmental Council plays a crucial role in communicating State and Union views and concerns to each other.

We propose a real division of competences along the lines of the Indian model to be adopted in the European Union, so that citizens can understand where their sovereignty lies, and so confusion is reduced between the different levels of government. Currently the full extent of Union competences in the EU is unclear due to the nature of the Union's foundational treaties,

especially concerning the Single Market. Whilst it would be undesirable to replicate the Indian division entirely, with a division weighted in favour of the Union government, in a way which would not garner support in Europe, a clear division would improve government in the EU, and would reduce the fear that the Union level of government is secretly amassing more and more powers. While more policy areas should be kept with the member-states (see below Appendix A), at the same time taxation should be divided so that member-states no longer have to send portions of their taxes to Union government, but only collect certain revenues with others being collected and controlled by the Union. This would ease accounting and audit issues, expand the Union-level budget and with it, its independence, thus ensuring a more effective division of competences.

The creation of Lists to divide competences between the member-states and the Union level does not replace the Subsidiarity Principle. Rather, it is spelling out this Principle in detail for many areas where confusion could arise.

Citizenship

The current situation in the Union means that citizenship at the European level relies and derives from national citizenship, meaning that the citizen's rights in another state are limited to those guaranteed by the Union, and crucially barring the citizen from their resident state's national elections. This weakens the process of integration among citizens, thus undermining the concept of being a citizen of the Union (as federalism suggests), and restricts citizens from being able to influence the national state government in which they reside.

By contrast, the Indian Constitution, part XV Articles 325-326 guarantee all citizens the right to vote in whichever state they reside, as citizens of India.

We propose the EU also adopt this procedure, setting it as an objective to be achieved to both increase the sense of being a European citizen and adhering to federal principles, and not unduly disenfranchising citizens who exercise their rights to free movement, but are then unable to influence the national government in the state they reside in. This is an unnecessary restriction and keeps the European peoples divided along national lines.

4.7. The Union Judiciary and CJEU

Currently there is a level of separation between national law in EU member-states and Union law; the European Court of Justice may only rule on cases of Union law and it is not possible to appeal to the court – national courts have instead the power to refer questions of Union law to the European Court of Justice which then makes a ruling. The ECJ also has the power of making a preliminary ruling on the interpretation of Union law; this is a unique aspect of law in the EU. Furthermore, the ECJ is just one of three courts forming the Court of Justice of the European Union which is a further complication and makes the ECJ different from other Supreme Courts. Specifically, the ECJ has exclusive jurisdiction over cases brought to it by member-state governments for annulments of measures taken by EU institutions. With individuals and companies, the matter is sent to the European General Court. By contrast, the Indian Judiciary is led by a Supreme Court and the Chief Justice on that Court; they settle all constitutional matters and matters between the Union and State governments in India. It also acts as the final court of appeal on all matters of Indian law and reviews legislation independently and on request of the President for constitutional legality. It does not have the power to declare legislation passed by the Parliament illegal and void however.

It is proposed:

The Court of Justice of the European Union must be reformed to take a more active judicial role in the European Union, and act as its Supreme Court on matters of Union law, the Constitution and conflicting national law following the Indian example. This means;

- There must be a single court acting as the Supreme Court, as in India, not one for governments and another for citizens and firms. This makes the judiciary more transparent and avoids conflicts between the two courts.

- It must be possible to appeal to the European Court of Justice as with the Indian Supreme Court in cases involving EU Law, the Constitution and fundamental rights not just to refer questions of Union law to it.

- The Court must be an original court for disputes between national governments in the EU, as well as disputes between the Union government and national governments.

- The Court must act as the protector of rights in the Union (as laid out in the Charter of Fundamental Rights) and must be able to rule on them. It must also be the guarantor of the Constitution and be able to rule and advise whether the constitution has been breached at all (in terms of Fundamental rights, the Subsidiarity Principle, governments overstepping their competences as laid out in the Lists (see Appendix A) and on the processes of the Union. Its rulings must be binding on the national courts.

- Crucially, the Committee of the Regions (CoR) must not have the exclusive right to invoke **the Subsidiarity Principle**. The Principle must become a **cornerstone** of EU law, and thus the process must be made more accessible to give the Principle real legal force. Hence, the executive of the EU government (perhaps in the form of the Commission President) must have the power to trigger a review of legislation, perhaps on the advice of the CoR, on a vote by the Union Legislature, a vote in the College of Commissioners, or an official petition signed by European Citizens (similar to the European Citizens' Initiative – 'Citizens' Judicial Enquiry'). Another means could be votes by national parliaments (similar to the current yellow/orange card system) or by national governments (perhaps through the proposed institution of the Intergovernmental Council).

- The most powerful tool we aim to propose is a form of **Judicial Review**, operated by many European nations, the US Judiciary and to a limited extent the Indian Judiciary (on constitutional matters alone). Our proposal is to have the Court review and rule on legislation for constitutionality, but also specifically target this at the Subsidiarity Principle, so that Union legislation is reviewed by the Judiciary for breaches of the principle – whether competences have been overstepped by the Union government (with reference to the Lists in the Constitution), whether the EU executive has ignored a 'Citizens' Judicial Enquiry', a vote by a number of national parliaments, advice from the CoR, or significant resistance to a bill as recorded in a meeting of the Intergovernmental Council. It might also be possible for the Court to review national law which involves Union law, and is brought to its attention (either by citizens or governments) which either is outside of its competences, or is unconstitutional. This empowered judiciary would be combined with other proposed tools including the Intergovernmental Council, reformed Upper House and the Policy Lists to ensure the federal level of the Union does not overstep its powers, self-government in Europe is preserved and the level of distance and unresponsiveness felt in the Union currently by citizens is significantly reduced – hence why the Subsidiarity Principle needs to become a cornerstone of constitutional law in the EU.

5. Which experiences from India cannot be useful nor applied for the EU

5.1. Constitution

The Constitution of India has certain elements which we believe are not suitable for Europe and should not be followed. Most importantly, the European Constitution should not be brought into legal force by the Constituent Assembly which drafted it. Whilst several models could be chosen, including putting the draft up for the approval of the European peoples in a referendum, having the Assembly itself approve the Constitution would not provide for the necessary debate, nor have the necessary legitimacy required when adopting a Constitution.

Secondly, the Assembly should be directly elected by all the European peoples. There should be no affirmative action taken towards religious or ethnic minorities, and negotiating this would take significant time with little tangible result. There should be no appointment of representatives by any of the executive arms in Europe, although some representatives elected by national parliaments might be beneficial.

