

# Federations

WHAT'S NEW IN FEDERALISM WORLDWIDE

JUNE / JULY 2007

## The Governator and California's Bear Flag Revolution

**MEXICO: UNITING TO FIGHT  
THE DRUG LORDS**

**SWITZERLAND: NEW LAWS  
CLAMP DOWN ON REFUGEES**

**AUSTRIA: EXPERTS TACKLE  
THE CONSTITUTION**



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# Federations

# 7

## SPECIAL SECTION

# Post-Secondary Education in 12 Federations

How federations finance and govern institutions of higher education. Here the heads of departments of Kashmir University wear traditional pink turbans at their convocation in Srinagar, India.

AP PHOTO/RICH PEDRONCELLI



### The Governor and the Bear Flag Revolution

California Governor Arnold Schwarzenegger delivers his inaugural speech in Sacramento last January. Schwarzenegger is steering a new course for his state in matters of pollution control, health care, environmental and energy-conservation. Where the federal government has stepped out, the Governor has stepped in.

### The Magazine's New Look

Welcome to the newly-designed *Federations* magazine. Its look and feel provides a more contemporary setting for our news and feature articles on federalism and federal countries.

The aim of the new design, according to its Ottawa-based designer, David Berman, is to "move the look from journal towards magazine, while improving the typography, the flow, and the use of paper and colour."

The re-design includes a new web version of the magazine. Please see it at [forumfed.org](http://forumfed.org).

## NEWS

- 2 United States: The Governor and the Bear Flag Revolution**  
BY ANDREW MCINTOSH
- 4 Mexico: Uniting to Fight the Drug Lords**  
BY LISA J. ADAMS
- 6 Switzerland: New Laws Clamp Down on Refugees**  
BY CAROLINE ZUERCHER
- 30 Austria: Experts Tackle the Constitution**  
BY PETER BUßJÄGER

## SPECIAL SECTION

- 7 Post-Secondary Education in 12 Federations**  
BY ARTHUR M. HAUPTMAN
- 10 Nigeria: Higher Education Needs Urgent Attention**  
BY KOLE SHETTIMA
- 11 Australia: Democratization with Rising Student Debt**  
BY DERYCK M. SCHREUDER
- 13 India: How to Expand Student Places for Millions**  
BY SUDEEP BANERJEE
- 14 Spain: Democracy, Decentralization Arrive on Campus**  
BY FRANCISCO MICHAVILA AND JORGE MARTÍNEZ
- 16 Germany/Switzerland/Belgium: Rapid Changes in Three Countries**  
BY RICHARD VAN LOON AND ADRIE DASSEN
- 19 Brazil: Tax Measures Help Needy Students**  
BY JACQUES SCHWARTZMAN
- 21 Mexico: Higher Education Decentralizes**  
BY ROBERTO RODRÍGUEZ-GÓMEZ
- 22 Venezuela: Do Revolution and Higher Education Mix?**  
BY MARIA CRISTINA PARRA-SANDOVAL
- 24 Canada: Excellence Without a Federal Ministry**  
BY RICHARD VAN LOON
- 25 United States: Thirty Per Cent Hold Bachelor's Degrees**  
BY ARTHUR M. HAUPTMAN

## OTHER DEPARTMENTS

### PRACTITIONER'S PAGE

- 28 One German Land's "embassy" to the European Union**  
INTERVIEW OF HANS STEIN BY ROD MACDONELL

### PRESIDENT'S PAGE

- 32 The Unanimity Trap**  
BY GEORGE ANDERSON



PHOTO/RICH PEDRONCELLI

Standing proudly in front of the Bear Flag of the short-lived California Republic of 1846, Governor Arnold Schwarzenegger announces his budget on May 14. Schwarzenegger is remodeling American federalism 161 years later.

## The Governor and the Bear Flag Revolution

BY ANDREW MCINTOSH

**F**RUSTRATED BY YEARS OF FEDERAL government inaction on key issues of concern to his state's 37 million residents, California Governor Arnold Schwarzenegger has tackled some of the most important problems himself, sidestepping a Washington preoccupied with war and international affairs.

In doing so, the populist Schwarzenegger has transformed himself from the Hollywood millionaire and big-screen action hero - The Terminator - into a kinder, more ambitious, national political action figure - The Governor - by portraying himself as a leader of a nation-state that has become a global player in its own right.

Sporting his trademark silk ties, wide smile and sculpted Hollywood good looks, the politically savvy Schwarzenegger, now in his second term, has undertaken what University of Southern

California professor Jonathan Taplin has dubbed the "Bear Flag Revolution." The Bear Flag image comes from the mighty grizzly that stands at the centre of the handsome white, red and brown California state flag, commemorating the short-lived California Republic that preceded California's annexation by the United States in 1850.

### Centralizers Out!

"Something important is happening in California," Taplin argued in a recent paper. "A profound experiment in federalism, led by a Republican Governor and a Democratic legislature, is taking shape, and it is the first break with an American political culture that has been centralizing power in Washington since 1932."

"What the Governor and many in our state have concluded is that the only way forward for the American republic is a radical form of devolution," Taplin added.

While the idea of returning more power to U.S. states and cities has been around for years, Schwarzenegger is the fledgling movement's new national champion because he is "openly experimenting with the New Federalism."

Experimenting perhaps, but it was another Hollywood actor turned Republican politician, the late president Ronald Reagan, who devoted part of his 1983 State of the Union address to a sweeping proposal to devolve vast federal powers back to the states and cities in the United States.

Two decades later, the Bush administration now appears taken aback by the growing consequences of Reagan's legacy, according to Dennis Herrera, the San Francisco City Attorney who wrote a commentary on New Federalism in *The San Francisco Chronicle*.

By shifting some powers away from the federal government or simply by doing nothing at all, Congress has paved the way for states like California, and some of its larger cities, to launch and achieve dra-

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matic policy and regulatory innovations on issues previously considered ill-suited for state initiative, Herrera argued.

### Action on Climate Change

Since taking power in 2003, Schwarzenegger and his administration, working with like-minded Democratic senators and assemblymen, have responded to the long list of growing concerns of progressive Californians and businesses about the lack of progress on major state, national and international issues.

The governor has attacked air pollution and global warming by passing state laws to curb automobile and carbon dioxide emission levels, working with and earning praise from British Prime Minister Tony Blair. He also took the unusual step of issuing a statement to praise Gordon Campbell, premier of British Columbia, a Canadian province, after his Liberal government also adopted aggressive policies to control climate change.

For Schwarzenegger, the years of neglect of air pollution and air quality standards were no longer acceptable to Californians and their families and action was required. Why?

"Pollution decreases our productivity and increases our health care costs," he told state legislators and taxpayers last year. "When one in six children in the Central Valley goes to school with an inhaler, it is time to consider clean air as part of our critical infrastructure. We have the technology to clean our air. So I say build it."

Yet Schwarzenegger's credentials as an environmental champion have been questioned by critics who say his long-term anti-global-warming efforts require little public sacrifice and belie his unfavourable short-term environmental record. He has supported building new dams; opposed a ballot initiative to increase oil extraction taxes to fund alternative energy research and development; sacked the board of a state agency that opposed developers' plans to build new homes near unsafe levees; and slashed state support for public transit while cutting spending on a high-speed rail project.

Undeniably, he has aggressively promoted alternative energy-saving programs like solar power, green building standards and hydrogen fuels, while backing stem cell research and raising billions of dollars to finance it and promote its benefits.

After initially refusing to do so, Schwarzenegger even decided to raise the state's minimum wage to well above the federal standard, saying it's time the millions of lowest paid workers in California share in the state's prosperity.

The Governor did all this while often clashing with the neoconservative agenda of the Bush administration in Washington and risking the wrath of many in the business community.

As a Republican Governor in a state where union-backed Democrats control majorities in both the state assembly and senate, Schwarzenegger has to walk a fine line during policy or regulatory debates. He has forged close working and personal relationships with top Democrats, including Assembly Speaker Fabian Nunez, a Democrat from the Los Angeles area. The pair grew so close, in fact, that Schwarzenegger has been criticized by members of his own Republican caucus for pandering to Nunez. Such criticism increased after the Governor hired as his new chief of staff Susan Kennedy, a long-time Democrat and former aide to Schwarzenegger's Democratic predecessor, Gray Davis.

### California's Foreign Policy

With the aggressive United States military posture of President George W. Bush leading to a rise in anti-Americanism around the world, the Governor distanced himself, his administration and California business from the Bush doctrine. The reason: if you hate America, it's easy to reject its entertainment, technology and software exports, too.

To that end, he has gone on trade missions to China, Israel, Japan, Mexico and recently to Canada, where his plan was to "focus on promoting California trade and tourism, discuss ways of reducing the effects of climate change while boosting economic growth and look at creative ways to finance infrastructure."

With much of the knowledge and entertainment industries based in Hollywood and Silicon Valley in California, it comes as no surprise that Schwarzenegger has toiled hard to repo-

sition California as a "prosperous, peaceful Golden state." California has become the world's eighth largest economy, a fair trading partner and a welcome port for all immigrants, with world class technology skills, and a state that can shape national standards.

"Although ... the auto, oil and banking industries have joined with the Bush administration to sue for relief from the California standards, to date none of the courts has struck down any of the state laws," Taplin said.

Perhaps Schwarzenegger's boldest and bravest effort so far was launched this year when he tackled the monumental health care mess in California, where 6.5 million low-income families and illegal immigrants have no health insurance at all.

Schwarzenegger promised a made-in-California solution that will "set the standard for the rest of the nation."

Why would he take on such a mammoth task? The Governor argued that federal inaction allowed the situation in his state to become financially and socially untenable. For example, medical bills are the leading cause of personal bankruptcies in the Golden State.

Citizens with health care insurance and the companies that employ them also pay a whopping \$14.7 billion worth of hidden taxes each year to cover and



California Governor Arnold Schwarzenegger delivers a speech in Beijing in November 2005, promoting heightened trade between China and California.

care for those who are uninsured. One Los Angeles hospital that Schwarzenegger visited was stuck with \$60 million worth of unpaid consumer bills for visits handled by its emergency service.

### Following California's Lead

At least eight other state governors have embarked on efforts to restructure their

[PLEASE TURN TO PAGE 31]



GOVERNMENT OF TAMAULIPAS

Three Mexican state governors celebrate the 2007 *cabalgata* or interstate cavalcade on horseback in March. From left: Eugenio Hernandez Flores, Governor of Tamaulipas; Humberto Moreira Valdés, Governor of Coahuila; and Natividad Gonzalez Paras, Governor of Nuevo León.

## Uniting to Fight the Drug Lords

President Calderón's plan could take years to implement

BY LISA J. ADAMS

**T**HE THREE NORTHERN MEXICO border-state governors presented the perfect image of Mexican tradition and unity, riding side by side on horseback in an annual celebration of regional pride. The one aberration: hundreds of state and federal police officers guarding them with high-powered weapons from the roadway and rooftops. The annual *cabalgata*, or "horse parade," is held to celebrate common cultures and goals, but this year, its seventh, it took on a weightier meaning: joining ranks against the deadly drug traffickers who have turned their communities into blood-stained battlefields.

More than ever before, the 31 states of the Mexican federation are collaborating with each other and the federal government to fight the ruthless multibillion-dollar drug cartels that are engaged in a brutal contest for prime smuggling routes and exercising ever more brazen acts of violence against the poorly equipped and corrupt law enforcement agencies charged with keeping them in

check. "In terms of drug trafficking, we are going to continue waging the battle, and in this we have to work together," said Natividad Gonzalez Paras, Governor of Nuevo León, as he joined his counterparts from the states of Coahuila and Tamaulipas in a 53-kilometre journey through the region in late March 2007.

As the two-day *cabalgata* came to a close, authorities from Coahuila, Durango, Chihuahua, Tamaulipas and Nuevo León, joined by the U.S. state of Texas, announced they had signed 19 cooperative agreements, including an accord to share intelligence and forge collaborative crime-fighting operations.

### States Erect Roadblocks

Just days later, authorities in Nuevo León's capital of Monterrey revealed that they and neighbouring states would together set up roadblocks to capture drug traffickers crossing their borders. The reason: the slaying of nine people in the city, including two state police commanders, in less than 48 hours. The crime-plagued state of Durango in the

north has forged similar alliances with neighbours Coahuila and Sinaloa.

In February, the National Conference of Governors (CONAGO) issued a "Public Safety Declaration" expressing its "full willingness to join forces and resources with the federal government; our complete commitment to construct a single, strong, decisive, and vigorous front that allows us to show that no criminal entity can overpower the Mexican state."

