

## Comparative Reflections

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A constitutional distribution of legislative and executive authority and finances among the general and constituent unit governments has constituted a fundamental, indeed defining, aspect in the design and operation of these federations. But while a constitutional distribution of authority, responsibilities and finances among the orders of government has been a fundamental feature common to them, there has been an enormous variation in the constitutional form and scope and in the operation of the distribution of powers in different federations.

Different geographic, historical, economic, security, demographic, linguistic, cultural, intellectual and international factors have affected the strength of the common interests and of diversity peculiar to each federation. Consequently, the specific distribution of authority and the degree of noncentralization has varied among federations.

Among differences in the *form* of the constitutional distribution of authority have been the extent to which the exclusivity or concurrent jurisdiction of governments has been emphasized, the assignment of state or provincial powers by a specific listing of jurisdiction or by a general allocation of residual authority, the extent to which the assignment of executive responsibilities coincides with or is differentiated from legislative jurisdiction, the symmetry or asymmetry in the powers assigned to different constituent units, the formal constitutional recognition or not of local governments as a third constitutional order of government guaranteed their own self-government, and the extent of federal overriding and emergency powers. In terms of the *scope* of constitutional powers, there have been considerable differences in the relative roles of government in different policy areas. The financial arrangements and the degree of reliance upon intergovernmental financial transfers has also varied. As a result, there has been substantial variation the degrees of centralization and non-centralization and of intergovernmental cooperation or competition among governments within different federations.

Within each federation there has in practice been considerable difference between the constitutional form and the operational reality of the distribution of powers. In most cases political practice and processes have transformed the way the constitution has operated. A key factor here has been the impact of political party and interest group activities affecting political bargaining and compromises.

While in each federation there has been a constitutional allocation of specific powers to each government, overlaps and intergovernmental interdependence have proved inevitable and unavoidable in every federation. As a result this has usually required a variety of processes and institutions to facilitate intergovernmental collaboration. But here too there has been considerable variation among federations in the degree and character of intergovernmental collaboration and in the balance struck between the independence and interdependence of governments. For instance, Germany and Mexico are marked by closely interlocked relationships while Canada and Belgium in comparative terms lean to the other extreme.

Federations have not been static organizations and over time the distribution of powers in each has had to adapt and evolve to respond to changing needs and circumstances and to the development of new issues and policy areas. In seeking a balance between rigidity to protect regional and minority interests, on the one hand, and the need to respond effectively to changing circumstances, on the other, a number of processes have played an important role, although in varying degrees in different federations. These have included formal constitutional amendments, judicial interpretation and review, intergovernmental financial adjustments, and intergovernmental collaboration and agreements. The evolution of the distribution of powers in response to changing conditions has over time in some instances, such as the United States, Australia, Germany, Brazil, Mexico and Nigeria, displayed a general trend to the reinforcement and expansion of federal powers. But this has not been a universal trend. Canada, India, and Belgian have instead over time experienced a trend to greater decentralization reflecting the strength of the diverse communities composing them.

Virtually all contemporary federations are currently experiencing pressures and debates for adjustments to their distribution of powers in order to meet changing and new conditions. The present context of globalization and regional integration, of membership of federations in such supra-federal organizations as the European Union or NAFTA, of emphasis upon market economies and the benefits of economic decentralization, and of concerns about security from terrorism, are all requiring a rebalancing of centralization and noncentralization and of collaborative and competitive federalism. With this has gone recognition that federations and the distribution of responsibilities in them should not be conceived as rigid structures but as evolving processes enabling the continuous reconciliation of internal diversity within their overarching federal frameworks. In this respect the distribution of powers and responsibilities within all these federations and the balance between “shared rule” through common institutions on the one hand and “self-rule” for the constituent units on the other may be typified in the words of Richard Simeon’s chapter as a continuing “work in progress.”