Finally, the process of amendment of the Constitution should not be so restricted as in the Indian example, where only a bill proposed in parliament may begin the amendment process. The proposed amendment requires a 2/3 majority in both Houses of Parliament to be adopted, and in cases where the amendment involves the federal nature of the constitution, a further ½ of all state legislatures must also approve of the amendment. Whilst a 2/3 majority in both chambers should be necessary if the proposal is to come from the Parliament, we propose that it should also be possible to trigger the amendment process through the vote of national legislatures. 2/3 of EU national legislatures passing an amendment resolution should trigger the process of amending the Constitution. We also propose that in adopting the amendment, it should be the national legislatures which adopt the amendments, in order to ensure Europe's nation-states have sufficient say in the constitution of the European Union.

5.2. President

Election

In India the President is elected by the Electoral College consisting of Members of the Upper House, Members of the Lower House and Members of the Legislative Assemblies of the States. The composition of the Electoral College ensures that the elected president represents both Houses of the Parliament but also the Parliaments of the States.

For the case of the EU, since in effect no executive nor legislative powers are to be assigned to the President, and the term is proposed to be limited to 2 years, it would be sufficient to decide upon a cost-effective alternative. Thus, the Electoral College as formed in the case of India is not considered useful for the EU.

It is proposed that the President of the EU is elected by the Members of the Upper House. This was proposed by the Draft Treaty embodying the Statute of the European Community. Furthermore, considering the Upper House will be made up equally of members representing the EU's nation-states, this will allow for Presidents to come from several different member-states.

Term of office

In India the term of office of the President is 5 years. As we propose that the role of the President in the EU will not have any significant executive powers, but will rather serve as a general representation of the EU, we propose that the term of the President will be 2 years, allowing for personalities from many countries to take up this role. Thus a contribution from many personalities would be possible.

Military command

In India the President holds the supreme command of the military forces. This is a paradigm, which we believe should not be followed in the EU. It is rather important that decisions for war or sending of troops outside the EU-territory are confirmed by both houses of the parliament.

5.3. Commission and Executive Power

The Council of Ministers in India relies heavily on the authority of the President of India in the exercise of its power; the Ministers hold office at the pleasure of the President, on the advice of the Prime Minister. Whilst Ministers can be removed by the Lok Sabha of the Indian Parliament they do not have sole control and authority over the Council. Specifically, the Prime Minister is appointed by the President based on the composition of the Lower House following general elections. For these reasons there are no term limits to the Indian Council of Ministers.

By contrast, we propose that the authority of the Commission President to propose a government is derived directly from the parliament following a general election, as is the case in some European states (through a vote by the chamber). Furthermore, once the Commission President has been given this power, the proposed College must then also be accepted by the Lower House for it to be invested with the power to govern (through another vote). This will ensure democratic responsibility to the sovereign will of the people of Europe (manifested in the Lower House), and ensure the College has a legitimacy which the proposed President of the EU would not have, unlike in India.

5.4. Parliament

District system

The members of the Lok Sabha are chosen through a district system: the first past the post in a district gets the seat. This leads to under-representation of minority views: the vast majority of districts will be won by mainstream candidates. Therefore, the EU should not copy this electoral system.

Affirmative action for Parliament seats

Although the members of the Lok Sabha are chosen directly by the people of India, some seats are reserved for special groups: 84 seats for representatives of Scheduled Castes (i.e., historically disadvantaged castes) and 47 for Scheduled Tribes (i.e., historically disadvantaged peoples). The number of reserved seats is proportional to the size of these groups. In addition to these, 2 seats are reserved for the Anglo-Indian community. These representatives are appointed by the President of India if he/she thinks that the community is underrepresented in the House.

The EU should not adopt the reservation of seats for historically disadvantaged groups because 1) it is unclear who would qualify (which will cause endless quarrels) and 2) if it is needed. Also, giving rights to groups instead of individuals runs counter to liberalism / individualism.

Indian quarrels over who qualifies for affirmative action are compounded by the fact that affirmative action also includes government jobs and other perks. Recently, the Jat people started massive riots because they wanted to be added to the list of Scheduled Castes. The State of Haryana caved in to their demands.

Also, it seems unlikely that the EU has population groups that could not possibly get represented proportionally through the ballot box.

Upper House proportional representation

Indian States send a number of representatives to the Upper House proportional to their population. Since the European Upper House should represent the Member States, who each have joined as an equal sovereign state, we recommend not to copy the Indian model in this case. An equal number of representatives from each Member State would be preferred to reflect this. This also stops larger Member States from overpowering smaller ones in the Upper House. If the EU citizens disagree, their overruling voice is heard through the Lower House. Finally, an equal number of representatives is a simpler system than weighted representation. This is an advantage especially when the number of Member States changes.

5.5. States

Member-state Convergence

The Indian Union was capable of creating a relatively uniform style of government in all its states, as a part of the formation of the Union and stipulated in Part VI of the Indian Constitution. Each state is governed by the same rules, each being formed at the same time in a newly independent and democratic India.

We do not believe this is a step which should be taken by the member-states of the European Union. It would be cost-inefficient, unnecessary for Union cohesion and undesired by the European peoples. Each nation-state has formed its own traditions, political cultures and written its own histories; creating an artificial uniformity out of this would meet fierce political resistance and would be hugely costly in relation to the benefits, which would take time to develop. Whilst more education on the operation of other member-states and the Union should be encouraged and undertaken, forced convergence would not produce results beneficial to the governing of the Union, and are unnecessary to the federal model.

5.6. Local Governments

Distinction between rural and urban administration

The Indian constitution provides for different administration systems for rural and urban areas. This is a necessity in India, as there is a very strong difference in the level of development between rural and urban areas.

In Europe the rural areas cannot be compared to those in India. As there is no need for such a differentiation, we do not propose to implement such a distinction.

Homogenous levels of local government

The Indian constitution provides for a unified system for the local administration. Although this would be very useful and convenient in the central planning and the execution of any decisions taken on any level of government (e.g. co-ordination of actions, allocation of funds), the introduction of common levels of local government across the EU appears to be impracticable. A great deal of resistance and cost would be involved and the benefits are not expected to be able to make up for these disadvantages.

Further, this issue of a large variety of local administration is currently dealt with more or less successfully.

5.7. The Union Judiciary and CJEU

The Indian System allows for the Supreme Court to be the final arbiter on all law in India; thus the Indian Supreme Court can interfere in State Law. This is due to the Indian states not having much legitimacy independent of the Union, as they were created by the Union and given legitimacy by the Constitution of India. Secondly, judges on the Court are appointed by the President on the advice of the 'Collegium'; a body of the Chief Justice of India, 4 senior judges on the court and the senior most judge of the High Court from which the appointee is from. This stems from the legitimacy of the Indian President and the role the office has in the Indian system. The Union Council of Ministers may reject proposals but not make any to balance the Separation of Powers.