It wasn't always this way. In the past, Mexico's municipal, state, and federal governments did not collaborate; they competed with each other or they passed the buck. "States and cities had the ability to cooperate legally but it didn't lead to any results," said Maria del Rosario Castro Lozano, Director of the National Institute for Federalism and Municipal Development (INAFED), an agency of Mexico's Interior Department. "The states would say, 'It's not our responsibility, it's the federal government's,' or the municipalities would say it was the state's jurisdiction. That has changed," Castro said. "Now public safety is seen as the responsibility of all. They are sharing intelligence information and coordinating better in both preventive and punitive

**Lisa J. Adams** is a correspondent for *The Associated Press* in Mexico City. For the last seven years, she has covered a range of issues in Mexico and Central America.

operations.” There are two primary reasons for this newfound cooperation: a growing acknowledgment that the states cannot confront the powerful drug trade alone, and President Felipe Calderón’s insistence that public safety be the nation’s No. 1 priority.

The scale is huge. Rival drug cartels in Sinaloa and the Gulf are waging a bloody battle for smuggling routes and an ever-growing domestic drug market, targeting each other and law enforcement officers. Mexico had nearly 500 drug-related deaths in the first three months of this year, according to officials who say the increased violence is partly to fill power vacuums created by the arrests of high-ranking cartel members in recent years. The victims included more than 70 police officers, according to federal Congressman Francisco Javier Santos Arreola, a member of the lower house’s public safety commission.

“The problem is so serious that it is overwhelming the states and they are looking to others for help,” said Mexico City drug expert Jorge Chabat, of the Centre for Economic Research and Teaching. “There is every indication they are collaborating more than in the past.”

So, since he took office on Dec. 1, 2006, President Calderón, of the conservative National Action Party (PAN), has sent more than 24,000 army troops to fight organized crime in northern Baja California, Nuevo León, Tamaulipas, Sinaloa, southern Guerrero, Chiapas, and his central home state of Michoacan, among others. He stresses that the war against the drug traffickers will be won only with the long-term, permanent cooperation of federal, state, and municipal law-enforcement agencies. “It is indispensable that we work in a united manner,” Calderón told a gathering of state governors and top public safety officials in January.

### Calderón Promises Police Reform

A key piece of Calderón’s anti-crime strategy is “Platform Mexico,” a plan to set up a national drug trafficking intelligence database, accessible to all three levels of government. He has also proposed revamping national police forces and police departments in all 31 states plus the federal district of Mexico City through implementing international training standards, testing to weed out

corrupt elements, and introducing up-to-date technology.

“The idea is for all police forces in Mexico – local, state and, of course, federal – to comply with standards that will ensure that the public can trust our police,” the President said. In addition, he is proposing sweeping reforms to Mexico’s justice system, for years plagued by corruption, inefficiency and a lack of public accountability. The suggested reforms, some of which require congressional approval, include oral trials, witness protection programs, and a single, nationwide criminal code. Each state now writes its own code, and Calderón said the differences between definitions and punishments for crimes often create “loopholes through which criminals escape justice.”



An officer from Mexico’s Federal Investigative Agency stands guard over items seized during several anti-narcotics raids in Mexico in April.

### Mexico’s States Begin to Collaborate

In fact, Jorge Chabat explains, collaboration by the states with the federal government was proposed as early as 1995 within the newly established national public safety system, a mechanism that also envisioned a national intelligence database. The problem, however, both then and under Calderón’s predecessor, President Vicente Fox, “is that some states didn’t provide information and others provided incomplete data, so that it didn’t work out in an efficient manner. There were no mechanisms to obligate them to participate. It was more or less a voluntary thing.”

Another obstacle was money. According to INAFED’s Castro, federal funding aimed at strengthening police forces with new equipment or improved

training, often didn’t reach its target under a system that allowed states to distribute the money as they saw fit. In contrast, a new federal aid package to the states, proposed by President Calderón and approved by Congress, disburses money to specific projects and goals, and local governments will be audited to ensure the funds have been used as intended.

Calderón has also instituted mandatory drug testing in police departments, and has set up a system to monitor how well states comply with instructions to provide information for a national database.

### Legislature is Final Hurdle

Like Calderón, Fox presented a massive package of judicial and legal reforms to Congress, but he was stymied by his party’s lack of a majority in both houses and the resistance of opposition parties who also shot down his proposed energy, fiscal and labour reforms. Calderón may have better luck. His party now has a plurality in both the lower house and Senate, and the president, a career politician, has already shown the capability of negotiating with his opponents that Fox did not. The new president’s 2007 federal budget proposal soared effortlessly through the federal legislature, which also recently passed a Calderón-proposed overhaul of the government workers’ pension system – the country’s first significant federal reform in more than a decade. Still, achieving a political consensus is just the first step in pushing forward the police, justice, and prison reforms necessary for a successful battle against organized crime. Even if they are approved, such actions will take years to implement.

The powerful drug gangs, meanwhile, are signalling that they don’t plan to go down easily. This year, just from Feb. 6 to April 2, drug-related crimes claimed more than two dozen victims, including 12 police officers, the daughter of an army general shot in Mexico City, two alleged police informants in Cancun, and two purported cartel members, one of whom was beheaded in a widely distributed video.

Calderón has vowed to fight on. “We are not going to surrender, either from provocation or attacks,” he told drug-fighting troops during a recent pep talk. “We will give no truce or quarter to Mexico’s enemies.”

# New Laws Clamp Down on Refugees

BY CAROLINE ZUERCHER



REUTERS/STEFAN WERNLICH

UPDATE

Swiss Justice and Police Minister Christoph Blocher answers questions from journalists after a cabinet meeting in Bern in April. His ministry is responsible for new laws tightening controls on refugees, which were approved in a plebiscite.

**I**N A REFERENDUM ON SEPTEMBER 24, 2006, the citizens of Switzerland voted in favour of a revised *Asylum Act* and the new *Foreign Nationals Act* (see box). The campaign leading up to the vote was tense. Those opposing the measures claimed they would violate basic human rights. Wrong, retorted the architects of change, citing abuses of the refugee system. After their defeat, those defending the rights of foreign nationals announced their plan to closely monitor the application of the new regulations – whose implementation among Switzerland’s 26 cantons tends to vary widely.

The first of the laws tightened restrictions on asylum seekers in Switzerland through a revision of the *Asylum Act*. The second came in the form of a new *Foreign Nationals Act*, replacing the one passed in 1931.

Switzerland is not the only country to face sharp criticism for its treatment of refugee claimants. In 2005, the World

Council of Churches denounced what it called a global trend “toward criminalizing refugees, asylum seekers and migrants.”

The Church body singled out Australia, the Bahamas, Canada, Italy, Malaysia, South Africa, the United States and unspecified European countries for their harsh and questionable practices.

In Switzerland, as in many federations, asylum recognition is a federal matter, which is carried out by the Federal Office for Migration.

Three years before the enactment of the controversial laws, the Swiss Parliament had already decided to cut expenditures by refusing welfare benefits to asylum seekers against whom non-admission rulings had been rendered. The rejected asylum seekers have access only to minimal aid: a subsistence-level emergency lump sum benefit designed to encourage them to leave Switzerland as quickly as

[PLEASE TURN TO PAGE 27]

## After Two New Laws Came into Effect

Since the *Asylum Act* and the *Foreign Nationals Act* were approved in a referendum in September 2006, advocates of refugee rights in Switzerland have won a few small victories. A watchdog group was created in Geneva in April to document all the errors made by the federal refugee authorities. In its first report, it listed seven cases of alleged miscarriage of justice. And in the Canton of Vaud, a Bosnian refugee family was granted working papers after having been under deportation order since January 2005. A petition with 1,500 signatures helped persuade Bern to grant asylum to the family.

The row over refugee rights in Switzerland reached all the way to the federal cabinet. In May, Micheline Calmy-Rey, the Federal Minister of Foreign Affairs, challenged Christoph Blocher, the Minister of the Federal Department of Justice and Police, to grant asylum to 1,000 refugees from Iraq. Meanwhile, the Swiss government has been levying a special tax of 10 per cent on wages of refugee applicants, to recover the costs of the refugee claims process.

**Caroline Zuercher** is a journalist who has been based in Switzerland for nine years. She contributes to the national column of the country’s main French-language newspaper.

# Post-Secondary Education in 12 Federations

BY ARTHUR M. HAUPTMAN

**I**N THIS SPECIAL SECTION OF *Federations*, ten articles examine post-secondary education in one dozen countries, located on all six continents, with federal systems of government. Revealing many similarities, this review also illustrates how these countries differ in how they govern, finance, and assure quality in their universities, colleges and graduate institutes.

One of the authors, Deryck Schreuder of Australia, began his report with the following comment:

“From their very beginnings all great federations embody split institutional genes: those which work towards a common constitutional recognition of regional pluralism and those which represent the powerful environmental factors driving and shaping their operating character. As in long-term marriages, a certain ‘mystery’ surrounds their uniqueness, endurance and language of discourse...”

That seems like a good place to start our own overview of the characteristics and policies of the post-secondary education systems of these 12 countries.

The histories of these federations are diverse. Some flow from their experience as British colonies, although their federalism diverges in important ways. Canada and the United States have consistently assigned primary responsibility for post-secondary education to their provinces or states. India, Nigeria, and Australia depend on their federal governments to organize the sector, although responsibilities have shifted over time, often evolving into a joint or concurrent function.

Of the federations never under British rule, the South and Central American countries tend to be highly centralized, par-

## SPECIAL SECTION

### Post-Secondary Education



ticularly Venezuela where the Chavez administration continues to push for a centrally dominant structure. Mexico is mixed, with a decentralized university system, while its polytechnics are directed by the federal government.

In Europe, the pattern is also mixed. Belgium is the most decentralized country with Switzerland not far behind. Germany and Spain have been highly centralized, but reforms in the past several years, particularly in Germany, are moving them towards decentralization.

#### The Lure of Centralization

The question of centralization is key to looking at federalism. Sudeep Banerjee of India distinguishes between “hold-together” federalism and “come-together” federalism. He suggests that in holding-together countries such as Australia, India, and Venezuela, the central government has considerable sovereignty over the sub-national units, but also more obligations in mandated fiscal transfers. When sub-national units have vested authority and access to tax revenues, as in Belgium, Canada, Switzerland, and the U.S., Banerjee argues that such federations are examples of a coming-together approach.

The countries examined here display great diversity in size, post-secondary structures and policies. They range from India, the largest federation, to Switzerland, with one percent of India’s population. The differences in population also carry through to economic circumstances: Switzerland’s national per capita income of US\$50,000 is more than 50 times that of India and Nigeria.

#### Canada and U.S. Lead the Pack in Participation

Differences among the post-secondary systems are far more common than similarities:

- In the U.S., six per cent of the population is enrolled in post-secondary education at any one time. Canada is not far behind,

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while in India and Nigeria that number is just one per cent. These differences are also reflected in the gross enrolment ratios, which compare the total number of students enrolled to the traditional college-age population – more than 80 per cent for the U.S. and Canada, compared to only 10 per cent in Nigeria.

- The types of institutions students attend range from Australia, where virtually all students enrol in public institutions, to Brazil, India, Mexico, and Venezuela, where one-third or more of students turn to the private sector. Most of the federal countries have few federal institutions, although in South America and Africa federal universities are often the nation's best and may enrol large numbers of students.
- The attainment rate – the proportion of the adult population holding a post-secondary degree – also varies hugely, from Canada, with the world's highest rate of 45 per cent, to India, Brazil, and Nigeria, with less than 10 per cent degree attainment. There are also wide differences in the number holding bachelor's degrees and those with more vocationally oriented sub-bachelor's degrees. In Spain, Switzerland and the U.S., the ratio of university degrees to sub-bachelors is three to one, whereas in Canada, the two types of degrees are split evenly. In Venezuela and Belgium, the number with sub-bachelor's degrees is higher than for university degrees.

### Natural Resources Pay for Education

Similarities in post-secondary education policies in these countries are as likely as differences. For example, as Table 1 shows, in most of these federations, the sub-national constituent units

take primary responsibility for governing and funding the public institutions. Only in South America do federal governments have primary responsibility for the governance of most public institutions.

