

**International Conference on Federalism
Mont-Tremblant, October 1999**

Session 9) Plenary: Theme Reports

**RAPPORTEUR'S REPORT ON THE
INTERGOVERNMENTAL RELATIONS THEME**

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8 October 1999

1. Introduction

As a former Cabinet Secretary, I know one or two things about being a rapporteur. There is a piece of doggerel that most Cabinet Secretaries know by heart, which comes to us from the UK Cabinet Office. For reasons that will quickly become obvious, the author is anonymous :

Now that the Cabinet has gone to its dinner,
The Secretary stays and gets thinner and thinner,
Racking his brain to record and report,
What he thinks they think they ought to have thought.

This is a report from 9 background papers, a theme plenary and 16 roundtables. Most of the credit for this report, then, must go to the members of the Intergovernmental Relations Theme Committee, those who prepared these background papers, and to the speakers, discussion leaders, session leaders and, above all else, the notetakers, who helped me to bring together the deliberations of hundreds of people through many hours of discussion and debate.

2. The comparative approach

To understand this report, it is important to recognise that many of the groups proceeded by way of comparative analysis – contrasting the different ways in which different jurisdictions perceive particular problems, the different institutions which have been used to resolve IGR problems, the success or failure of these institutions and the reasons for that success or failure.

The first thing that should be said about this form of discussion is that it emerged spontaneously. Perhaps because of the large number of practitioners present, participants wanted to know how other states were solving their problems. And I suspect that more than a few participants will leave this conference with new ideas about how to resolve problems on their desks back home.

But there are also significant limitations to such a method, particularly when sessions are only one or two hours in length. The discussion rarely rises to a high level of analysis. Few roundtables had the time to analyse these differences and draw out the lessons. This has implications for the design of future conferences as well as for future research.

3. What are we dealing with – federations or intergovernmental relations?

Another difficulty with the IGR discussions – and this was implicit rather than explicit – was the lack of clarity in relation to the range of institutions we were studying.

Obviously, intergovernmental relations covers a somewhat larger class of institutions than traditional federations. And participants pointed out that this is not merely a semantic difference. It influences the whole way in which we structure intergovernmental relations. It determines who is permitted to sit at the table, what issues may be raised and what language may be used.

For example, it was argued that federations tend to have a vertical or 'chain of command' approach to relationships. The Local Government/International Cities roundtable pointed to the significant place of cities in the organisation of modern society, and the role which international cities play in forming national linkages to global processes. 'Globalisation is at the centre of life in cities.' And yet, within the traditional federation, cities are viewed as being 'at the bottom of the food chain'.

A broader approach to federalism, it was argued, would be consciously concerned with the redistribution of opportunities, the reallocation of possibilities, the reshaping of democratic options.

This was also a significant concern in the roundtable on Indigenous Peoples. Is federalism only concerned with heavily structured institutions, it was asked, or is it a state of mind? Indigenous peoples see formal federal structures as being exclusionary and if that is what federalism means, then they have only a limited interest in the debate.

A key consideration for the Forum of Federations, and for the construction of future conferences is how we define the range of institutions. Are we primarily

concerned with federations? Or is the challenge before us to understand the rich variety of institutions used to manage intergovernmental relations? Is this about federations, federalism or federal-type institutions?

How we answer this question will define who is permitted to sit at our table and the terms on which they are allowed to participate in our deliberations.

4. One size does not fit all

The strongest impression to emerge from the IGR roundtables – and this was frequently mentioned – was that one size does not fit all. Federations are very different. Different countries use the instruments of federalism in different ways. Brian Opeskin wrote in his background paper that the ‘mechanisms for intergovernmental relations may be seen as consensual tools employed for the mutual benefit of the constituent units of the federation.’

One of those differences was between developed and developing nations. There were differences between parliamentary and presidential systems. Another significant difference which has emerged over the course of the conference (and requires closer attention) is between civil law and common law jurisdictions.

There are also significant differences in the stability of different nation states and this is one of the differences in the role of federalism in different countries. Belgium has recently created a federation in an attempt to keep the nation state intact. Canada is seeking to redefine its federal system for much the same reason. Minister Peiris from Sri Lanka had expressed the view that in his country some people looked on federalism as the precursor to the break-up of the nation state. In other states, the federal system is largely taken for granted. In the United States, federalism is very much a playing field for vertical competition. In Australia, federalism is much more a matter of good governance, or good public administration.

Another difference is between those jurisdictions where intergovernmental relations are institutionalised in the institutions of central government (such as in the second chambers of Germany and Austria), and those which seek to avoid concurrent powers between the different orders of government (such as the United States, Canada and Australia). In this second group of countries, the second chamber is irrelevant for the purposes of federalism.