Areas of difference with the Indian system include:

- The ability of the European Court of Justice as the Union's Supreme Court to interfere in cases of purely national law: we propose that the ECJ can only interfere in national laws if they interfere with Union law.

- The appointment of judges to the Court and the EU Chief Justice. Whilst the process cannot be as it is now (where every member-state sends a judge), the authority of the President or Commission President combined with a 'Collegium' of European judges as with the Indian example would be significantly distant from democratic checks to present a problem for EU citizens. We suggest instead proposal by the executive (College of Commissioners) with the approval of the Upper House to balance Centre-state powers. Furthermore, the Lower House will be busier with a more explicit role of drafting legislation. The Upper House as a less busy chamber would be able to devote time to this. The executive perhaps could be supported in its decision by a Collegium of judicial expertise as in India, with involvement of national courts (from which the proposed appointment would be coming).

- Unlike in India, guarding the Subsidiarity Principle and the Lists as written in the Constitution would be a major role for the Court, in ensuring the Union does not overstep its powers over MS. This would apply specifically in cases of Union law or national law cases which involve the Union and its law, as well as the Constitution; it should be able to declare Union law void if judged illegal, and strike down national laws which are also judged by it to be illegal or of questionable legality. It should be possible to appeal to a decision if made by a lower court. By contrast, the Indian Constitution makes no distinction between state and union law, and thus the Indian Supreme Court can rule in all places (though does not have the power to declare legislation void, only advise on its constitutional legality).

- Unlike in India, a series of lower EU courts should be set up to rule on cases of EU law in MS, to make it easier to process cases involving EU law and ensuring the European Court of Justice is not the only body ruling on them. The ECJ will be appealable to in these cases as the final authority on EU law. This is required because of the distinction necessary in the European case between European and National law.

6. Conclusions and Reflections

Europe today is facing problems of a magnitude not seen since 70 years: an ongoing debt crisis and ensuing economic disaster in the south, a large influx of refugees from an imploding Middle East, and renewed military aggression originating from an increasingly autocratic Russia. Considering the current state of affairs, it is to us more obvious than ever before that the nations that make up Europe need to cooperate to effectively address their shared problems in a true Union of European Nations. Radical and alienating as it may seem to some, a political union that spans the continent is the obvious and only way to solve our common problems.

ALDE is the party to be taking the final outcome of the European Project most seriously, especially with regards to federalism. This paper is a contribution to ALDE's combined knowledge and understanding of the federal principle and its application to the European Project.

Europe and India have similar traits about them. They are both long-divided major landmasses: divided culturally, linguistically and religiously; divided, for centuries, into separate states, although on several occasions, many of these states were subjected to the same imperial powers (in the Indian case by the Mughal and later British Empires, in the European case during the Roman, Napoleonic, and Nazi eras). This division in both cases led to war and conflict. India has managed to resolve the differences of its once divided people through a peaceful unification settlement which rests on the principles of federalism. This has led to 29 states, each with their own regional history (even if not as its current political entity). It is from these apparent similarities we have concluded that following many elements of India's parliamentary model would be likewise best for Europe. It allows for that greater diversity to be expressed politically, and makes for more compromise and consensus building to bridge our divides. Federal principles ensure for the devolving of power beyond the centre and that people feel they are governing themselves. These two principles are key to a united India and a united Europe.

On the political front, Europe and India have very different histories. The European Union was built incrementally on pre-existing member-states with power slowly centralizing to Brussels, while India was created as a central union with no real pre-existing states. Therefore, the role of the member-states is much bigger in the current EU, and our proposal for a future Union of European Nations preserves the prominent role of the member-states.

The European Union is far from finished. Substantial steps are needed urgently to complete the European project and realize a federal state:

1. **Draft, approve and ratify a democratically formed European Constitution.**
   - A directly elected Constituent Assembly should draft a Constitution in public.
   - The European Peoples should ratify it.
   - It should be revised until it is acceptable to the European Peoples.
2. **Form a real EU government based on the parliamentary system.**
   - The head of government is chosen from and elected by the parliament.
   - The government produces and enacts a legislative programme.
   - The parliament approves and dismisses members of the government both together and individually.
3. **Introduce a powerful bicameral Parliament through the creation of a Second Chamber.**
   - The second chamber (the Senate) will add a further layer of scrutiny.
   - This chamber should be elected by national parliaments, giving nations a clear voice in federal politics.
   - The chamber should be less powerful than the first (the Assembly).
   - The European Parliament should be redeployed as the first chamber, but should be given real power to hold the EU government accountable.
4. **Introduce an Intergovernmental Council to allow national governments to consult the Union government.**
   - The Council of the EU should be redeployed to this role, stripped of its present legislative role in favour of a consultative role.
5. **Introduce a Supreme Court and a series of Federal Courts to enforce Union law.**
   - The Supreme Court should protect the European Constitution.
   - The Federal Courts should review Union and some national legislation, and uphold the Subsidiarity Principle.
   - The CJEU should be redeployed to this role.

India provides a very good example for the EU as it addressed all of the above in a somewhat similar context with similar institutions, allowing for the transformation of the EU into a Union of European Nations.

Although significant democratisation and strengthening of the European Union in the Indian fashion seems more difficult than ever, we believe it is the obvious way forward.

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8. Appendices

8.1. Appendix A: Example lists of policy areas

We propose to copy the Indian idea of having lists that reserve policy areas for the Union and the States. We accept that, especially in the short term, power in the Union must not be weighted in favour of the Union, and that for a Union of European Nations, joint action will play a more decisive role. Nevertheless, the following is an example of what these lists could look like for the EU in the long term. Any policy areas not mentioned on these lists should remain in the hands of the nation-states.