Nor does federation seem to be a good predictor of how much money countries devote to post-secondary education as a portion of their GDP. The U.S. and Canada spend nearly three per cent, while some of the other countries direct less than one per cent of their GDP to post-secondary enterprise. Among federal

**TABLE 1: WHO FUNDS AND GOVERNS HIGHER EDUCATION?**

	Mostly federal government	Mostly constituent unit (states or provinces)
Governance of Public Institutions	Brazil, Venezuela	Australia, Belgium, Canada, Germany, India, Mexico, Nigeria**, Spain, Switzerland, U.S.
Funding of Instruction at Public Institutions	Australia, Brazil, Mexico, Nigeria, Venezuela	Belgium, Canada, India, Germany, Spain, Switzerland, U.S.
Funding of University Research	Australia, Brazil, Canada, Germany, India, Mexico, Nigeria, Spain, Switzerland, U.S., Venezuela	Belgium
Funding of Student Financial Aid	Australia, Brazil, Germany, India, Mexico, Spain, U.S., Venezuela	Belgium, Canada, Nigeria, Switzerland
Assuring Minimal Standards are Met	Australia**, Germany, India, Mexico, Nigeria, Spain, Venezuela	Belgium, Canada, Switzerland
Approval of New Academic Programs	India, Nigeria, Venezuela	Australia, Belgium, Canada, Germany, Mexico, Spain, Switzerland, U.S.

\* Provinces use federal social service funding to fund postsecondary instruction

\*\* More of a joint function of federal government and constituent units

**TABLE 2: HOW FEDERAL COUNTRIES COMPARE IN POST-SECONDARY EDUCATION**

	Australia	Belgium	Brazil	Canada	Germany
Name of Federation	Commonwealth	Federal State	Union	Federal Gov't	Federation
Number and Type of Units	6 States	3 Communities	26 States	10 Provinces	16 <i>Länder</i>
Population (2005)	20 million	11 million	186 million	32 million	83 million
Postsecondary Enrolments (2005)	1 million	.3 million*	4.2 million	1.5 million	2 million
Enrolments as % of Population	4.9%	2.7%*	2.3%	4.5%	2.4%
Gross Enrolment Ratio	72%	63%	16%	60%	***
Enrolment Share					
Federal	**	***	14%	**	***
Subnational	100%	***	14%	***	***
Private	**	**	72%	***	12%
Attainment Rate					
Bachelor's/Master's	22%	14%	***	22%	15%
Sub Bachelor's	9%	17%	***	22%	10%
All Degrees	31%	30%	8%	45%	25%
Gross National Income per Capita (US\$)	\$32,220	\$35,700	\$3,460	\$32,600	\$34,580
% GDP Spent on Post-Secondary Education					
Public	0.8%	1.2%	***	1.3%	1.0%
Private	0.8%	0.1%	***	1.0%	0.1%
All	1.5%	1.3%	0.8%	2.4%	1.1%
Degree of Centralization	Mostly centralized	Highly decentralized	Mostly centralized	Highly decentralized	Centralized, but becoming less so

\* authors' estimate

\*\* less than .5 percent

\*\*\* data not available

**Attainment Rate: The proportion of the population aged 25 to 64 that has received a post-secondary degree**

countries, diversity of resources may be a more accurate indicator of how much they are willing to spend, since the countries that rely more on tuition fees or other private resources tend to have higher rates of post-secondary investment.

Availability of natural resources is another indicator of spending on post-secondary education from both public and private resources. Australia's comparative wealth, for instance, helps explain how it paid for radical reform in financing post-secondary education in the late 1980s, which has allowed for very rapid expansion since then. Oil resources are another good example – they clearly allow Venezuela, Mexico, and certain oil-rich states in the U.S. to spend more on post-secondary education. Enrolment growth peaked in Venezuela in the 1970s as oil revenues funded expansion. Even a relatively poor nation such as Nigeria expanded its post-secondary education system when global oil prices spiked in the 1970s. Of course, when oil prices decline, tax revenues shrivel, and institutions are unable to meet their payrolls.

### Controlling the Purse Strings

Still, no matter what the source of revenue, there is a near even split in how education is financed, with five countries relying on their federal governments to support instruction at their public institutions, while in seven countries the constituent units are the primary funders. There remain, however, large differences in how financing is arranged. Australia has perhaps the oddest arrangement, with the federal government providing funds directly to public institutions even though they are governed by the states. Canada is another interesting example of federalism with the provinces deciding how to use federal block grants to fund various social services, including post-secondary institutions.

Financial support for university-based research and student aid are two policy areas that actually show more similarity than difference. In the 12 countries examined, almost all rely primar-

ily on the federal government to fund campus-based research. Only the sub-national communities in Belgium take primary responsibility for funding this activity. It's the same for student financial aid, for which two-thirds of the countries rely mostly on their federal governments, be it for non-repayable aid or student loans. Student aid may also be the policy area where there is most cooperation between the federal governments and their constituent units in order to ensure the aid is adequate.


### Struggle for Quality and Innovation

These 10 reports also reveal various arrangements by which the federal governments and their constituent units maintain and improve the quality of academic programs. Most of the countries rely on their national governments to ensure that minimal standards are met in post-secondary education. Only a few rely for this on their sub-national units. But this may be deceiving since, in some countries, non-governmental units such as national or regional accrediting agencies assume this quality-control role where responsibilities might include approving whether students at institutions are eligible for government aid.

Another aspect of quality assurance – approval of new academic programs – favours the sub-national units. Only India and Venezuela rely on their national governments to make this kind of decision. Yet, it may not fall to the constituent units, either, as in some of the countries the process is actually one of self-regulation with little government input.

We end with another quotation from Deryck Schreuder:

“Democratic federal systems are among the glories of the Western liberal tradition. They are also human creations which have small regard for symmetry, let alone simplicity, as they evolve the politics and policies of their pluralistic modern nations.”

That is certainly true, and this review confirms that federal governmental structures may explain, but do not predict, how countries organize their post-secondary education systems. 

India	Mexico	Nigeria	Spain	Switzerland	United States	Venezuela
Federal Republic	Fed/Nat. Gov't	Federal Gov't	State	Confederation	Federal Gov't	Central Gov't
28 States	31 States	36 States	17 Autonomous Com.	26 Cantons	50 States	23 States
1.1 billion	103 million	132 million	43 million	7 million	297 million	27 million
10.5 million	2.6 million	.9 million	1.8 million	.2 million	17.7 million	1.2 million
1.0%	2.5%	0.7%	4.2%	2.7%	6.0%	4.6%
12%	25%	10%	66%	47%	82%	28%
2%*	26%	80%	9%	***	**	59%
47%*	42%	20%	80%	***	74%	59%
51%	33%	**	11%	**	26%	41%
6%	11%*	***	19%	18%	30%	13%
**	1%*	***	7%	10%	9%	15%
6%	12%	***	26%	28%	39%	28%
\$720	\$7,310	\$560	\$25,360	\$54,930	\$43,740	\$4,810
***	0.9%	***	0.0%	1.6%	1.2%	***
***	0.4%	***	0.3%	**	1.6%	***
0.3%	1.3%	1.5%	1.2%	1.6%	2.9%	2.4%
Has varied, now a joint function	Universities decentralized but polytechnics not	Decentralized but standards set at national level	Traditionally centralized but loosening slightly	Decentralized but moving toward more cooperation	Decentralized except for research and student aid	Highly centralized & becoming more so

**Gross Enrolment Ratio:** The number of students enrolled in post-secondary education as a percentage of the college-age population.

Ensuring quality and adequate funding crucial to meeting universities needs

# Higher Education Needs Urgent Attention



REUTERS/GEORGESIRI

Students at the University of Ibadan celebrate at their graduation ceremonies.

BY KOLE SHETTIMA

**P**OST-SECONDARY EDUCATION IN NIGERIA HAS BEEN shaped by the country's evolution through colonial rule, the first republic in 1960, civil war, intervention of the military in politics and the striving for national unity, the oil boom and bust over several decades, and finally the transition to civil rule in 1999.

Different aspects of post-secondary education, such as its scope, admissions policies, regulation, autonomy, research, unionization, and reform, have all been affected by this evolution. Historically, higher education has been a joint function of the federal and state governments. Even under military regimes this concurrency of function was understood, if not always observed.

The first post-secondary institution in Nigeria was Yaba College, established in 1934 by the colonial administration primarily to produce graduates with mid-level technical skills. It was followed by the University College of Ibadan in 1948.

Immediately after independence, half a dozen universities and a handful of colleges of technology, polytechnics, and advanced teachers colleges came into being.

Since the 1960s, the size and shape of post-secondary education in Nigeria has changed

significantly. There are now 88 universities (compared to just five in 1962), 85 polytechnics and monotechs (four in 1964), and 64 Colleges of Education (four in 1964).

Each type of school has federal, state, and private institutions. This expansion of the post-secondary sector was related to the increase in constituent states in Nigeria, which tripled

from four in the 1960s to 12 in the 1970s, and tripled again to 36 by the 1990s.

The post-secondary sector in Nigeria is characterized by a high level of unionization. Many of the unions are affiliated with each other, enabling sympathy strikes. Hence, national strikes have been common in the post-secondary sector, particularly in the universities. Indeed, university unions, especially those of academic staff, were one of the few organizations with enough societal rank to challenge the military.

## Accreditation Can Be Revoked

Most institutions are regulated by national organizations that are empowered to oversee the quality of education in their respective jurisdictions. Disciplines and programs that receive partial accreditation are expected to remedy their deficiencies within a short time while those not accredited will not be allowed to award degrees.

All students must sit for an exam organized by the Joint Admissions and Matriculation Board (JAMB) to gain admission into universities, colleges of education, or polytechnics. Under the 1999 Constitution, post-secondary institutions are expected to reflect more accurately the diversity of the country in admissions and recruitment of staff.

There has been little organized support for research in the post-secondary sector and successive governments have failed to provide adequate funds. A more systematic approach was recently announced with the proposed National Council on Research and Development, endowed with \$5 billion, to award research grants on a competitive basis.

Universities enjoyed considerable autonomy during the colonial period and for the following decade, being insulated from the vagaries of politicians and politics. But the incursion of the military into the body politic in 1966, with its centralizing tendency, contributed to much less institutional autonomy. The Chief Executives of post-secondary institutions are appointed by the president of the country or a state governor on the recommendation of the governing councils.

[PLEASE TURN TO PAGE 12]

### SPECIAL SECTION

## Post-Secondary Education



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Power shifted from states to the federal government and then to collaboration

# Democratization with Rising Student Debt

New South Wales University researcher Supriya Pillai demonstrates her new solar panel that generates more electricity than existing panels.



REUTERS/DAVID GRAY

BY DERYCK M. SCHREUDER

**F**ROM THEIR VERY BEGINNINGS ALL GREAT FEDERATIONS embody split institutional genes: those which work towards a common constitutional recognition of regional pluralism and those which represent the powerful environmental factors driving and shaping their operating character. As in long-term marriages, a certain ‘mystery’ surrounds their uniqueness, endurance and language of discourse.

Just as the Australian federation as a whole has moved from being highly decentralized at its formation in 1901 to becoming one of the world’s most centralized federations in 2001, so the fate of the country’s universities has been an indicator of the flows of federal power.

Before 1901, Australia was composed of separately founded and self-governing colonies within the British Empire. (The Canadian model was rejected as being too centralized.) Each colony ran its own government under the Crown, and these arrangements, of course, included basic services such as education and health, including universities. These colonial arrangements simply carried over into the new federal nation after 1901. The former colonies became states of Australia, and educational matters remained within their jurisdiction. Universities would belong to the states – their founding stakeholders – and would be publicly funded and governed by state legislation.

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forumfed.org

Then in 1974, the reforming federal Labour Government of Gough Whitlam legislated to take over the operations of Australian universities, in the national interest. Yet the “take-over” was actually qualified, and a federalist form was retained. The developments of 1974 had long been foreshadowed by a growing federal involvement in university affairs since the heyday of the Liberal Menzies government two decades earlier. Issues of funding, student support and research allocation were at the heart of this significant development.

## Federal “Takeover” Left Some Control to States

In addition, the changes of 1974 preserved key aspects of state ownership of universities, in a form of pragmatic federalism that was smart politics but represented complex policy that continues to this day. The federal government has become the overwhelming funding source for higher education institutions and providers of student support. The Higher Education Support Act of 2003 (HESA) is the latest formulation of that support.

Today, a significant dimension of the 1901 arrangements is still in place. The legislatures of the states continue to be the accreditors of new universities and the custodians of the university laws of establishment and governance.

These ancient dimensions of the dual Australian system – national financing and local governance – even survived the veritable revolution brought to higher education by Labour Minister Joe Dawkins’ White Paper of 1988.

As a key member of the Hawke-Keating government of 1983-95, Dawkins carried out a revolution, namely the massification of an old elite system, which, alongside a more debatable allocation of the national research dollar, remade Australian higher education. Massification meant the opening up of university access, resulting in an increase in university enrolments to at least half of the university-age population.

## Dawkins Ended “Universities for the Elite”

Most decisively of all, he ended the divide between the colleges

SPECIAL SECTION

Post-Secondary Education



of advanced education and the older university system, thus doubling overnight the number of higher education providers, from about 19 public universities to the current 38 (plus three private facilities). Even Dawkins's critics applauded those moves. And that legacy endures: about one-fifth per cent of Australians have acquired a bachelor's degree, a 250 per cent increase since 1996, and the student population has jumped to nearly one million including nearly 250,000 fee-paying overseas students.