In several of the groups, this raised the question as to why one size does not fit all. What causes federations to vary?

Of course some work has already been done of this, and there was reference to it in a number of the background papers, most notably Ronald Watts’ paper on ‘Models of Federal Power Sharing’. Some of the factors which emerged in the

roundtables included symmetry vs asymmetry, formal vs informal institutions, large numbers vs small numbers, and the depth of spatial, demographic, cultural and wealth disparities.

One way of looking at this issue was suggested by Will Kymlicka in a plenary session, but repeated several times in the IGR roundtables – and that involved looking at federalism as a toolbox. From this perspective, it is a question of finding the right tool for the job in hand. Minister Peiris had expressed the view that we need to jettison labels and nomenclature. There are lots of hybrid federations around the world. And this demands of us a much clearer understanding of the work which particular tools do, and the conditions under which they are most effective.

5. Formal vs informal relations

One of the ways in which IGR is larger than traditional federalism is in the use of informal solutions. In his background paper, on the 'Structures of Intergovernmental Relations', David Cameron wrote that 'IGR operates at the interface between what the constitution provides and what the practical reality of the country requires.' Richard Simeon wrote in his paper on 'Adaptability and Change' of a 'robust' IGR and listed some of the characteristics for effective coordination and communication. And there was frequent mention in the roundtables and lobby discussions of Minister Stéphane Dion's list of seven principles of functional federalism – a practitioner's list, much of which was concerned with informal solutions.

A study of informal IGR is concerned not merely with structures and mechanisms, but also with the design of processes and the choice of personnel. As one participant pointed out, the structures of intergovernmental relations may remain intact, but cease to function because of a change in personalities. Several roundtables referred to the importance of trust and goodwill, and a focus on informal aspects of IGR raises questions about how we actively foster trust and goodwill between governmental players.

No doubt it is the presence of a large number of practitioners which has prompted this interest in informal IGR. It is a significant difference from previous conferences on federalism and suggests some directions for future research and some issues for the design of future forums.

6. Efficiency vs accountability

Another persistent theme was the tension between efficiency and accountability (and/or transparency). Several participants from developing nations pointed out

that, for them, globalisation had somewhat of a centralising influence because World Bank and IMF requirements tend to demand stronger central institutions.

In parliamentary systems, the Executive may find it easier to make commitments in intergovernmental forums, but this has raised questions of democratic accountability.

There was some discussion of the institutional reforms which might lead to a greater involvement by legislatures in intergovernmental relations. Tentative steps by some legislatures were reported, and some quite robust institutions at the level of the 'joint functional authority'. But for reasons which were not entirely clear to participants, legislatures have, thus far, declined to become significantly involved.

7. What does federalism do for individuals?

Another persistent concern, not unrelated to this question of accountability, was the impact of federal systems on people. How does federalism work out for individual citizens?

This is a challenge for federations, in part because of their relative complexity and the associated lack of transparency. On the other hand, federal systems offer citizens the capacity to pursue their needs in alternative forums.

Globalisation does create new challenges – the so-called democratic deficit – but it was pointed out that new technologies offer prospects of greater transparency and increased avenues for participation.

There was also discussion of the contribution which globalisation and internationalisation have made to the redefinition of 'democracy as representation' to 'democracy as rights'. While this has the effect of empowering individuals (particularly through the international human rights movement), it poses some challenges for states, and federations in particular.

8. Dispute resolution

Some good comparative work was done in the sessions on dispute resolution, and this is another area which might warrant future research. There appears to be a general reluctance on the part of practitioners to rely on formal court procedures, for a number of reasons – rigidity, cost and delay, the bias of constitutional courts appointed by the federal government and the risks associated with placing largely political concerns in the hands of lawyers.

A number of innovative alternative dispute resolution mechanisms have been developed in different jurisdictions – the Council of Common Interests in Pakistan and the Conciliation Committee in Belgium were discussed in some detail – and while their limitations were acknowledged and their specific contexts recognised, a number of participants obviously felt that there were lessons that could be learned.

Both roundtables addressed dispute avoidance, and the role of goodwill and trust between governments was particularly mentioned in this regard. This is another area where the differences between developed and developing nations seems to be quite marked.

9. Role of the private sector

Federalism is not necessarily a more efficient system of government for business, and globalisation has given sub-national governments a greater stake in international relations and thereby created the potential for even less coordination in policymaking. Business needs stability, clarity and consultation.

On the other hand, sub-national governments have become more international in outlook and thus more involved and, over time, more effective in setting policies at that level. Today, sub-national governments are required to sit at the table with national governments and cooperate in the development of joint policy positions. It is harder for them to go alone.