Union List

1. Foreign policy, Diplomacy & international treaties
2. Defence
3. Constitution & Supreme Court
4. Regulation of financial industry
5. Union Fiscal policy
6. Citizenship
7. Civil rights
8. Monetary Policy (currency)
9. Migration
10. Trade & commerce

States List

1. Police
2. Culture & entertainment
3. Labour & Social Policy
4. Education
5. Local government (municipalities, provincial gov't)
6. Industry
7. State Fiscal Policy

Concurrent (= Joint) List

1. Infrastructure
2. Justice
3. Environmental protection
4. Science & Technology
5. Agriculture (would currently be on the Union List)
6. Utilities
7. Energy Policy & natural resources

8.2. Appendix B: Timeline of European Integration

1946: Winston Churchill gives "United States of Europe" speech at Zürich University. Union of European Federalists in founded in Hertenstein, Switzerland.
1948: The Congress of Europe takes place in The Hague – 800 delegates present chaired by Winston Churchill discuss the need for European integration and to start the European Project.
1950: Schuman Declaration announces the plan to begin the European Project of integration through economic integration, beginning with the coal and steel industries of France and West Germany. The same year, French Premier René Pleven announces his plan for a European Defence Community.
1951: The Treaty of Paris is signed between the six founding members of the European Coal & Steel Community (ECSC) – France and West Germany are joined by Italy, Belgium, the Netherlands and Luxembourg.
1952: Treaty creating a European Defence Community (EDC) is signed by the six members of the ECSC, to create an integrated European military force. A draft treaty for a European Political Community (EPC) combining the ECSC and the EDC is prepared by the Assembly of the ECSC.
1954: Plans for the EDC are dropped as the Treaty signed in 1952 is rejected by the French National Assembly, rendering plans for the EPC useless, and shutting down plans for swift European political union.
1955: Messina Conference is held between the Six to decide in which direction to take the process of European integration after the failure of the EDC and EPC. 3 days of talks resulted in the reaffirmation that economic integration was the best way to continue the Project, through the use of a customs union and common market; this proposal was elaborated on in the Benelux Memorandum.
1956: The Spaak Committee releases its report on the construction of a European common market among the Six, which played an integral role in the following intergovernmental conference.
1957: The Treaties of Rome (later renamed Treaty on the Functioning of the European Union, TFEU) are signed, founding two organisations; the European Atomic Energy Community and the European Economic Community, which provided for the creation of the Common Market. The European Investment Bank is also established, with the remit of supporting the European integration process and social cohesion in the Community. Finally, the European Social Fund is established with the remit of ensuring employment, retraining and resettlement in the Community, as well as promoting social and economic cohesion.
1965: The Treaty of Brussels (or the Merger Treaty) is signed by the Six to merge the institutions of the three communities they had created into a single set of institutions; together they became known as the European Communities.
1973: the first enlargement of the European Communities takes place, bringing Great Britain, the Republic of Ireland and Denmark into the fold. Norway also was set to join but failed to have the move ratified in a referendum.
1975: The European Regional Development Fund is set up to invest in under-developed regions in the member-states, and bring them to a similar level of development as other parts of the Communities.

1979: the first elections to the European Parliament are held, giving the body a level of legitimacy no other European institution held by adding a previously absent element of democracy into the institutions of the European Communities.
1981: the second enlargement begins with the expansion of the European Community to Greece.
1984: The European Parliament adopts Altiero Spinelli's Draft Treaty on European Union; this is rejected by the member-state governments however. With several national parliaments passing resolutions in favour of Spinelli's initiative, it is decided European integration needs to proceed forward.
1986: Spain and Portugal join the European Community following Greece. The Single European Act (SEA) is signed, creating the Single Market and allowing a single set of legislation governing the market to be produced by European institutions.
1990: German Reunification follows the Fall of the Berlin Wall in 1989, and democratic elections in the now former East Germany. The Schengen Convention is adopted by European Community states, abolishing border controls between all signatories – it enters the *acquis communautaire* with the Amsterdam Treaty seven years later.
1992: The Treaty of Maastricht (later renamed Treaty on European Union, TEU) is signed, creating the European Union, expanding the range of areas the member-states aimed to coordinate on, creating European Citizenship, introducing the Subsidiarity Principle and providing for the creation of the Economic & Monetary Union (EMU). Within this, the Maastricht Criteria were laid out to help ease the transition of member-states into monetary union.
1993: The Copenhagen Criteria are adopted as former Soviet-bloc states look to join the European Union. The Criteria lay out the democratic standards which EU states must adhere to, and were later incorporated into the TEU.
1994: The Committee of the Regions is set up to involve local and regional government in the EU legislative process; it may approach the Court of Justice of the European Union in the case of a breach of the Subsidiarity Principle. The European Investment Fund is also established to support small and medium sized enterprises. Finally, the European Cohesion Fund is set up with the remit of funding major infrastructure projects across the Union, such as transport networks and the environmental undertakings.
1995: third enlargement brings Sweden, Finland and Austria into the Union. Norway again tries to join but the action is not ratified by the Norwegian electorate in a referendum.
1997: The Treaty of Amsterdam amends several of the provisions of the previous Maastricht Treaty, including consolidating the three communities (Economic, Justice and Home Affairs, and Common Foreign and Security Policy) into a single, fully integrated European Union; the office of High Representative of Foreign Affairs is also created. The Maastricht Criteria are officially adopted as the Stability & Growth Pact by member-states as being the macroeconomic objectives of Union members.
1998: The European Police Office (Europol) is set up to handle EU-wide criminal intelligence, and combat large-scale organised crime in the Union.
1999: The EMU comes into existence, with the European Central Bank taking full responsibility for its then 11 members' monetary policy, and the euro becoming the official currency of the Union.
2000: The Charter of Fundamental Rights is drafted by a Convention and proclaimed by the EU institutions, asserting that all residing in the Union hold these basic rights as citizens of the EU. It is later officially brought into the *acquis* with the Lisbon Treaty seven years later.
2001: The Treaty of Nice is signed by member-states, again revising the terms of the Treaties of Maastricht (TEU) and Rome (TFEU). The treaty reformed the voting procedure in the Council of the EU to account for the coming enlargement of the Union. The Laeken Declaration is made, with the intention of setting up a Convention to begin drafting a Constitution for Europe.
2002: The EU Solidarity Fund is established to provide financial support to areas which have been struck by severe natural disasters.
2004: The Treaty establishing a Constitution for Europe is signed and put to member-state ratification; its tone has been watered down by the intergovernmental council which followed the Convention, however it still has heavily constitutional language. The fourth enlargement

of the Union takes place, bringing in 10 new members; Poland, the Czech Republic, Slovakia, Hungary, Estonia, Latvia, Lithuania, Cyprus, Malta and Slovenia, the largest enlargement to date. Frontex is founded to the external borders of the Union, and achieve cooperation between national border guards.
2005: The Constitution for Europe is rejected by the French and Dutch electorates, ending the ratification process. Despite this, the main institutional reforms in the draft treaty are put in the following Lisbon Treaty, but without the constitutional language.
2007: The Treaty of Lisbon is signed by member-states. The treaty includes the major procedural and institutional reforms proposed in the Constitution for Europe, without the overtly constitutional elements however (such as a flag and anthem). It is drafted entirely in secret, diplomatic meetings in stark contrast to the process initiated by the Laeken Declaration. Romania and Bulgaria join the Union following their former Soviet-bloc neighbours 3 years prior.
2010: The European Financial Stability Facility is created to provide financial assistance to eurozone states in economic difficulty. In 2012, this along with the European Financial Stabilisation Mechanism were merged into the European Stability Mechanism, with the remit of both former institutions; to support both European banks and sovereigns in financial need.
2012: the process is begun to set up a banking union among member-states; this includes the Capital Requirements Directive (2013), common deposit insurance, as well as the creation of the Single Supervisory Mechanism (2013), undertaken by the ECB, as well as the Single Resolution Mechanism (2014) and Single Resolution Fund to wind down and restructure insolvent banks.
2013: Croatia enters the Union as part of the fifth enlargement.
2016: UK votes in a referendum to leave the EU.