A funding revolution underpinned the changes of the age called "the user pays." The federal government argued that a university experience was not just a public good but a private benefit. The Higher Education Contribution Scheme (HECS) was introduced along with massification. This ingenious delayed-student-fee regime was based on equitable notions that higher education would be "free at the point of entry," but would then be claimed back in the form of student debts owed on an income contingent basis after graduation. An average graduating HECS debt is now \$10,500 Australian (\$8,751 U.S.) and the income threshold for repayment is \$39,825 Australian. Some fee-paying students owe more than \$50,000 Australian under a new scheme called FEE-Help.

The entrepreneurial university has also arrived in Australia. Many major Australian universities today draw less than 25 per cent of their budgets from the federal government, with the balance mostly taken from fees, charges and international operations.

In short, the strong centralizing impulses in Australian federalism since the Second World War have become ever stronger.

### Making it Work


There is one key consultative mechanism that makes this current and peculiarly Australian system work by ensuring that all the policy gears engage. That mechanism is the Ministerial Council on Education, Employment, Training and Youth Affairs, or MCEETYA.

Significant policy changes bearing on the universities have to win the assent of MCEETYA members. The states have the ability through their numbers to veto federal initiatives, while the federal government has the purse strings to make things happen.

### Assuring Quality

MCEETYA members are the major stakeholders in the Australian Universities Quality Agency, or AUQA. This agency is an independent corporation reporting to MCEETYA, with a board of directors nominated by MCEETYA, the federal government, the university sector, plus the non-self accrediting providers, businesses and the community.

And the Federation itself is still on the move. An impassioned *Sydney Morning Herald* editorial of March 10, 2007 – titled "States of disarray: it's time to fix the federation" – argued for major constitutional reform. It said that in a quest for votes, politicians had "created a ham-fisted patch-work of shared responsibility," not least in the area of educational policies. But whether that will happen, what impact it will have on universities and what improvements it will bring, remains to be seen.

Democratic federal systems are among the glories of the Western liberal tradition. They are also human creations which have small regard for symmetry, let alone simplicity, as they evolve the politics and policies of their pluralistic modern nations. 

### Free Tuition No Longer Sustainable


The financing of post-secondary education is another area where the lack of institutional autonomy is obvious. With increased oil revenues in the 1970s, the federal government took over some state universities and abolished tuition fees. As a result, these institutions became much more dependent on the federal government for most of their needs. These levels of support, however, are not sustainable in the long term.

Yet the policy of free tuition at all public institutions remains in effect despite the government not being able to take care of even the most basic budget needs. Salaries are often in arrears, and institutions are dependent on monthly allocations from the state capitals.

Robust federal and state scholarships existed until the 1980s when oil prices turned down. The Federal Government tried to rejuvenate scholarships but that initiative collapsed due to lack of foresight and management skills. Scholarship and bursary programs are more readily available at the state level. Regrettably, these schemes are not sufficiently funded and many thousands of fully qualified students are unable to attend institutions of higher learning due to prohibitive costs. Increasingly, children of the poor are shut out. Private universities charge as much as \$7,000 for tuition fees, and very few provide student aid. Most parents who send their children to private schools do so not because of their quality but rather because of the instability of the public institutions.

### Post-Secondary Sector Needs Major Reforms

Ms. Obiageli Ezekwesili, appointed Minister of Education in 2006, has proposed wide-ranging reform initiatives, including a controversial one to consolidate many post-secondary institutions. Under the scheme, all federal Colleges of Education and polytechnics (with two exceptions) would become satellite campuses of the universities. Benefits of the consolidation plan, according to its supporters, include saving costs through the reduction of supervisory agencies and bureaucracies. In the long run, this would also increase admission spaces by more than 50 per cent. Criticisms of the plan are the lack of infrastructure and low quality of instruction in many of the colleges of education and polytechnics, and that it is a World Bank plan, as Minister Ezekwesili is taking a post there in 2007.

Whatever the outcome of the consolidation plan, broad reforms of post-secondary education in Nigeria are badly needed for the sector to grow and improve. As Minister Ezekwesili has said, Nigeria's is a national crisis, not an educational one. The new president elect, Umaru Yar'Adua, should declare a state of emergency in the educational sector. Addressing issues of quality and adequate funding, from both public and private sources, must certainly be high on the list. But so, too, must be the issue of equity and whether the traditional Nigerian approach of free tuition in public institutions along with limited amounts of student financial aid can succeed in opening up education opportunities to traditionally underserved populations. Nigeria needs to look at international experience to learn what might be done to improve both equity and quality, and to do so by going beyond the traditional influence of politics in shaping post-secondary policies. 

# How to Expand Student Places for Millions

India's 10 million students still represent only 12 per cent of their generation

BY SUDEEP BANERJEE

**I**NDIA, WITH 28 STATES, SIX UNION TERRITORIES AND THE National Capital Territory of Delhi, has the largest federal government in the world. It is a democracy by constitutional design and has a population of 1.1 billion. Unlike the “coming together federalism” in the United States and Canada, India's is a “holding together federalism” where the federal government not only enjoys residual authority and considerable sovereign discretion over the states, but also has many obligations through mandated fiscal transfer payments to the states.

The system of higher education in India is the largest in the world in terms of the number of institutions, but not in student enrolments, despite its massive population.

In India there are some 18,000 institutions of post-secondary education: 17,625 public and private colleges, 217 state universities, 20 central universities, 102 “Deemed to be Universities” – mostly agricultural, veterinary and fisheries colleges, and special institutes – 10 private universities, five institutions established under the State Legislature Act, and 13 “Institutions of National Importance,” mostly medical, statistical and technological institutes. Slightly more than half of post-secondary students enrol in private institutions.

## Centralization, Then Decentralization

While national institutions are created and governed by federal legislation, their state counterparts are founded and regulated by state legislation. The governance of higher education in India is highly decentralized so that individual institutions enjoy a fair degree of autonomy. Historically, development of higher education has remained the collective responsibility of both the federal and state governments.

Education debates during the initial two-and-a-half decades of planned development – from 1948 to 1975 – led to the realization that the limited role of the federal government (known as the Union, centre, or central government), coupled with the states' lack of resources and technical abilities, was widening

inter-state disparities. Central intervention on the grounds of equity led to adoption of the 42<sup>nd</sup> Constitutional Amendment in 1976, which shifted education to the concurrent (joint function) list with the aim of building meaningful centre-state partnerships.

Notwithstanding that education is now a joint function, the states continue to have the major responsibility of funding and administering 95 per cent of India's institutions of higher learning. The centre provides very little assistance to the state-established institutions and that only in the form of general development grants through the University Grants Commission (UGC), a statutory body established by the central government in 1956 for promoting higher education and maintaining its standards.

The total number of students enrolled grew from just under 5 million in 1990-91 to more than 10 million in 2004-05. Yet even after this expansion, in India the Gross Enrolment Ratio (GER) – the percentage of post-secondary age individuals who are students – remains quite low at only 12 per cent compared to the average for the world which is 27 per cent, developing countries at 13 per cent and industrialized nations at 58 per cent. The GER also varies widely across states, from less than five per cent in Jammu and Kashmir to more than 12 per cent in several provinces, mostly smaller ones (Himchal Pradesh, Maharashtra and Uttaranchal). Although the share of female participation in higher education has increased to 42 per cent in 2005-2006 from 24 per cent in 1970-1971, wide variations exist across the states. And the participation rates of socially disadvantaged groups are still far lower than their share of the total population.

## States Fund 80 Per Cent of Budget

Both the centre and the states provide public financing for higher education through budgetary allocations, with the states contributing about 80 per cent of the total funding. Even with its superior command over resources, the centre's relative share of financing higher education has hardly improved since 1990. And the proportion of GNP allocated to higher education has declined from 0.46 per cent in 1990-1991 to 0.33 per cent in 2005-2006. As a result, per student expenditure in general higher education in 2003-2004 was 30 per cent lower than what it was in 1990-1991 in real terms. It is also evident from the low per student expenditure on higher education across states in India (see Figure 1) that the states are bearing the brunt of the fiscal crisis.

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SPECIAL SECTION

Post-Secondary Education



Concern of central government and regions now turns to quality assurance and finances

# Democracy, Decentralization Arrive on Campus

Heads of state from Latin America, Spain and Portugal gather at the October 2005 Ibero-American Summit at the University of Salamanca, founded in 1218 by King Alfonso IX of Leon.



REUTERS/MARCELO DEL POZO

BY FRANCISCO MICHAVILA AND JORGE MARTÍNEZ

**T**HE CURRENT ORGANIZATION OF THE SPANISH STATE IS based on the Constitution of 1978 that established the country as a parliamentary monarchy. Its territory is politically and administratively divided into municipalities, provinces and Autonomous Communities. The latter are the equivalent of states or provinces in a federal system.

Democracy returned to Spain with the first democratic elections after General Francisco Franco's dictatorship. In 1977, a Parliament was elected, 41 years after the last elections. With this election began the period known as the Transition, the highlight of which was the writing of a new Constitution, passed in 1978. That was the starting point for the current democratic period. This Constitution permitted the creation of Autonomous Communities as well as the devolution and decentralization of certain areas of government, while others remain under the federal (known in Spain as the State or central) government. In the case of higher education, the transfer of responsibilities took place between 1985 and 1996.

The Spanish university system is made up of 73 institutions, of which 50 are public, 16 are private, and seven are run by the Catholic Church. A smaller sector in post-secondary education includes professional and technical schools as well as arts, language and sports institutions. Ninety per cent of undergraduate students and 95 per cent of those doing doctoral studies enrol in public institutions,

mostly universities, which also play a major role in the field of research as they employ 40 per cent of all researchers in the country. A smaller sector in post-secondary education includes professional and technical schools as well as arts, language and sports institutions.

## University Autonomy vs. Madrid

Spain's 1978 Constitution established academic freedom and university autonomy, which are deeply rooted within the country's tradition despite the 40-year Franco dictatorship – or perhaps because of it. University autonomy covers academic, financial and management matters.

Since 1983, when the Law for University Reform was passed, Spanish universities have undergone very important changes affecting their governance, as well as their coordination and organization as part of a post-secondary system. Further reforms were undertaken in 2001 and 2007, which changed the functions and jurisdictions of the main actors in university politics, while maintaining the importance of the triad of central government, Autonomous Communities and universities.

The central government, through its Ministry of Education and Science, is responsible for formulating general guidelines for university policy. The ministry plays several key roles, including: setting university entry requirements; developing and managing the system for awarding scholarships and grants; designing and managing innovation and quality policy; and the validation of degrees. Two public universities also fall directly under central government jurisdiction.

The Autonomous Communities' jurisdiction covers the following functions:

- administration and regulation of the university system within their territories;

### SPECIAL SECTION

## Post-Secondary Education



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- programming the financing and services of universities within their systems;
- complementing the central government scholarship and grant system if they so choose;
- deciding whether to create or abolish universities within their territory; and
- exercising administrative jurisdiction over the universities in their territory.

### Move Toward Democratization

The General Conference on University Policy was created for the coordination, agreement and cooperation of the different parties within the system with regard to general higher education policy.

The universities' internal administration is regulated by a legal framework that sets out basic minimum structures and that distinguishes between collegiate and individual bodies.

Starting with the law of 1983, attempts were made to modernize university administration, open it up to society and democratize it. The downside has been that the new model decreases the flexibility and agility of university decision-making.

The quality assurance system has a national agency at its core in charge of evaluation, certification and accreditation, the National Agency for Quality Evaluation and Accreditation (ANECA). There are eight regional agencies that work alongside ANECA, each of which has some activities in common, including assessment.

Creation of the European Higher Education Area and the subsequent reform of the Spanish university system have delayed implementation of accreditation models because reform of the current degree system, and that of the traditional credit system, was considered more urgent. Further work is necessary to tighten coordination among agencies and to establish shared basic criteria.


### Most Financing is Local

The major sources of income of public universities are public funds (74%) plus tuition fees or course fees, (13%), with the rest coming from such sources as services rendered and wealth produced by its property and assets.

