

Mechanisms of Intergovernmental Relations in Brazil

The Forum of Federations organized a two-day workshop on Mechanisms of Intergovernmental Relations – International Experiences and Challenges for Brazil that took place September 17 to 18, 2003, in Brasilia, Brazil. The Forum organized this event in cooperation with the Secretariat of Federative Affairs of the Civil House of the Brazilian Presidency.

Papers from the conference will be available on the Forum's web site shortly.

In the first day the experiences of India, Canada, Germany, United States, Mexico and Australia were presented. The experts invited to speak on the structure and functioning of intergovernmental relations (IGR) in their respective countries were Rekha Saxena, Senior Lecturer at the University of Delhi, India; Donald Dennison, Vice-President and COO of the Forum of Federations; Uwe Leonardy, former Ministerial Councillor, Germany; Earl Baker, former Senator of the Senate of Pennsylvania and former Republican State Chairman of Pennsylvania; Ruben Monroy, Director of Programs of the Institute for Federalism and Municipal Development of Mexico; and Cheryl Saunders, Director of the Centre for Comparative Constitutional Law, University of Melbourne, Australia.

The second day of the workshop was dedicated to Brazilian experiences. The morning session summarized the experiences of established intergovernmental cooperation in a few public policy sectors. In the afternoon session, the representatives of the Brazilian government presented and commented on the new Lula government proposals to enhance intergovernmental dialogue and cooperation in the Brazilian federation.

The workshop attendees were representatives of federal agencies and institutions responsible for the coordination of intergovernmental relations, representatives of the state governments, academic specialists on intergovernmental management and public policies in federal states, public officials from different spheres of government, and representatives of foreign foundations and international organizations based in Brazil.

Why hold such a workshop?

The purpose of the workshop was to examine the existing types of formal and informal intergovernmental mechanisms and arrangements in federations and explore the functioning of diverse mechanisms of joint decision-making and joint implementation of public policies. Another objective of the workshop was to engage in assessment of existing mechanisms of intergovernmental relations in Brazil, and to share best practices from other federal systems. The

discussions with the international experts were to provide the Brazilian participants with the orientation and possible ways for implementing the new mechanisms of intergovernmental cooperation.

Highlights from the Discussions

Brazil is one of the few federations that does not have a designated department to coordinate its intergovernmental relations (IGR). These are handled by the Presidency and the Foreign Affairs Department. There is a lack of institutional and administrative structures designed to coordinate public policies. Even though the reforms implemented during the previous administration of the President Cardoso increased the coordinating capacity of the federal government, further institutional innovations in this area are desirable in order to reinforce the federal structure and improve effective intergovernmental cooperation.

The only institutions established to coordinate IGR are the National Council for Fiscal Policy (CONFAZ), created to coordinate the fiscal and tax policies of the states, and the tripartite Health Council in the public health sector. A few new initiatives are currently being implemented, namely the “Committee of Federative Articulation” created to speed up the process of communication between the federal government and the municipalities. There is also a proposed national program of public security for coordinating the IGR in this sector.

The new administration of the President Luiz Inacio Lula da Silva is strongly committed to federalism in Brazil and to improved intergovernmental relations.

The workshop was inaugurated by the Head of the Secretariat of Federative Affairs, Vicente Trevas and by the Vice-President and COO of the Forum, Don Dennison.

Rekha Saxena emphasized in her presentation that IGR in India is an affair of executive rather than legislative federalism. The mechanisms of IGR can be divided between formal and informal. There are only two formal mechanisms of IGR, the Inter-State Council and the National Development Council, whose membership partially overlaps. A number of informal mechanisms can be cited, such as ad hoc intergovernmental conferences like Chief Ministers'/ Ministers'/ Secretaries' conferences, or Zonal Council, which purpose is to provide a common meeting ground in each zone for ensuring resolution of inter-state problems, fostering balanced regional development and building harmonious union-state relations.