8.3. Appendix C: Detailed comparison of Indian and European federal structures

States

	Topic	Article (Indian const.)	India	EU	Pros	Cons	Proposal for EU
D	Member-states						
D.1	Composition	73,162	29 States and 7 Union territories (directly governed by the centre). States vary in size, population, literacy rates, levels of industrialization and language (35 official languages).	28 member-states; these vary in size, population, industrialization, education and language (24).	n/a	Union territories which are directly ruled from the centre have not the same levels of autonomy as fully-fledged states. This would not work in the EU	Maintain the autonomy of all parts of the Union. Unlike India, Union Territories would not function in the EU as all members of the Union would be originally independent states, who could not give up certain levels of their autonomy.
D.2	Powers	Part XI of the Indian Constitution	Defined in 3 lists of 7th Schedule of the constitution: Union, State and Concurrent lists; powers not listed are vested in the Union parliament.	Division of powers is determined in Title I of the TEU (articles 3), and Part 1 of the TFEU (Articles 2-6) – 3 lists of Exclusive, Shared and Supportive.	The Indian Constitution provides 3 clear lists which refer to clear and easily definable areas of policy, by contrast to the EU, whose lists are vaguer, have more potential for overlap and confusion, as well as caveats which lead to even less clarity. Furthermore, the lists only define the areas where the European level has a role, and does not provide the clear competence of the Union, the member-states and where they	It can be argued that the Indian Constitution makes for a more concrete separation which is less flexible and cannot be adjusted on a case-by-case basis as the EU can do. Naturally there are always grounds for interpretation and legal matters can never be perfectly clear.	The EU requires a clear constitution which defines policy areas for the Union, the States, and where both are involved. The must be set out with the language of governing, not from the perspective of an integrating Union, which can lead to confusion and overlap.

					must cooperate. The language used means there is less clarity overall.		
D.2.2	Autonomy/supremacy of state gov.	-	State autonomy is reserved for local concerns, which do not require a uniform pattern across the Union (prisons, public order/health, markets, local government). 61 subjects of the 'State' List in the constitution	State autonomy is reserved for many areas of government, including taxation, public health/order, welfare, most areas of social policy and foreign policy. Some states are more autonomous than others (opt-outs with the UK, Denmark and Ireland for example)	There is autonomy in the Indian system in areas where conflict and dissonance is less likely or problematic. These areas mainly focus on maintenance and administration and allow for a more unified and cohesive Union	This level of restriction and lack of autonomy would not be easy to implement in the European Union. All EU states have previously been independent and their electorates are not used to their national legislators being as restricted as they would be under the Indian system. Because of previous independence, more autonomy may be required in Europe.	The importance is clarity more than who the division weighs in favour of. Such a restriction/lack of autonomy in the EU's member-states would not be easy to implement quickly, however this is not necessary in a federal system. What is important is that legislators and citizens know who makes laws in which areas.
D.2.3	Uniformity/supremacy of central gov.	-	The Union has the majority of legislating power in government and has control of defence, foreign policy, social policy, taxation etc. It has 100 subjects defined as its exclusive competence in the constitution. Residual powers also go to the centre, the Union list has predominance over the other 2 lists, and the Concurrent list over the State list. Union law can override State law on issues where there is overlap.	The EU has smaller exclusive competence than in India and most legislation is made in cooperation with the member-states. However, a series of powers are guaranteed to the Union, with the shared list being split in 2 – one list which guarantees that Union law (if made first) has priority, and a second where member-state law does (if made first). Therefore, the Union can accumulate more competences simply by	There is increased uniformity, less conflict between states and more clarity in India compared to the EU. There are clear provisions which give no grounds for confusion on who has competence and which laws override which in cases of overlap. There is less grounds for conflict between the states and the centre because things are more clearly set out from the beginning.	The predominance of the centre would be difficult to recreate in Europe. It would require member-states to hand over huge areas of competences, some of which they have only recently (past 25 years) gained for themselves. Furthermore, it can be argued that Europe requires more differentiation between states, and the level of uniformity in India would not only be	Again, the importance is clarity. Because of the way the Treaties lay out the competences of the Union, there are grounds for conflict, strife and disagreement over who has the right to legislate. Were this made clearer, defined from the start as areas where the EU would never be able to make law, then there would be no grounds for disagreement. As long as we are all aware of who has the power to

				legislating in those areas. Therefore, there are more grounds for manoeuvre in the EU, and less overt predominance of the centre.		difficult to achieve but undesirable as well.	legislate where, we will achieve more coordination than the current system.
D.3	Government structure	Part VI of the Constitution	Close to Uniform – all states are led by a Governor and council of ministers (led by a chief minister). Governor is appointed by the President for 5 year terms and is invested with executive power. Most states are unicameral, some bicameral. There are constitutional rules governing the establishing and functioning of state governments.	Differentiated – the EU states were set up long before the EU itself was founded and all were created with varying political cultures and under different circumstances. The majority of European states follow parliamentary government, with ceremonial Heads of State and true executive power vested in the Cabinet Ministers, led by a Prime Minister. France follows a different system with the President being given significant powers compared to other European Presidents and Monarchs. The number of chambers in the legislature also vary, as well as the powers of the different branches, ages of the different states and the constitutions which govern them.	Uniform government structure has its benefits – creates similar political cultures and means that the citizens have a clear and simple understanding of how their state-governments function, where power lies etc. This facilitates more willing movement across the Union.	This uniform style of government structures can only be achieved through its creation in a constitution, which gives life to the states. In the European context, the current structures would have to be dismantled and recreated, something which seems difficult and time-wasting to achieve at best.	Information about the functioning of European states should be made readily available and consumable. The same cultures/practices would be difficult to achieve in Europe, however with an understanding of how things work elsewhere and greater cooperation between the states themselves, this will allow for greater understanding and perhaps even convergence between states in the EU. A European public sphere would be invaluable to achieve this. Furthermore, the EU should act as a platform for national governments to cooperate with each other, providing communication infrastructure, advice and support where necessary.