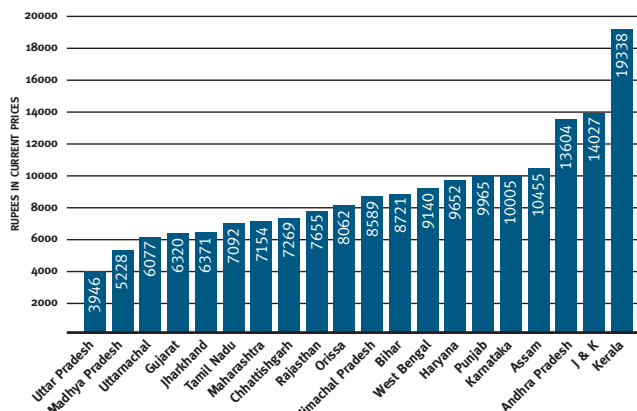
As universities increasingly have come under the jurisdiction of Autonomous Communities, so has their financing. The Communities are the ones who decide on amounts assigned to each institution. The exception to this model is the constitutional mandate given exclusively to Madrid to safeguard equity in all of Spain through a system of scholarships and grants.

There are as many models of financing as there are Autonomous Communities. They are as diverse as the possibilities for combining different criteria for the allocation of resources and mechanisms for their distribution.

The second major source of income – tuition fees and course fees – is set by the administration, making it illegal for universities to go over the upper limits that have been set. Today, they are far below the real costs of educating students, which makes them similar to those of the surrounding European area.

Since the adoption of the 1978 constitution, Spain has been quite successful in the democratization and decentralization of its post-secondary education system. One of its biggest challenges now is to improve co-ordination, co-operation and quality control. This will help ensure a greater diversity of institutions. 

**Figure 1: Per student expenditure on higher education in major states (Rupees in current prices), 2003-04.**



Source: Estimated using data from Selected Educational Statistics and Analysis of Budgeted Expenditure on Education, MHRD, GOI, 2003-04.


In fact, most state universities have had to resort to alternative methods of resource mobilization, mostly through private recoveries such as charging higher fees to students.

### Enforcing Standards

Quality assurance assumes a heightened importance in India because of the increasing visibility of the private post-secondary sector, which is apt to take advantage of institutional ambiguities and concurrent jurisdictions.

In addition, two independent national agencies have been established for accreditation of institutions and programs: the National Assessment and Accreditation Council (NAAC) and the National Board of Accreditation (NBA) – which led to problems of coordination and overlapping jurisdiction.

Proliferation of foreign and private institutions of higher learning, coupled with the limitations of existing regulatory mechanisms, has not only contributed to the unbalanced growth of higher education, but has also adversely affected access, equity, and quality. This critical concern warrants establishment of a National Council for Higher Education that would revamp existing regulatory agencies and remove overlapping jurisdiction.

India may be unique among the countries examined in this publication as the responsibility for higher education has continually changed between the central government and the states. While the centre was responsible for the maintenance of standards, the states were responsible for the establishment and running of institutions of general higher education. This was changed through a constitutional amendment in 1976 and the entire education system, including higher education, was placed under the joint responsibility of the central government and the states. Despite this, the role of the centre in higher education, especially with respect to financing, remained marginal, though several agencies were established to carry out the functions of co-ordination, maintenance of standards, and so on. Yet to meet the needs of higher education, the federal government needs to provide enhanced resources to both the central and the state universities. But funding alone will not guarantee quality. Therefore, because of chronic financial and other disparities among the 28 states, it is up to the central government to promote quality by coordinating quality-assurance activities with the necessary backup of finances. 

# Rapid Changes in Three Countries

Change is in the air for Germany, Switzerland and Belgium as these three European federal countries adapt to new demands of higher education

## Germany Shifts Power to the *Länder*

BY RICHARD VAN LOON

**O**F THE POST-SECONDARY EDUCATION SYSTEMS IN federal countries around the world, Germany's may be changing the most rapidly. Roughly 2 million of Germany's 82 million people currently enrol in post-secondary education programs at either universities or *Fachhochschulen* (vocational and technical colleges). Two-thirds of these students enrol in 121 universities and equivalent institutions; 197 *Fachhochschulen* enrol the remaining one-third of students. Germany also has a highly regarded and extensive system of apprenticeship training. The German approach was often characterized as being highly conservative. The system is now undergoing a radical transformation in the face of globalization and other pressures.

Until very recently the German university system had been, by intention, highly homogeneous – so much so that graduates did not, and for the most part still do not, identify themselves as coming from a particular institution. All five-year degrees were assumed to be equivalent and all institutions were assumed to be essentially equal. Under the Basic Law – German's constitution after the Second World War – education was supposed to be under the jurisdiction of the *Länder*, the equivalent of states or provinces, but the inclination towards having a nationally homogeneous system was sufficiently strong that by 1948 a national council had been formed to coordinate post-secondary policies. Federal framework legislation under the Basic Law followed, setting standards and defining practices that the *Länder* would be responsible for implementing with some degree of flexibility. Even faculty salaries were uniform across Germany, established by the federal government.

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### The *Länder* Pay for Instruction

In Germany, funding of instruction is primarily a *Länder* responsibility, but most research is funded by the federal government. While individual research grants are carefully evaluated and controlled by scientific committees, the working assumption is that universities are largely equal in their research capacities.

The German system, which assumed that all universities were essentially equal, could not easily comply with the Bologna Declaration, which aims to greatly standardize degrees, course credits and quality assurance standards throughout Europe. Instead, the German tradition was to give every school or department a say regarding qualifications obtained at another institution. Germany was also out of step with the notion in many countries that some universities should be allowed or encouraged to develop as centres of recognized international excellence in research and graduate education. Nor did it particularly value competition among institutions. This has led to fears that Germany would be disadvantaged in the highly competitive global economic environment.

All of this changed in the fall of 2006 through major amendments to the Basic Law that fundamentally altered the relationship between the German federal and *Länder* governments with respect to post-second-

ary education. The driving force for these reforms was the desire to achieve a measure of constitutional disentanglement between the two orders of government. There was a trade-off that transferred significant policy authority to the *Länder*, in return for a reduction in their capacity to veto federal legislation. The *Länder* then took responsibility for policies and legislation with regard to post-secondary education, provided these were consistent with the Bologna Declaration. As a result, the traditional German five-year undergraduate degree will be replaced, by 2010, by a four-year undergraduate degree with a master's degree as the standard second level of achievement.

SPECIAL SECTION

Post-Secondary Education



## Germany Charges Tuition for the First Time

These changes will affect the financing of institutions in fundamental ways. To allow for greater variation, some institutions will be chosen as centres of excellence and thus be eligible for enhanced research funding, most of which will continue to be provided by the federal government. Another traditional equalizing force in German higher education – not charging tuition fees – will also likely disappear. Tuition fees have begun to be charged in some *Länder* (typically at the level of 500 Euros per term) and it seems that these are likely to rise to the 3,000 Euro level across Germany over the next decade.

All of this constitutes a revolution that is motivated by the forces of international competition and, presumably, also by a desire to decentralize and make the whole German federal system more flexible.

Students, who will be paying higher tuition fees, will certainly see a change and graduates will arrive on the market with qualifications different, at least on paper, from their predecessors. The poorer *Länder* will have more difficulty financing their institutions at the same level as the richer ones, and that could lead to greater regional differentiation in economic develop-



REUTERS/MIRO KUZMANOVIC

German President Horst Köhler greets students at the University of Tübingen in February 2007.

ment, perhaps in exchange for a higher level of national economic growth in the long run. Whether the system will be better or worse in a decade or more is unpredictable – and the outcome will depend partly on the relative importance placed on equity versus competition-driven excellence – but it will most certainly be different.

# Switzerland Spends More Per Student

BY RICHARD VAN LOON

**T**HE POST-SECONDARY EDUCATION SYSTEM IN THE SWISS federation is often characterized as highly decentralized. Historically, its pattern of managing higher education also fits this description. Recent constitutional changes have affected higher education and, although they were instigated by the Cantons, paradoxically they may have the potential to increase the influence of the federal (referred to as central) government in this area. What is clear is that these governmental changes will likely increase institutional autonomy and management responsibilities.

In 2004-2005 about 200,000 of Switzerland's 7.5 million inhabitants were enrolled in higher education, with about two-thirds of these in universities and the remaining one-third in higher vocational institutes. Ten universities are governed by cantonal legislation and supported financially by the cantons

and there are two federal institutes of technology supported by the central government. The central government is the primary funder of university-based research, but funds only about one-eighth of teaching costs. Mobility of students is encouraged by inter-cantonal transfers to reflect the cost differentials of students studying away from their home area.

Swiss financial support of universities is the highest per student among OECD countries, now amounting to about US\$25,000 per year. Almost all of this spending is paid for from public sources – 1.6 percent of GDP, with the result that Switzerland has one of the highest public commitments to post-secondary education in the world. This is the result of the relatively small size of the system and low tuition fees, meaning that more funds must come from public sources to pay the freight.

## Bologna Declaration Transforms Europe

Occasional attempts by the federal government to exercise greater influence over higher education have been impeded by divided responsibilities within the federal government, with two departments having a role in supporting higher education and research. There has been some debate about whether the divided jurisdiction within the federal government created more complications than were caused by having 26 cantons dealing with higher education in a small country.

Switzerland is a signatory to the Bologna Declaration, which aims to greatly standardize degrees, course credits and quality assurance standards throughout Europe and has had a transformative effect on post-secondary education in Europe. It appears that the ongoing process of bringing the Swiss system into compliance with the Bologna stipulations and the dictates of the increasing globalization of higher education have led the Swiss cantonal governments toward increased levels of co-operation and integration of their university systems. To encourage



REUTERS/ANDREAS MEIER

Students arrive on campus at the University of Zurich, where a record 24,000 students were enrolled in October 2006.

greater levels of co-operation at all levels of education, the cantons proposed a constitutional amendment that was passed in May 2006 which is likely to have a significant impact on the way Swiss governments approach higher education.

The new constitution recognizes a “Swiss Learning Area” and enjoins the central government and the cantons to “co-ordinate their efforts and ensure their co-operation through joint administrative bodies and other measures” at all levels of education. And although residual powers in Switzerland belong to the cantons, Article 63a declares the cantons and the central government “jointly responsible for the co-ordination and guarantee of quality in the Swiss university education.” It further obliges the cantons and the central government to enter into agreements and to delegate “certain powers” to joint administrative bodies. Finally, it provides that if the central government and the cantons fail to reach their common goals by means of co-ordination, the central government “shall issue regulations on levels of studies and the transition from one level to another,

on postgraduate education and on the recognition of institutions and qualifications...”

Since the constitutional amendment is recent, there is no agreement yet on which powers should be delegated to the joint bodies and, while there is a long history of inter-cantonal co-operation in Switzerland, this clause potentially gives the federal government a more powerful hand in regulating the system. It is interesting to see the highly decentralized Swiss system and the highly centralized German system both potentially mutating toward each other, driven by strong external forces. It is equally interesting to note that both countries have been able to use constitutional amendments to bring about the changes. As all who toil in the various fields of federal government know, constitutional amendments require a high degree of co-operation between the two orders of government and Germany and Switzerland have considered higher education sufficiently important that they have been able to muster this degree of co-operation.

## Belgium's Communities Make Changes

BY ADRIE DASSEN

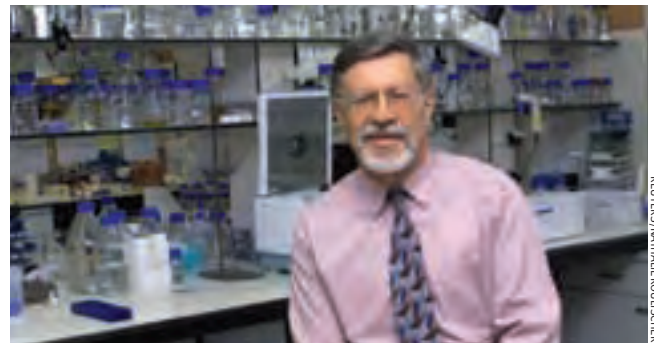
**I**N THE PAST, BELGIAN SOCIETY WAS CHARACTERIZED BY three cleavages. On the socio-economic front, labour and capital faced each other. The Dutch-speaking Flemish and the French-speaking Walloons fought a bitter linguistic conflict. Ideologically, Roman Catholics on the one side and liberals and socialists on the other, disagreed strongly. These cleavages also divided the political landscape in Belgium.

In the 1950s a major ideological conflict threatened the functioning of the Belgian political system. Catholics on the one hand and liberals and socialists on the other hand fought bitterly over the financing of Catholic education and the control over state education. Between 1950 and 1954, the Christian democratic government outlined a financial system that was very favourable for Catholic schools and universities. Moreover, the Christian democrats tried to get a grip on the ideological neutral education organized by the state. However, in 1954 socialists and liberals won the national elections and formed a coalition government that reversed the decisions of its predecessor. After a stalemate in the 1958 parliamentary elections, Catholic, socialist and liberal politicians decided to make a compromise, the so-called “School Pact.” This pact became a law that guaranteed state financing of Catholic education and the ideologically neutral position of state education.