The changing role of government in relation to policymaking was seen as particularly important in this session, and the increased opportunity of private sector organisations to participate in policymaking. Government no longer has a monopoly on policymaking. There was recognition of the need for business to take account of, and participate in the development of policies relating to the concerns of other stakeholders. Business must work with government (and vice versa), to seek a balance between centralisation and decentralisation.

10. Indigenous peoples

Mention has already been made of the different perception which indigenous participants have towards federal institutions. Process is particularly important, and there is little virtue in a federal system if indigenous peoples are not able to be involved.

The recognition of diversity is particularly important. Process must be inclusive. It must be organic and it must be ongoing. And there must be dialogue with all levels of government. There is little point in having one-off consultation at one stage in the process, and then being excluded from policy development and implementation.

A concrete suggestion was the creation within each nation state of a forum to discuss the differences in intellectual traditions between indigenous and mainstream communities. This would also demand of indigenous communities that they examine their traditions. The concern was the development of a forum to bring both sides together, to find common ground.

11. Non-government organisations

There are many different kinds of NGOs and they have somewhat different relationships with government (for example, charities and lobby groups).

The changing role of government, and the retreat from certain functions traditionally delivered by the state, has created a need to have NGOs at the policymaking table. Increasingly, it is the NGOs that have the expertise. Again, the difference in developing nations was recognised, where NGOs are often in conflict with governments, so that cooperation is not possible.

Federal systems of government demand that NGOs organise in a federal structure, and it has become necessary to extend this process upwards, with the shift in policymaking to the international arena. Again, there are mixed views within national and sub-national governments about the involvement of international NGOs in the setting of domestic policies.

As with the business community, NGOs don't always find federal systems more efficient, with the prospect of being passed from one government to another. But this also provides the opportunity to have policy issues reopened when one order of government has failed to respond.

12. Local government and international cities

The role of local government within federal systems arose in a number of roundtables, as well as the differential impact of globalisation on urban and regional/rural areas. The growth of urban agglomerations will also have an impact on federations. If federations do not take account of the changing role of the city within national economic and political systems, then federal structures may become less relevant and less effective as a result.

Mention has already been made of some of the issues canvassed in the Local Government/International Cities roundtable. This issue of how to break the 'chain of command' mentality associated with traditional federations was considered to be particularly important. The notion of a 'bill of rights' for federalism was floated.

Cities can be a place of empowerment and democratic engagement. On the other

hand, megacities offer far less scope for democratic engagement, and there is a tendency with globalisation for a social polarisation within cities. Cities, too, have to struggle against the inequalities produced by globalisation.

Concerns were expressed at the devolution of responsibilities to local government without adequate funding.

13. Globalisation

There was disagreement about how far the economic aspects of globalisation have affected the capacity of governments. There is clearly some concern, particularly in the developing world, about a number of aspects of globalisation, particularly what might be called the equity implications. There are also winners and losers within nation states. Globalisation will mean different things for different countries. Again, the centralising influence of IMF/World Bank programs was stressed.

Some groups were concerned that globalisation might result in a weakening of power among the second order of governments, but there was no clear view on which order of government has the greater competitive advantage as a result of globalisation – some have moved up and others have moved down.

The Globalisation roundtables commented on the growing international presence of sub-national governments. This was seen as a very important trend and there is now clear evidence that this is a worldwide phenomenon, and not merely the by-product of the particular dynamics within Europe.

Concerns were expressed in a number of roundtables about the phenomenon of 'fiscal war' between sub-national governments to attract foreign investment. But no one had any real answers.

Globalisation will exacerbate the economic disparity between regions, and this makes fiscal equalisation within federations even more important. There is evidence that federations, both in the developed and in the developing world are not handling fiscal equalisation particularly well. Again, this may be an area for further study.

Globalisation favours 'marble cake' (as opposed to 'layer cake') federations. Dialogue between the different orders of government becomes even more important (including local government). Institutional structures to facilitate dialogue become more important. In short, IGR becomes more important with globalisation. We will see new forms of coordination and cooperation, and this will result in a blurring of accountability.

It was felt that the nation state would probably be best positioned to cope with

issues of redistribution. It was also argued that social union becomes even more important for federations if sub-national governments are in the economies of different parts of the world.

14. Adaptability and change

Federalism has proven to be adaptive. It has changed over time. Because of this, it is vital that people are involved in federal processes and in the changes taking place.

Federal systems enable societies to adapt. They tend to be 'institutionally rich', and this suggests a comparative advantage in the global marketplace for good governance. They appear to have a great capacity to experiment with alternative structures of governance and facilitate change.

Just as we have come to appreciate the importance of ecological biodiversity, federal systems teach us the benefits of cultural and institutional diversity. It is unwise to place all of your eggs in one basket.

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