D.3.1	Head of State	Part VI, Articles 153-162	Governor – appointed by President.	President/Monarch (Presidents can be elected directly or indirectly. Monarchs hold hereditary power).	Allows for direct link between the centre and the states, also provides a uniform system which citizens can understand and take part in, regardless which state they live in in the Union.	This is a lot of power for the Centre to hold; it restricts state autonomy especially considering the Governor holds executive power. Furthermore, this would require large changes to the national systems which have been previously founded and hold significance/legitimacy in the eyes of the national populations	The EU would struggle to make such radical, uniform changes to its member-states; furthermore, not all Heads of State in the EU member-states have the same constitutional powers. The diversity in European governments should be maintained and celebrated in the EU, not be made extinct.
D.3.2	Head of Gov. & cabinet	Articles 163-164	Chief Minister who leads a council of ministers – these are elected representatives and sit in the legislature.	Prime Ministers, Presidents of Government & Chancellors.	Similar as above, the uniform nature of the Indian state governments allows for ease of movement between states and facilitates understanding for citizens. Similar rules allow for a political class that can exist across the Union and skills and experience can be easily transferred from state to state	Similar as above – the changes required would be difficult to achieve in the European context; resistance from national governments and electorates towards changing of national political systems would be difficult for the EU to overcome, time-wasting and unnecessary for the supposed benefits.	The EU should respect and encourage the diversity in its political systems, and at the same time facilitate their cooperation and coordination. Information on different political cultures should be easily accessible and the debates taking place in different states should be covered by national broadcasters in other states, creating a European public sphere.
D.3.3	State legislature	Articles 168-177	Indian states' legislatures are not uniform; they vary in size firstly, and there are 7 bicameral legislatures and 22 unicameral. They all operate under the	European state legislatures vary according to size, as well as number of chambers (15 unicameral, 13 bicameral). Each of their powers are	There is a degree of flexibility and variance combined with systems governed by the same constitution, holding the same powers, facilitating citizens' understanding of the	There may well be variance in the different cultures and situations in India which the system does not fully take account of. The same problem would be found in the EU –	Further facilitation of cooperation an understanding across borders, providing the benefits of uniformity without the costs that would be incurred.

			same rules and hold the same powers however, as laid down in the constitution.	governed by different constitutions	political system and therefore movement between states	countries like Britain value the supremacy of their parliament, whereas France believes in a strong independent President to counter the power of the legislature. Trying to harmonise this would be difficult and unnecessary	
D.3.4	Judicial power		All Indian states and territories are bound under federal law, headed by the Supreme Court. Each state has a High Court which reports to the Indian Supreme Court, and can be overruled by that court.	EU states have different legal systems; each has their own constitution and legal traditions, as well as Britain and Ireland having a Common Law system, in contrast to the Civil, Roman law systems of continental Europe. The principle of Supremacy EU legislation enacted under the Treaties overrules national law.	A clear and defined legal system which works across the borders of states acts to integrate states, makes it easier to move around and also to rule as unconstitutional laws which some states pass, ensuring common values and beliefs are upheld across the Union	The single legal system does not account for the different law systems, divergence, legal cultures or state-specific situations which EU states have to live with. To replace the national legal systems with a European one would be costly and would have to consider the variance in the EU.	A constitution would be able to clear up where the areas of convergence are necessary, where the EU should be able to intervene and the judicial independence of the states. In Britain, Scotland has a different legal system to England and Wales, a system which functions smoothly and has a single Supreme Court.
D.3.5	Electoral systems	Article 326	All states have the same electoral system – all persons over the age of 18 can vote in a first-past-the-post system. All elections are conducted by the Indian Electoral Commission.	Elections vary across the EU states; each has their own system, voting ages and institutions to carry them out and regulate them.	Voting is easy to understand and the same people have the same rights to vote in any state in the Union.	There are different interpretations on elections and reasons for the current varying systems in different states. These differences may be easier to iron out in India than in Europe.	The voting franchise and electoral systems are perhaps the easiest to standardise in EU states, however there are several distinct variations which would need to be harmonised, which may not be worth the time, for the benefits it provides.
D.4	Presence in the central government		Rajya Sabha – elected representatives forming a body of	Council of the European Union – ministers of the	The states are represented by elected officials, who are not bogged down by the	Elected officials do not necessarily represent the interests of the state effectively, as	The powers of the Council of the EU and its seeming distance from the people is

				member-state governments.	process or biases of being in government and can direct their full attention to representing the peoples of their state. It also means citizens have a greater role in government, as more elections can lead to more of a feeling of involvement.	they are not familiar with the particulars of government in their state and therefore do not recognise and pursue the state's interests in the Union effectively enough. However, it depends on who the representative is representing; the citizens of the state or the state's government?	something that should be rectified. An elected chamber to represent the states would increase the feeling of representation of the people in the EU and would mean the interests of the peoples of the states would be represented, and not the interests of those states' governments.
D.5	Means of cooperation between states		Intergovernmental Council & Centre-State liaison on specific bills	European Council, Council of the EU, Eurogroup, Econfin.	Inter-state cooperation is necessary and the intergovernmental council facilitates this in India. It is small in scope and less specialised than in the EU and therefore requires governments to act through the central government, meaning cooperation between the different levels of government and allowing for a more uniform response to problems.	Lack of inter-state bodies means action through the centre could turn to a reliance on the central government and a restriction of state autonomy and flexibility, which is more necessary in the EU due to the states having a history of autonomous government.	In the EU a greater sense of harmony, joint action and government in cooperation with the central institutions is necessary. The EU operates more through intergovernmental bodies when trying to coordinate action than through the centre, which produces dissonant results (the euro crisis, migrant crisis). However, this increased coordination for Union level issues should not come at the cost of state autonomy on other issues, a problem which can be helped with a constitutional settlement.
D.6	Finance/taxation		Funded by specific taxes such as VAT and stamp duty; have full	Raise all their own taxes, including income tax, corporation tax,	Can result in cooperation between the states and the	The states lose the autonomy they would otherwise have had by	States should retain a high level of autonomy when it comes to funds

			autonomy in the spending of those funds and can take loans.	VAT and other duties; have full autonomy in the spending of those funds and can take loans.	central government, as well as a uniformity of taxation, reducing the incentives for businesses and others to move to different states to find lower taxes	having total control over their levels of taxation.	and spending. However, some level of coordination of taxes should take place to prevent unnecessary incentives for businesses to move around and countries to lower or raise their taxes.