### Three National Divides Fuse into One

The three oppositions that fragmented Belgian social and political life converged gradually into two opposite poles: Flanders and Wallonia. This convergence of the three cleavages made it possible to solve the problems by means of regionalization and federalization. This reform process, which started in the 1960s,

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Belgian researcher Walter Fiers poses in his laboratory at the University of Ghent. Fiers led a team that designed a one-time universal vaccine against human influenza, potentially eliminating annual flu shots.

jerked along over a period of more than 20 years. Finally, in 1988-1989 a constitutional reform changed Belgium from a unitary to a federal country that is composed of three communities: Wallonia, Flanders and Brussels. Communities – the language-based constituent units – have authority in so-called “person-related” affairs, such as culture, education, national and international cooperation and of course linguistic affairs. Regions – the geographic constituent units – have authority in so-called “soil-related” affairs, such as physical planning and environmental affairs. The communities were given power over education.

The financing of both universities and vocational institutions is also a matter for the communities. Predominantly lump-sum financing occurs in both the Flemish and the Wallonia communities, but this is about to change. The Flemish government has proposed a new law on funding which will consist of four elements: a fixed basic level of funding, incentive funds for specific policy priorities, a teaching-related variable part and a research-related variable part. The teaching-related variable part is based on four criteria: number of new entrants (bachelor's degree level), number of new entrants (master's

[PLEASE TURN TO PAGE 20]

Claudia Magalhaes, a teaching assistant at the Federal University of Rio de Janeiro, arranges a model of the *Amazonsaurs maranhensis* dinosaur, whose 110-million-year-old remains were found in the Amazon forest by researchers at the university.



REUTERS/BRUNO DOMINGOS

Three-quarters of students attend fee-charging private institutions

# Tax Measures Help Needy Students

BY JACQUES SCHWARTZMAN

**T**HE WIDE GAP BETWEEN RICH AND POOR IN RESOURCE-rich Brazil plagues this nation in many fundamental ways – including its system of higher education.

Brazil is a federal republic with 180 million people living in 26 states plus a federal district in which are located the national capital of Brasilia and the headquarters of the three branches of power—the legislative, executive and judiciary.

Power is largely centralized under Brazilian education law. There is little state autonomy.

Brazilian higher education reflects inequality, with students from privileged families far more likely to attend its elite universities. One of the key challenges is how to attain greater equity in higher education in a large and complex federation without sacrificing quality.

Brazil has developed an innovative way of partly remedying the inequity issue by offering tax relief to privately-owned non-profit institutions, which in turn offer discounts or scholarships to financially needy students. Eventually, this may be available to 400,000 students – about 10 per cent of post-secondary enrolment in Brazil.

There are about 2,000 higher-education institutions in Brazil. Roughly 10 per cent of these institutions are public and are attended by about one-quarter of all post-secondary students. These are mainly universities, created and funded by governments, offering free education. The other 90 per cent of institutions are private, mostly colleges and university centres (polytechnics), where the remaining three-quarters of students are enrolled. This private sector

includes community, non-profit, religious, and philanthropic institutions, with significant participation by the local authorities as well as by private, for-profit entities. An important difference between community and other private institutions is their tax status. Community institutions are free from income tax, social charges, and other contributions. Non-profit private institutions may be exempt from income tax only.

The federal government involvement in education is primarily in the field of higher education. It is responsible for very little at other levels of education. Thus, Brasilia funds 87 federal institutions of higher education. States in Brazil have primary responsibility over elementary education and set priorities for high schools. The states also fund and maintain 75 institutions of higher education, including 32 universities. Municipalities are also involved, funding 62 higher-education institutions.

## Constitution Guaranteed Education Funds

The Federal Constitution of 1988 contains guidelines for all public institutions – federal, state, and municipal. Public universities must link teaching, research and extension services and provide tuition-free education in official establishments. The constitution requires the federal government to spend at least 18 per cent of tax revenues on education at all levels. Education spending by states and municipalities must equal at least 25 per cent of tax revenues. The Federal Constitution states that public funds are to be used only for public, community, and religious schools, and for university and research activities. Private higher-education institutions may thereby obtain federal funds from national development agencies for graduate and research activities.

The federal universities and other institutions carry out research, extension, and undergraduate teaching plus providing graduate and specialization courses. Most faculty members have master's degrees or PhDs. The costs per student are quite high, around US \$10,000. State research foundations, although

SPECIAL SECTION

Post-Secondary Education



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established according to private law, were typically set up by federal higher-education institutions.

While the state universities vary greatly, most of their courses are taught in the evening. Few teachers have high qualifications and most teach part-time. The state institutions of higher education receive various forms of government financing, which is typically not sufficient.

### Private Sector Has Fastest Growth

Private institutions are the fastest growing post-secondary sector in Brazil, with enrolments that have increased by nearly two million students since 1990 – that is one-half of total current enrolment. The main sources of funds for private institutions are tuition and fees paid by undergraduate students. Tuition fees at many private institutions are falling as competitive pressures have led to price cutting. In this environment, little is invested in graduate studies and research. Most private institutions are organized as colleges or university centres, which basically provide good undergraduate courses.


In the area of research, several national development agencies provide funding for various types of research and scholarships for students in master's and doctoral courses. Research programs and proposals are typically subject to peer review processes. There is a widely-used federal program to evaluate undergraduate courses, but this has not yet been incorporated at the graduate level.

The challenges of curbing inequality in Brazil are addressed primarily through mechanisms used to fund students' studies. In the public sector, education is free at all federal, state, and municipal institutions. As a result, federal institutions attract a much greater proportion of applicants because of their higher quality, and they are free. Consequently, the better-educated (and higher-income) students typically enrol in the public sector, while the rest gravitate to the private institutions. This exacerbates the inequities inherent in Brazilian society.

Despite efforts such as new scholarship programs for poor students, equity remains a high priority. At the graduate level, for example, 70 per cent of master's and doctoral students are from families in the highest 10 per cent income bracket.

To ensure quality in post-secondary education, the National Education Council deals with issues relating to federal and private institutions of higher education, establishing rules and providing supervision, especially in the accreditation of universities and university centres. All 26 Brazilian states and the Federal District have a State Education Council with the principal responsibility of maintaining and improving quality at state institutions. The state education councils, in addition to their regulatory activities, provide accreditation of courses.

The state councils must follow the Federal Constitution in their areas of operation and these councils are not obliged to participate in the national evaluation system. Cooperation between the federal and state systems, however, often is resisted by the state councils.

There are still many challenges facing higher education in Brazil. The benefits to students attending the elite and well-financed federal universities far exceed those to the 90 per cent of students enrolled in other institutions. Quality is also a major concern, particularly outside of the federal university system. Whether these challenges can be redressed by the federal system of government remains a key unanswered question. 

### BELGIUM [FROM PAGE 18]

degree level), credits achieved, and the number of degrees awarded. Thirty-five per cent of the funding for universities goes to research and 65 per cent goes to teaching. The total budget is open-ended for universities and fixed for *Hogescholen* (the vocational, professional and technical colleges). This new law should be fully implemented by January 2008. No proposals to change the law on funding have yet been put forward for the Community of Wallonia.

### Communities Give Grants to Students


In Belgium, public sector financial support for students also is arranged at the community level. Both in Flanders and Wallonia, tuition fees are modest and additional support for students is available. The grant system for students is an important means of promoting access to higher education.

In Flanders, increasing attention is paid to the role of rankings and accreditation in students' choice for universities and *Hogescholen*. In 2006, a few programs received accreditation and the Flemish government aims to have all programs reviewed by the accreditation committee as soon as possible. Additionally, the Flemish Ministry is participating in a pilot project in which a multi-dimensional ranking system of bachelor's and master's degree programs is developed. In this project, in which Dutch higher education institutions are participating as well, the methodology of the German system ranking is used.

The Wallonia government in 2002 created an agency that is responsible for the evaluation of quality in higher education. However, until 2004, there was no official procedure to evaluate the quality of higher education in the French community. Until then, Universities and *Hautes Ecoles* (the vocational, professional and technical colleges) had their own internal quality assessment procedures. With the decree that is operational since 2004, the newly created agency is fully responsible for both quality assurance and accreditation.

The follow-up of the Bologna Declaration, which aims to greatly standardize degrees, course credits and quality assurance standards throughout Europe, has led in Flanders to a new two-cycle system, replacing the traditional system. The old one-cycle studies of the *Hogescholen* changed into a professional bachelor's degree and the two-cycle studies were transformed into academic bachelor's and master's degree programs. University studies were also transformed into academic bachelors and masters. No professional master's degrees are foreseen at *Hogescholen*. For Wallonia, developments were similar. The new system has been fully implemented, and since 2004, bachelor's degrees have been awarded at both universities and *Hautes Ecoles* for three-year programs. Master's degrees are awarded at most institutions by now as well, and the Wallonia Government aims to finish the full implementation of the two-cycle studies by the academic year 2007-2008.

### Policies Converge in the Three Countries

The Bologna Declaration, the scarcity of public tax dollars and the demands for more control are pulling Germany, Switzerland and Belgium in the same direction. The changes in each of these countries are likely to result in more similar approaches to post-secondary education. 

# Higher Education Decentralizes

## Growth of private universities marks a change in traditional system

BY ROBERTO RODRÍGUEZ-GÓMEZ

**T**HE MAJOR POLITICAL CHANGES THAT RESHAPED MEXICO in the 20th century have been crucial in transforming the country's higher education system. This transformation of higher education took place while Mexico was undergoing even greater changes: moving from a one-party to a multi-party democracy and responding to an era of privatization.

Access to higher education was very limited in Mexico before 1950, owing to the small number of institutions at this level and, above all, to the small proportion of the population who had completed basic education. In 1950, Mexico had less than 24 institutions of higher education with a total enrolment of about 30,000 students. After a period of extraordinary expansion in the 1970s, enrolment had reached more than 800,000 students.

The diversification process in post-secondary education gained momentum in the 1980s and has intensified and matured in the 1990s and the first decade of the 21st century. Key elements in this process included:

- **An increase in private investment** that caused enrolment in private higher education institutions to climb to one-third of the total for the country, and to 40 per cent for the graduate studies level. One factor in this growth is the public system's failure to meet demand and the lack of rigorous academic quality control.
- **Promotion of high-tech studies in the public sector.**
- **Creation of almost 20 new public institutions** in the states, by the federal government, with the participation of state governments.
- **Decentralization of state public universities**, including the creation of facilities in cities that are not state capitals.

As a result, the post-secondary education system doubled its enrolment between 1990 and 2006 to 2.5 million students from 1.2 million.

### POST-SECONDARY EDUCATION ENROLMENT (2006-07)

	Institutions	Enrolment	Percentage
<b>PUBLIC INSTITUTIONS</b>			
Federal universities	4	314,625	12.0
State universities	46	802,539	30.7
Technological universities	60	65,107	2.5
Polytechnic universities	18	7,805	0.3
Intercultural universities	4	1,742	0.1
Technological institutes	211	332,529	12.7
Teacher training colleges	276	94,051	3.6
Public research centres	27	3,227	0.1
Other public institutions	135	127,087	4.9
<b>Total Public</b>	<b>781</b>	<b>1,748,712</b>	<b>66.9</b>
<b>PRIVATE INSTITUTIONS</b>			
Private universities and schools	1,081	816,508	31.2
Teacher training colleges	188	48,206	1.8
<b>Total Private</b>	<b>1,269</b>	<b>846,714</b>	<b>32.4</b>
<b>TOTAL</b>	<b>2,050</b>	<b>2,613,426</b>	<b>100.0</b>

Source: SEP, Form 911 (2007, preliminary)

### Federal Financing Changed in 1997

The growth of post-secondary education has been greatly affected by a 1997 amendment to the Fiscal Coordination Law, an integral part of Mexico's new federalism. This budget amendment introduced the concept of "support funds" to supplement the contributions in the National Fiscal Coordination System. It was instituted to improve the public treasury's tax coordination functions and facilitate the decentralization of public services.

Federal and state responsibilities for spending programs and oversight were also specified within this new budget framework. Under it, federal agencies are accountable for the global calculation of the budget to be transferred to each state, and the state records the funds received in their own accounting systems. To reduce the risk of state and municipal entities using resources provided by this law for other activities, a formula of "earmarked funds" was adopted and control mechanisms were established.

This granting of earmarked fiscal resources to the states for education has been a key incentive for encouraging more investment in education, particularly when these funds can be

#### SPECIAL SECTION

### Post-Secondary Education



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# Do Revolution and Higher Education Mix?



REUTERS/KIMBERLY WHITE

Venezuelan President Hugo Chavez (l.) greets supporters at a university ceremony in Caracas.