Don Dennison started his presentation by mentioning that Canada was created a federation by necessity and not by choice. He labelled present Canadian federalism as reciprocal, compared to its cooperative and competitive character in the 1960s – 1970s and mid 1970s – 1980s, respectively. Dennison also emphasized the wide scope of IGR cooperation in Canada. As some specific examples of IGR cooperation he mentioned the Canadian Council of Ministers of the Environment, different types of inter-provincial cooperation, and Eastern Provinces and New

England States Conference, which apart from 5 Eastern Canadian Provinces includes also 6 states of the United States. He concluded by saying that today federalism offers the most modern approach to government in Canada, and emphasized the need for an effective intergovernmental machinery to make federalism work.

Uwe Leonardy described the German intergovernmental system as consisting of three pillars, of which only one, the "Federal State" with the Bundesrat in its centre is based in the Constitution. The second pillar is known as the "Whole State" and it comprises a number of bodies which discuss political initiatives on equal footing with their counterparts in the Länder. The Conference of the Heads of Governments of the Federation and the Länder, which takes place regularly every three or four months, is an example of the second pillar. The third pillar consists of institutions serving functions of horizontal co-ordination between the Länder. The Conference of the Minister-Presidents, the Länder Heads of Governments, is an example of this pillar.

Earl Baker started his presentations by comparing federalism and intergovernmental relations, pointing out that federalism is both a description of a structure but also often an evaluative term to describe a desired state of affairs. On the other hand, intergovernmental relations is a descriptive term that emphasizes processes and the details of relationships between governmental units. These thoughts might be subtitled "*Federalism is romance; intergovernmental relations is marriage.*" Mr. Baker then described the main features of the American federalism. He stated that IGR is a method by which to bring about greater conformity to national policy. Federalism is conflictual by definition; and intergovernmental relations create opportunity for cooperation.

According to Ruben Monroy, federalism in Mexico did not work very well since the creation of the Federal Mexican States. For approximately 70 years, IGR were completely influenced by the dominant position of the Institutional Revolutionary Party. The government of President Vicente Fox is committed to the federal state structure, and this commitment is embodied in the creation in 2000 of the National Institute for Federalism and Municipal Development, as a central agency for coordinating the IGR. Municipal governments play an important role in the Mexican federalism and there is a belief that the federation should be fostered by working at a local level. IGR in Mexico are also influenced by sectors, whereby a number of bodies were created to influence the design of sectorial policies.

Cheryl Saunders described in the outset of her presentation the main features of the Australian federation and how the powers are divided between the Commonwealth and the States. Generally, there is no constitutional framework for formal intergovernmental cooperation. Informal co-operation is extensive and varied. Some typical mechanisms include Ministerial Councils, intergovernmental agreements, fiscal transfers, and legislative schemes of various kinds. The purposes of cooperation are for example co-ordination of power between States and between Commonwealth and States, harmonisation/uniformity of law, or fiscal assistance. Professor Saunders then described some specific examples of cooperation in health, education, human embryo research, etc.

The first half of the second day was dedicated to the assessment and perspectives of the most formalized mechanisms of IGR in Brazil.

The first session focused on the National Council of Fiscal Policy (CONFAZ). Arno Hugo Augustin Filho, Associate Executive Secretary of the Ministry of Finance and President of the CONFAZ spoke on the origin and role of the CONFAZ, its relationship with the VAT (ICMC), and on fiscal wars. He emphasized the need to reform the ICMS, to harmonize the tax, and to create uniform tax rates throughout the country. These changes would lead to increased fiscal efficiency and the elimination of fiscal wars. Clovis Panzarini, former tax administration co-ordinator in the Sao Paulo State Ministry of Finance discussed the new post-reform CONFAZ (as described in the proposal number 41 currently being discussed in the Congress), stating that CONFAZs powers should increase and that it will acquire some new roles.