Parliament

	Topic	Article (Indian const.)	India	EU	Pros	Cons	Proposal for EU
B	Legislative power	252, 253, 7th Schedule	The Indian constitution distinguishes 3 areas ("Lists") for making laws: The Union List, State List, and Concurrent (= joint) List. Parliament has the exclusive right to make laws on topics on the Union List, while the right to make laws is shared with State legislatures for topics on the Concurrent List. Parliament-sponsored laws trump State-sponsored laws. Parliament has power over foreign affairs, defence, armed forces, weapons, atomic energy, intelligence, federal police, citizenship & immigration, interstate	Subsidiarity principle: if possible to regulate matters locally, it should be done locally. EU law vs local laws?	Clear distinction of powers. More power for the Centre than in the EU: Indian state can act more forcefully	?	Elevate more topics to EU-level policy making (defence, foreign policy, monetary & (parts of?) fiscal policy)

			transport & communication, central bank, crucial economic matters, higher education, certain taxes				
B.1	Rajya Sabha (Council of States)		Rajya Sabha	Council of the European Union	Given how far Europe is removed from a “super state”, having separate representation of Member States in the Council might be a necessary intermediate step. Member States have strong legitimacy	Giving power to Member States next to individuals (represented by the EP) is less (directly) democratic. Also, it obstructs law making for the common good / invite parochialism: the current setup allows Member States to deny responsibility for European decision making (pointing fingers to Brussels when things go wrong, instead of defending the decisions they themselves made in Brussels)	Given that the EU has many different peoples and cultures, it might benefit from a bi-cameral parliament, where one house represents individuals, while the other house represents the Member States. Ultimately, I think we should reduce the influence of Member States with respect to the citizens of the EU
B.1.1	Membership	79	245 representatives sent by the States	The Council consists of 28 ministers, one from each Member State. Which minister is sent depends on the subject being dealt with – there are 10 different configurations. The Presidency of the Council rotates every six months among the governments of EU member states, with the relevant ministers of the respective country holding the Presidency at any given time. The Foreign Affairs Council	More members allow for more specialization of MPs and it better reflects the diversity of the union. Also, decoupling State and Centre government might overcome parochialism. A single body instead of different assemblies of Ministers allows for more coherent law making(?)	Ministers can leverage their offices for expertise. Having only subject matter people at the table allows for better decision making	The Indian model might produce a less parochial assembly that can consequently make better decisions. If Council membership is changed from ministers to senators, it would be good to make it a big chamber to reflect the diversity of the EU and allow for specialization

				(national foreign ministers) is however chaired by the Union's High Representative.			
B.1.2	Election	80	Members of Rajya Sabha are elected by the members of the State Legislative Assemblies by proportional representation (more populous states send more representatives). 12 of the 245 members come from science, culture, art, and history, and are not elected by the States but appointed by the President of India	Ministers are sent by the Member States' governments	A small number of independent experts might improve the quality of debates. Regional politics are dampened by the Rajya Sabha's members not being directly elected by State electorates	Indirect election (e.g. through Member State parliaments) is not an improvement over the current EU model. Direct election of members would give the Council more legitimacy and so prevent local politicians to blame Brussels for everything	Adopt amended Indian model: proportional representation of Member States with members directly elected by the citizens of the EU
B.1.3	Term of office	83	Six years. A third of the members retire every second year	Coupled to governments' terms in office	Staggered retirement of the house boosts continuity. Current EU model is chaotic: ministers don't build a strong working relationship if membership is constantly in flux(?)	Six years is a long time: mandate becomes outdated	Keep four year terms, but introduce staggered retirement of half the members every second year?
B.1.4	Mandate	249, 312	Parliament can pass laws on topics on the State List only if there is a 2/3 majority in the Rajya Sabha. Also, the Centre government can only make a law concerning the State List if the Rajya Sabha authorizes this (by what majority?). The Union government is not responsible to the Rajya Sabha: the upper house cannot fire them. The	The Council of the EU holds, jointly with the Parliament, the budgetary power of the Union and has greater control than the Parliament over the more intergovernmental areas of the EU, such as foreign policy and macroeconomic co-ordination. It does not possess the power to initiate legislation	Separation of topics that are reserved for the Centre vs the States makes EU governance more clear. Making the Council of the EU subordinate to the European Parliament is more (directly) democratic, giving the EU greater legitimacy. Allowing the Council to interfere in Member States' government if 2/3	Separation of topics that are reserved for the Centre vs the States is a major reduction of Member States' sovereignty, which might be hard to realize in practice. Allowing EU intervention in Member States' politics could cause resentment against the Union (but equally well, support for)	Copy separation of topics that are reserved for decision making in Brussels vs in Member States. Allowing a directly elected European Senate to enforce an EU constitution would give a constitution the teeth it needs

			Rajya Sabha cannot originate Money Bills (it can merely advise on those Bills). It can also create new civil services (such as police, judicial, etc.)		of the Council supports that, would be a way to enforce standards on good governance (Hungary, Poland)		
B.1.5	Decision making	100	Decision making by majority of the votes in most cases (which???). Money Bills cannot be amended by the Rajya Sabha, and its recommendations on Money Bills do not need to be accepted by the Lok Sabha	Almost all Council votes are taken on a QMV (Qualified Majority Voting) system, in which for bills and the budget to be passed, they need 2 majorities – 55% of the votes in the chamber (16 votes), and those votes need to represent 65% of the EU's population. Each member state gets a single vote, and in this way represents the equality of states in the system. This means that the states are not directly weighted in this chamber based on population size. Furthermore, the Council can itself also propose certain legislation (in some intergovernmental matters), which it requires a 72% majority to pass. There are a series of areas where the Council does not vote according to QMV but instead by unanimity, which include areas such as new members of the EU, taxation, financing of the Union, harmonising of	Easier to get things changed with simple majority. Weight of States is reduced: no symbolic majority of the States needed in the upper house	Might be hard in practice to reduce the weight of the Member States	Copy Indian system

				social security/welfare, and several areas of home affairs, justice, foreign, security and defence policy			
B.2	Lok Sabha (House of the People)		European Parliament				
B.2.1	Membership	79, 330	545 members representing the people of India. 84 seats are reserved for representatives of Scheduled Castes (= historically disadvantaged castes) and 47 for Scheduled Tribes (= historically disadvantaged peoples). This is proportional to the size of these groups. 2 seats are for the Anglo-Indian community and they are appointed by the President of India if he/she thinks that the community is underrepresented in the House.	European Parliament has 751 MEPs representing the people of Europe	Reserving seats for historically disadvantaged groups would create a more fair political system if these groups would not be able to vote as much as other groups	Not sure if Europe has historically disadvantaged groups that are not able to vote as much as other groups. Favouring some groups over others creates tensions, expressed by the large scale riots in India this year	Don't introduce favours for specific groups
B.2.2	Election	81	Directly elected by the people. Every district sends one member (winner takes all). Number of people that vote for a seat is approximately the same for every seat	Directly elected by the people. Allocation of seats to Member States is proportional to their population (but not mathematically correct: small countries get relatively more seats)	More fair: 1 man, one vote. Member States are already represented in the Council of the EU, so they don't need additional weighting in the EP	Representation is not proportional (first past the post)	Abandon seat allocation to countries: one man, one vote (so no extra weight of votes from people from smaller countries), for whatever person you like to vote for. Party list system to re-distribute surplus votes
B.2.3	Term of office	83	5 years, unless dissolved earlier by the President of India	5 years	?	?	Keep as is