BY MARIA CRISTINA PARRA-SANDOVAL

**V**ENEZUELA'S FIRST CONSTITUTION IN 1811 STATED THAT the country was a federal state. However, most observers agree that the common denominator for all of Venezuela's constitutions since then has been a principle of federation in form but not in practice. The result has been a weak federal structure.

The most important strength of the system has been the regular election of governors and mayors in each of the 23 states of the country. Some competences have been partially ceded by the federal government, especially those related to health services, water and energy provision, as well as basic and secondary education. Post-secondary education has always been the responsibility of the federal government. Some have called this centralized federalism, because the power of the central government has been stronger than the idea of federalism.

After 40 years of democratic rule, in 1998 the new government of President Hugo Chavez was elected with the aim of re-founding the republic. The first step was to approve a new national Constitution in 1999 that had, as a key feature, movement toward a social and inclusive participatory democracy instead of the representative democracy that the 1961 Constitution had established.

However, the decentralization and transfer of services to states and municipalities that was promised by President Hugo Chavez has not happened. Most observers agree that Venezuela, as a nation, is going back to a more centralized and authoritarian government.

Post-secondary education has been one of the untouched issues as the federal government continues to be the primary public entity responsible for this level of education. Funding, student enrolment and admission decisions, and the creation of institutions and new academic programs were under the control of the federal Ministry of Education until 2002, and then under the federal Ministry of Higher Education, created in that same year. The Ministry now also has taken over the budget distribution among the universities, which had been done by the National Council of Universities.

## Expansion and Diversification

Two major trends have characterized Venezuela's post-secondary education experience in recent decades. First, the system has expanded from seven institutions in 1958 to the 169 it has today. This growth peaked in the seventies, when enrolments grew by more than 20 percent per year for the first half of the decade. Second, expansion came with diversification after 1971, with the creation of many non-university institutions (community colleges and technological institutes), offering 3-year careers and faster entry into the labour market. As a result, the Venezuela post-secondary system is now a binary one, comprising 49 universities and 120 post-secondary non-university institutions.

Of the 49 universities, six are official universities that are autonomous, meaning that they have academic, organizational, administrative and financial autonomy, even though they depend on the federal government for funds. There are also 43 experimental universities that only have academic autonomy and are directly run by the central government.

More students – 58 per cent – enrol in universities than non-universities in Venezuela. More than half of the universities in Venezuela are private institutions that, although they account for one-fifth of all university enrolments, generally have a low profile and social impact. By the same token, more than half of the 120 non-university institutions are also private, representing 70 per cent of enrolments in the non-university sector.

SPECIAL SECTION

Post-Secondary Education



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## Heavy Dependence on Federal Funding

The federal government funds all public post-secondary institutions in support of both teaching and research. The Constitution prohibits their charging tuition fees for undergraduates. They are allowed to establish fees for postgraduate programs that, in most cases, are very low in comparison with those for that same level in private institutions.

The federal formula for distributing funds to institutions to support both teaching and research is based not on quality indicators, but on enrolments, student/faculty ratios, administrative staff numbers, and growing obligations to fund early retirement. Also, federal funds are the primary source of student financial aid through scholarships. One exception is in the state of Zulia. There the governor, Manuel Rosales, who ran unsuccessfully against President Hugo Chavez in the Dec. 2006 elections, has implemented a program consisting of student financial aid to study at private universities.

A large proportion of funding for post-secondary education in Venezuela, as with many other public functions, is provided through revenues from oil production. One result of this dependence on oil and the increase in oil prices over time is that spending on post-secondary education in Venezuela is relatively high – 2.4 per cent of GDP. As well, oil revenues were crucial in providing funds for scholarships and loans, an area in which the states of Venezuela have done little or nothing.


The federal government is also the primary provider of research funds concentrated in the areas it considers critical for national development.

Other matters controlled by the central government include the admissions process, regulated through the Academic Aptitude Test that measures such abilities as numeric, reading, and comprehension, the results of which determine the distribution of students among the institutions and careers. This test had been criticized by many observers for promoting exclusion, and in response the test was recently eliminated by the federal government.

## The Revolution Comes to the University

The government has just announced its policies for post-secondary education for the next few years. According to the new plan, each state will have a specialized university which will be oriented towards an area of knowledge: health sciences, basic sciences, economics, arts, languages and tourism, oil, disaster prevention, and human security. Many of the strategies already implemented will be continued.

Thus, the federal government is deepening its control on all matters related to post-secondary education. Many observers consider this a step backwards, inasmuch as the country was being driven to a more decentralized model before the current revolutionary period began.

At this time, there seems to be little room for negotiation between the centralized federal government and the states that have lost most of whatever autonomy they might previously have had. Therefore, it appears that in post-secondary education, as in almost any other government function in Venezuela today, the federal government will pursue those policies that impose the ideological content of President Chavez's "socialism for the 21st century". Post-secondary education in Venezuela is proving to be a convenient mechanism to succeed in that goal. 

## MEXICO [FROM PAGE 21]

used for programs such as teacher training for basic education and high-tech programs.

The new mechanism for providing funds coexists with more flexible instruments for allocating decentralized expenditures, including programs subject to operating rules approved each year in the federal budget, as well as joint federal-state agreements to finance specific programs. The joint agreements have been used to meet states' demands for the creation of new public institutions, or to increase the subsidies granted to state universities. Also, autonomous federal and state public universities have taken steps to obtain special allocations directly from the federal congress.

## Public and Private Universities Compete

Mexico has nearly 800 public institutions which enrol two-thirds of the 2.6 million post-secondary students. The state universities, which account for roughly one-half of the public sector enrolments, are autonomous and receive both federal and state subsidies. Federal universities and technological institutes, now a much smaller post-secondary presence, are maintained largely with federal funds. The decentralized technological institutes are legally dependent on the states and are financed through concurrent subsidies.

For the most part, training of teachers is handled by 276 public institutions that enrol about 95,000 students – four per cent of enrolments – and are subsidized through funds transferred to the states.


The 27 public research centres, subsidized with federal funds in the science and technology sector and some state subsidies, provide graduate education to more than 3,000 students.

The private sector is the fastest growing segment of post-secondary education in Mexico. There are now more than 1,200 private institutions that enrol roughly one-third of all students. These private institutions are picking up much of the growing demand for post-secondary education and the trend will likely continue for the foreseeable future.

## Continuing Tensions Unresolved

Despite advances toward decentralization and federalization of post-secondary education, there are significant tensions and dilemmas that call for broad solutions. One key problem is the lack of coordination and regulation with a federal approach, though the federal education authority still retains important powers in the field of curriculum orientation of the sectors it coordinates, particularly in high tech education and teacher training.

Quality-control policies focused on the public universities of the states, based on the provision of additional federal resources, also demonstrate a centralist bias as they continue to be regulated and governed exclusively by the federal authority. Finally, there is a lack of norms for the stable regulation of federal and state powers in this area. No less important is the obvious tension between the autonomy granted by law to most federal and state public universities and the influence of federal public policies on the institutions.

Mexico's road leading from a higher education system that is extensively decentralized, but subject to central public policies, to a truly federal system formed by multiple state systems still lies ahead. 

A multitude of community colleges with high completion rates raises Canada's standing

# Excellence Without a Federal Ministry

BY RICHARD VAN LOON

**H**IGHER EDUCATION, GENERALLY DESCRIBED IN CANADA as post-secondary education, was not specifically mentioned in the original Canadian Constitution when it was adopted in 1867. Instead, the British North America Act assigns education exclusively to provincial governments, subject to a number of qualifications regarding religious schools.

The fathers of the constitution were attempting to create a centralized federal structure, while still protecting the cultural and religious integrity of Quebec. What Canada got, through a combination of judicial interpretation, provincial government insistence, and cultural diversity, was one of the most decentralized federations in the world.

The combination of a decentralized federation and the attribution of educational jurisdiction to provincial governments might have created a minimal federal role as each province developed a unique system of post-secondary education. But the fiscal power of the federal government, together with a conviction that higher education was vital to the future of the Canadian economy, has resulted in the federal government exercising considerable influence over higher education and paying nearly 40 per cent of the costs.

The substantial entanglement of federal and provincial roles, however, is not accompanied by coordinating mechanisms where the two orders of government actually discuss policy. The fact that Canada has one of the highest higher-education participation rates in the world and that several universities can be viewed as world-class institutions is a tribute to the ability of

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Canadian Governor General Michaëlle Jean rings a "Liberty Bell" at York University in Toronto to commemorate the opening of a research institute on the global migrations of African peoples in March 2007. The original bell was mounted in South Buxton, Ontario, in the 1850s and was rung whenever an American slave reached freedom in Canada.

institutions and diffuse governance structures to create a decentralized coordination.

## More Than 1.5 Million Students Each Year

Post-secondary education is big business in Canada. In 2005, more than 1.5 million of Canada's 32.5 million people – four per cent of the population – were enrolled in higher education, with 80 per cent of them enrolled full time. More than 40 per cent of these full-time students are enrolled in community colleges, primarily in two- or three-year technical programs. Canada has the second highest attainment rate for higher education of any Organization for Economic Co-operation and Development (OECD) country, although its university attainment rate of 22 per cent is only slightly higher than the OECD average. It is in the area of sub-baccalaureate attainment that Canada ranks at the top of the OECD nations.

Approximately three-fifths of public expenditures on higher education are funded by the 10 provincial governments, the remainder by the federal government. Tuition fees account for a steadily increasing level of institutional revenues, now about 40 per cent for universities. Tuition fees vary widely by province.

They range from C\$1,668 in Quebec for in-province students to C\$6,030 in Nova Scotia. The median is C\$4,416. Total public and private expenditures per student in Canada were US\$20,000 in 2004, placing Canada third only to Switzerland and the U.S., where spending per student was closer to US\$25,000. The OECD average was US\$11,300.

In Canada, public universities are highly autonomous. Individual boards of governors and senates control the respective management and the academic programs of all universities, and provincial governments interfere very little in their decisions.

### SPECIAL SECTION

## Post-Secondary Education



The American university system produces many Nobel Prize winners. Craig Mello, at right, and colleague Andrew Fire won the 2006 Nobel Prize in Medicine for their genetic research and its possible application to the treatment of AIDS and cancer.



REUTERS/JESSICA RINALDI

# Thirty Per Cent Hold Bachelor's Degrees

Highest success rates in the world hide large number of drop-outs

BY ARTHUR M. HAUPTMAN

**B**EGINNING WITH THE ESTABLISHMENT OF HARVARD University in 1636, most early universities in the United States were private institutions. Over the course of the nation's history, the number and scope of public institutions has greatly expanded. In 1787, the new U.S. Constitution gave responsibility to the states for most important domestic functions, including education. This has meant that almost all of these public institutions of higher education – defined as those in which taxpayer dollars are a primary source of funding and public authorities are primarily responsible for their governance – are either state- or locally-governed.

## System Grew in Surges

Federal legislation enacted in 1862 encouraged the creation of land-grant universities in virtually every state. After the Second World War, many public four-year-degree institutions were created or expanded to accommodate rapid population growth. In addition, in 1947, the report of a federally-sponsored commission spurred the creation of community colleges. These institutions now account for more than one-third of all enrolments. Three-quarters of all college students now enrol in public institutions.

To finance these public institutions, governments stepped in by funding the basic operations including instruction and support for research conducted on campus or in institution-sponsored facilities, and by providing student financial aid such as grants,

scholarships, loans and work-study opportunities. The states had the primary responsibility for funding instruction and basic operations of public institutions, while the federal government provided most of the funds for academic research and student financial aid.

In the U.S., state income taxes, sales taxes and other state tax-based revenues (such as lottery funds) are the primary form of taxpayer support for public institutions. In 2006-07, state funds for post-secondary education exceeded \$70 billion, more than one-half of a per cent of Gross Domestic Product (GDP). Most of these funds come from the individual states. Total spending for post-secondary education in the U.S. from all sources accounts for nearly 3 per cent of GDP, which is the highest level of post-secondary investment in the world. On a per student basis, state funding now amounts to almost \$10,000 per full-time equivalent student.

### SPECIAL SECTION

## Post-Secondary Education



### Tuition Fees Boosted Revenues

The growth in tuition and fees as a proportion of total revenues of public institutions is one of the most marked trends in post-secondary education

finance in recent decades in the U.S. as well as in many other countries around the world. Tuition fees now pay for more than one-third of the educational activities of public institutions in the U.S., as opposed to 10 per cent three decades ago. There is quite a large variability among states in the reliance on fees, from 13 per cent in New Mexico to 77 per cent in Vermont.