The second session focused on the intergovernmental cooperation in the Unified Public Health System (*Sistema Único de Saúde - SUS*) and in other public policies. The 1988 Constitution defined that access to free health services is a universal right, creating the SUS. The federal government transfers funds to the states and municipalities, and these are obliged to spend part of the transfers on the SUS. As for IGR function distribution, the federal government is in charge of funding, formulation of a national health policy, and co-ordination of intergovernmental initiatives. State and municipal government's participation in the process of health policy formulation was institutionalized by means of councils with state and municipal representation.

Marta Arretche, Professor of Sao Paulo State University demonstrated in her presentation that the political institutions in Brazil concentrate authority in the federal government, facilitating functions of intergovernmental co-ordination of social policies. Professor Arretche mentioned that any federal entity was constitutionally authorized to implement programmes in the areas of health, education, welfare, housing and sanitation, but no federal entity was constitutionally obligated to implement programmes in those areas. From this fact comes the view that the 1988 Constitution decentralised revenue, but did not decentralise responsibilities.

The second half of the second day of the workshop was dedicated to the presentations of the new proposals for intergovernmental cooperation in Brazil.

Luiz Alberto dos Santos presented on *Intra-governmental Federal Dialogue in the Functioning of Federal Relations*. He mentioned the *Federal Pact* enshrined in the 1988 Constitution as an important mechanism of IGR, and emphasized the importance of federal coordination of sectoral policies. One example of a new IGR mechanism is public consortia or cooperation agreements between federative entities. The role of the Civil House (*Casa Civil*) as a focal point of action coordination of the government was stressed.

The National Policy on Public Security within Brazil's Federal Framework was presented by Jose Marcelo Zacchi of the National Secretariat for Public Security. Firstly, he described the main principles and objectives of the National Plan for Public Security and then stressed that without management, there cannot be a security policy. The security policy implies a systemic integration of the institutions. The management must be an instrument to promote preventive and strategic action. Two programs will acquire a special role in the process of the implementation of the Plan - the Programs to Reform Public Security Institutions and the Programs to Reduce Violence.

Tania Bacelar of Ministry of Integration presented on *Institutional Mechanisms and Intergovernmental Cooperation in the Area of Regional Development*. She introduced the problem of regional imbalances linked to poverty. The National Policy for Regional Development has to rely on the government policy and the availability of specific instruments. The policy should focus on the least dynamic and the least developed sub-regions (mesoregions) in the country. The mechanisms created at the national level are the Inter-ministerial Committee for Regional Policies and the *Committee of Federal Articulation*. On the sub-national level, a number of forums were created to promote regional development, such as SUDAM or SUDENE.

Vicente Trevas, Deputy Minister of Federative Affairs of the Civil House labeled his presentation *Lulas Government Strategy to Empower the Federation*. The most important mechanism is the newly created Committee of Federal Dialogue and Pact (Comitê de Articulação e Pactuação Federativa) which aim is to redefine the relationship of the federal government with the municipalities. Some of the major problems faced by the federal state are the conflict or unclear division of competencies, incipient experience of intergovernmental sectorial management and lack of intergovernmental forums, diversity and inequality of federative entities, regional inequalities, lack of instruments that facilitate local and regional cooperation and the problems of metropolitan management, difficulties to guarantee tax autonomy of federal entities, etc. Mr. Trevas emphasized the importance of relations with the States that are practiced through the following mechanisms – meetings of the President with the Governors, regional forums of the Governors, the recreation of the development agencies, and dialogue with the regional offices of the states.

The two last presentations were delivered by Pedro Wilson, Mayor of Goiania and Paulo Hartung, Governor of Espirito-Santo who commented on the new government proposals. Mr. Hartung pointed out a considerable improvement in the municipalities in terms of tax collection and praised the federal government efforts in dealing with a number of issues as they relate to municipal governance.

After a comprehensive summary by a special workshop rapportuer Valeriano Costa, the workshop was concluded by remarks of Vicente Trevas and Don Dennison. The Minister of the Civil House, Jose Dirceu could not attend the closing ceremony.