B.2.4	Mandate		The Lok Sabha can pass a Motion of no confidence in the Union government, after which the PM and the entire Council of ministers have to resign. Also, it can originate Money Bills (the Council of States cannot) and does not have to accept proposed amendments to these bills by the Rajya Sabha	The EC is accountable to the EP, and the EP approves appointment of the EC (both as a whole). The EP cannot initiate new laws. The Commission initiates laws and the EP can turn them down by absolute majority (= more than 50% of the MEPs). It has authority over the budget (shared with the Council). Regarding internal market exemptions and competition law, the EP is only consulted. For external trade and tariffs, the EP does not have to be consulted by the Council and the EC	The power to initiate laws gives the parliament more teeth. Giving the lower house sole authority over the budget (as opposed to shared authority with the upper house) strengthens the power of individuals as opposed to the states	?	Give EP the power to initiate legislation, including on taxation. Abolish Special Legislative procedures. Although India also doesn't allow it, it makes sense to give EP the power to force individual commissioners to resign.
B.2.5	Decision making	100, 107, 109, 110, 111	Decision making by majority of the votes in most cases (which cases?). In case of disagreement between the houses regarding Ordinary bills, a joint session of the houses decides the matter. In this case, the Lok Sabha has greater weight because all members have 1 vote and the Lok Sabha has more members. For Money Bills, the Lok Sabha has to ask the Rajya Sabha for advice, but does not need to listen to it	See above	The Indian system ensures that the voice of the people is directly heard in all matters	?	Copy the Indian system

B.3	President	79, 85	The President of India presides over parliament, can summon or prorogue both houses, and can dissolve the Lok Sabha				
B.4.3	Conflicting legislation	108	When the Houses produce conflicting Bills, a joint session takes place. Since the Lok Sabha has twice as many members as the Rajya Sabha, the former has more power				Make Council of the EU less powerful than EP: individual should trump the Member States
B.5	Miscellaneous						
B.5.1	Transitional powers of Parliament	369	During the first 5 years after the creation of India, Parliament was allowed to make laws on free trade within States	?			We could copy this: there are probably many areas in the EU that could benefit from harmonized rules but are not the natural domain of Europe-wide legislation

Executive power

	India: Union Ministers	Council of	EU: European Commission	Pros	Cons	Proposal for the EU

Description	Exercises executive authority. The Council of Ministers is responsible to the lower house of the Indian Parliament, called the House of the People	Is the "government" Of the European Union and it submits proposals for new legislation to the Parliament and to the Council, It Implements EU policy and administers the budget. It ensures compliance with EU law ("guardian of the treaties"). It also negotiates international treaties			
Formation	a) Senior minister called “Cabinet Ministers” and Junior Ministers called “Ministers of States”. b) Union Cabinet is smaller executive body and is the supreme decision-making body in India. Only the Prime Minister and ministers of the rank of "Cabinet Minister" are members of the Cabinet. c) Cabinet Secretariat leads provides administrative assistance to the council of Ministers.	a) College of Commissioners includes the President of the Commission, his seven Vice-Presidents, including the First Vice-President, and the High-Representative of the Union for Foreign Policy and Security Policy and 20Commissioners in charge of portfolios. a.1) Commissioners are coming from the 28 Member States. Each Commissioner is responsible of its Directorates General (DGs) which are the equivalent of a State Ministry. The DGs are classified according to the policy they are dealing with.		Cons EU: The Commissioners are required to remain above national politics while exercising their duties in the Commission to maintain independence. However, that requirement has slowly been eroded as the institution has become more politicised. Moreover, it may happen that Commissioners “push” for their national political agenda.	

		b) Director General, answerable to the relevant Commissioners, take upon the subjects proposed by the Commissioners.			
Elections	All other ministers are appointed by the President upon the advice of the Prime Minister. The ministers hold office during the pleasure of the President. Acting upon the advice of the Prime Minister, the President distributes portfolios among the ministers	Vice President and Commissioners are selected by the President based on the suggestion from the Member States. The list of nominees has to be approved by national leaders in the European Council. The nominees have to explain their vision and defend them before the European Parliament. The parliament votes on whether to accept the nominees as a team and finally the European Council, by a qualified majority, appoints the new team.		Cons India: The Constitution gives a free hand to the Prime Minister to constitute the Council Ministers. Normally only a member of either House of the Parliament is appointed as a minister. However, the Prime Minister can also appoint a non-member as a minister, but such a minister has to get the membership of either house.	It would be impossible to give so much power to the President of the Commission (to elect the Commissioners). Not to adopt the Indian system.

Terms of office	A ministry/each minister remains in office so long as it enjoys the confidence of the majority in Lok Sabha, or so long as the Prime Minister does not resign. The maximum term for which a ministry can remain in office in 5 years, i.e., for one full term of the Lok Sabha. The resignation of the Prime Minister means the resignation of the entire Council of Ministers.	Five Years The President and his Commission may be removed from office by a vote of censure from Parliament	Pro India: Remain in the office as long as the confidence is enjoyed – implies that the confidence might be voted against. Unlikely to happen to the Commission.	Cons EU: It is very unlikely that the Parliament would remove from the office the President and the Commission because of the political implications. (It threatened to use it against the Commission headed by Jacques Santer in 1999 over allegations of corruption. In response, the Santer Commission resigned *en masse* of its own accord, the only time a Commission has done so.) Cons India: Theoretically, no limits of terms in the constitution!	The EU terms should be less politicized – should be proven that it enjoys the confidence of the parliament.
Decision making	The Cabinet formulates the policies which are to be submitted to the Parliament for approval. It gets these policies approved from the Parliament and then implements these. It runs the administration of the Union in accordance with the approved policies. The Cabinet/ PM coordinate and control the working of all departments of the government. The Cabinet formulates the foreign policy as well as all domestic policies deemed necessary for all round development of the country	In principle, the European Commission proposes new laws, but it is the Council together with the Parliament that adopts them. This is the EU's standard decision-making procedure. The Council and the Parliament can give the Commission the power to adopt non-legislative acts: - Delegated acts: brings non-essential elements of a law up to date with scientific progress or market developments (scrutinized by the Parliament)			

		- Implementing acts: ensure EU acts are implemented in a uniform way throughout the EU (scrutinized by EU governments through the comitology)			