To pay for their tuition fees, many students take out loans. The 1965 Higher Education Act established a number of student financial-aid programs that form the basis for student financial support in the U.S. today. Guaranteed Student Loans, one of those programs, represented an interesting approach with

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respect to federalism. At the time, a dozen state agencies guaranteed private lenders against the risk of default for loans made to student borrowers who had little or no collateral to secure their loans. The federally-guaranteed loan program worked with existing state agencies to ensure that students in states without guarantee agencies would be able to borrow. Today, the student loan industry in the U.S. makes more than US\$100 billion annually in loans. The average amount borrowed by an undergraduate student is about US\$20,000 and graduate student borrowing is much higher.

Research has been another major source of revenue for universities. The federal government traditionally has been the primary source of financial support for research conducted on campus, including at federal laboratories. Total annual federal spending in support of campus-based research is now about \$30 billion. The bulk of this federal funding of academic research is based on peer review of proposals.


Rather than ensuring the overall quality of education, the federal government's primary responsibility has been to ensure that the thousands of institutions attended by millions of federal student aid recipients meet minimal standards and to confirm that federal taxpayer dollars are appropriately spent.

### Not Helping Low-Income Students

To improve the efficiency of higher-education systems, the U.S. Secretary of Education's Commission on the Future of American Higher Education issued a report in September 2006 amid a firestorm of controversy. A key theme of the Commission's report was that the student financial-aid system in the U.S. is not functioning well because it is too complex, non-transparent and not targeted on the needs of the lowest income students.

The report found that although U.S. participation rates have traditionally been among the highest in the world, the proportion of students who complete the program they began shows the U.S. has had a mediocre record, with only half of the students completing a four-year degree, and a much lower rate in community colleges.

The Commission's focus on low degree-completion rates has led to a growing debate on a related subject, namely, the U.S. ranking in attainment rates – the proportion of the adult population with a post-secondary degree of some sort. The U.S. continues to have the highest rates of attainment for bachelor's degrees, with 30 per cent of the adult population holding such a degree – the OECD average is 19 per cent – although a number of countries are catching up. But in the attainment for associate's degrees from community colleges, the U.S. has been in the middle of the pack with roughly 10 per cent of the adult population holding associate's degrees (OECD average is nine per cent). When the rates for both types of degrees are combined and the trends over time are examined – by looking at differences among different age groups – the U.S. position lags behind that of many countries.

It is now clear that the faulty system of student financial aid, the lack of student success, and the need to examine what students learn and to improve quality will be central to the debate on higher education in the U.S. for the foreseeable future. These topics, of course, have been the subject of extensive debates before, but with little to show for it. Maybe this time, with the intense focus on global competition, the result will be different. 

## CANADA [FROM PAGE 24]

Thus several provinces have instituted quality assurance bodies. All are concerned that student mobility is unduly hindered by the lack of intra-provincial systems for transferring credits for courses. Canada has been relatively slow in developing quality assurance and course credit transfer mechanisms.

### Ottawa and Provinces Argue, Then Agree


In the field of higher education, much of the highly decentralized formal nature of the Canadian arrangements must be attributed to the insistence by Quebec that education is exclusively the concern of the provincial government. But \$9 billion per year in various forms of federal support for purely provincial institutions is not to be disregarded, so provincial governments have developed reasonable levels of coordination, all the while incorrectly insisting that the federal role is, at most, a minor one.

Canada views research as one of the major keys to economic advancement, and believes that support of university-based research is a legitimate area of federal activity. And since research is strongly concentrated in universities (as much or more than in any other advanced country), this has meant a major role for the federal government. As a result, over 80 per cent of public support for university research in Canada comes from the federal government.

Two other major areas of federal support for higher education are student assistance and intergovernmental transfers. Federal student loan programs supplement provincial student support schemes in all provinces to the tune of approximately \$2 billion per year. In addition, the federal government provides tax relief for interest payments on all student loans and savings incentive programs for higher education. Federal and provincial officials have worked out protocols and procedures to work together. Intergovernmental transfers for higher education are paid separately from other social transfers and unconditionally. However, in the federal budget of March 19, 2007, a 40 per cent increase was promised for the next fiscal year, dependent upon the federal government being satisfied that all the money is going to higher education.

### Working Without a Federal Minister

In Canada there are no formal consultative and planning mechanisms to attempt coordination and there is not a federal minister of education charged with working with the other levels of government. Yet, while the systems(s) are far from perfect, they appear to work effectively, providing a high standard of education to a large proportion of the Canadian population and sustaining successful research programs. The paradox is all the greater since, at a formal level, the Canadian Council of Ministers of Education, nominally the highest-level coordinating mechanism available, consists only of provincial ministers and it excludes attendance by any federal minister.

In fact, the outcome has been one of effective informal coordination. To some degree, this coordination is done by the higher-education institutions themselves. Also to some degree, it reflects the ability of Canadian bureaucrats to plan together, sometimes despite their political masters. It is also reflective of the insistence of the Canadian polity that the Canadian federal system must, in the end, deliver results. 

possible. This system is managed by the cantons, which are funded by the federal government. But, instead of distributing the funds as it does welfare benefits, the federal government doles out one emergency assistance payment per person without considering the recipient's length of stay in the canton. Its critics claim that the federal government is "offloading its financial burdens onto the cantons and communes."

**Bern vs the Cantons**

As of January 1, 2008, the new Asylum Act will deny social assistance to claimants whose applications have been refused through normal and accelerated procedures alike, and who must leave Switzerland.

In a report dated August 2006, the Swiss Refugee Council claimed that the fate of people denied welfare differed from region to region. While certain regions offered repatriation advice, occupational programs, or, for the most vulnerable, separate reception infrastructures; other regions denied emergency assistance to those entitled to it – even though the Federal Supreme Court, Switzerland's highest tribunal, has ruled the practise unconstitutional. Since the assistance in question amounts to a one-time payment, the regions naturally want rejected asylum seekers to leave, and offer them unattractive schemes – a situation that sees urban areas shell out more than the regions to pay for the departures of the unwanted refugees.

There are also disparities in the so-called "coercive measures," the cantonal authority to imprison rejected asylum seekers who refuse to leave. Since Jan. 1, 2007, the new Foreign Nationals Act allows such deportees to be incarcerated for longer periods. A 2005 parliamentary report cited different practices across the country. In Zurich, for instance, 95 per cent of deportees are kept in custody before being taken to the airport, while in Geneva the rate is only 7 per cent.

Parliament has recently debated the disparities such as the detention of minors, a measure that was put into practice in 17 of the 26 cantons between 2002 and 2004, and avoided or banned by the others. Zurich accounted for nearly half of the approximately 350 cases of incarcerated minors. Deputies, worried that


such practices ran counter to the Convention on the Rights of the Child, and would lead to "manifest inequalities."

How will the new incarceration options be applied? "I don't think that we will witness many arrests," said Roger Schneeberger, the secretary general of the Conference of Cantonal Justice and Police Directors. "A few examples will be made."

High arrest levels are unlikely because prison stays are expensive (on average, 300 francs per day, or about \$240 U.S.) and the establishments themselves are overflowing. "To apply the law in the way the legislators intended it, we would require money for new prisons or the expansion of existing ones," said Giacomo Gemnetti, head of the Tessin

judicial authority. Due to lack of space, immigrants in his canton who are ordered to be detained are sent to Basel, at the other end of the country – at the expense of Tessin's authorities.

**Luck of the Draw**

There's nothing new about this. Certain regions clearly treat asylum seekers better than others. In this lottery, some are more fortunate than others. But this may change. Requests for asylum in Switzerland are decreasing. Processing time for these demands is thus accelerated and failed asylum seekers are spending less time in Switzerland, lightening the burden on the country's taxpayers. 

**Some of the Changes**

**The Asylum Act changes** came from a review that began in 1999.

- Documents: With certain exceptions, the law requires asylum seekers to produce a passport or identity card within 48 hours. Previously, the authorities would accept other forms of identification, such as a driver's licence.
- Provisional admission: This status is granted to persons who cannot be repatriated such as those arriving from war-torn countries. The new law promotes the integration of these migrants, who generally end up settling in Switzerland, through improvements to labour market access and family reunification.
- Cases of hardship: Cantons can grant residence permits to persons who have been in Switzerland for at least five years and have integrated well. What's new is that the article no longer applies only to those whose asylum hearings are pending, but also to those whose cases have been closed.

**The New Foreign Nationals Act** applies only to non-EU nationals and does not apply to those who fail to produce identity papers.

- Detention: Coercive measures have been reinforced. Persons who have been ordered to leave Switzerland and refuse to do so can be imprisoned. In future, foreign nationals could conceivably spend up to two years behind bars (one year for minors). Those who agree to leave the country are released.
- Work permits: Available only to qualified workers. Priority is given to Swiss and European nationals. Holders of long-term permits can change employment or canton of residence without permission.
- Settlement permits: Until now, settlement permits were issued almost automatically after 10 years. This has been reduced to five years; however, candidates must prove that they have made efforts to integrate.
- Family reunification: Children must join their parents in Switzerland within five years; those aged 12 and over must do so within one year.
- Marriages of convenience: Civil authorities can refuse to wed couples suspected of such an arrangement.
- Integration: Bound by legal provisions for the first time. The privilege of being granted a residence permit may be linked, for example, to taking language classes.

# One German Land's "Embassy" to the European Union

INTERVIEW BY ROD MACDONELL



**Hans Stein** is Director of the Brussels office of the German *Land* of North Rhine-Westfalia. He and a staff of 25 are civil servants from different ministries in their *Land's* capital of Düsseldorf. All 16 German *Länder* have offices in Brussels, where they represent their *Land* and sometimes Germany at the European Union and other international bodies, as well as work with companies and other institutions. The North Rhine-Westfalia office in Brussels – the second to be established after Hamburg's office – celebrated its 20th anniversary in 2006.

**FEDERATIONS:** Did you and your family move to Brussels when you took up your post?

**STEIN:** So far I commute between North Rhine-Westfalia and Brussels. Brussels and our capital of Düsseldorf are only 220 kilometres apart.

**FEDERATIONS:** What are the main functions of your office?

**STEIN:** It is our task, first of all, to report on those issues that might be of relevance for our state to bring our government's position into the decision-making process here in Brussels and also to work as a platform for institutions, companies and so on, coming from North Rhine-Westfalia who want to present themselves in Brussels.

**FEDERATIONS:** Could you please describe a day in the life of your office?

**STEIN:** Let's say it is parliamentary week in Brussels. First of all we discuss the day's schedule to screen what is happening in the different committees in (the European) Parliament, to check whether on the agenda of these committees there are political issues like structural policy research and development policy, you name it, that might be of interest for us and then one of our employees attends the committee meeting and gives a report, and in some cases, makes a proposal for a press release, and that is coordinated with the chancellery (office of the prime minister) in Düsseldorf.

Then we have several meetings with business representatives to explain and give them support when they approach the European institutions so that we are network-building. I have several meetings with representatives of other delegations either of the German *Länder* or partner regions, in our case, in the Netherlands

or Scotland, for example, to discuss which issues we might cooperate on.

And then at lunch time we very often have meetings in our representation of North Rhine-Westfalia to discuss new developments in the field of research and development policy or environmental policy. Then in the evening there are Land discussions and receptions either by a ministry coming from Düsseldorf or a company that is based in North Rhine-Westfalia where we put forward further political issues and have political debates.

**FEDERATIONS:** When people from North Rhine-Westfalia with commercial interests wish to make representations, do you show them which doors to go to, and how to open those doors?

**STEIN:** Yes. Take for example an energy supplier. North-Rhine Westfalia is the part of Germany where the most energy is produced and where the biggest companies are. When such an energy producer organizes a political debate on issues that are important to him – for example climate control or energy policy – we, together with this company, are organizing a conference where an EU commissioner, several Members of the European Parliament (MEPs) as well as representatives of our government and the company are discussing these issues. Thus, we give that company a platform, and we are discussing issues that are of concern to all of us, and thus we are enhancing a debate and getting involved in the decision-making process here.

**FEDERATIONS:** Is it the members of the European Parliament that your staff is most required to discuss with?

**STEIN:** It's both the European Commission on one side, and Parliament on the other. The commission because it prepares the initiatives in European poli-

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cies so you must get involved in what is prepared as an initiative as soon as possible so that it fits into your policy agenda. It is also important to be in close touch with parliament because especially those MEPs who were elected in North Westfalia have the same task as we have.... It is a very close relationship.

**FEDERATIONS:** How do you relate with the German Embassy and other Land offices?

**STEIN:** Among the circle of the different *Länder* offices, we directors meet regularly, and in all political fields, there are special working groups like in environmental policy, interior affairs, social affairs.... We are also cooperating with the permanent representation of the Federal Republic of Germany. To give you an example, Germany has the general presidency of the EU (until June 30, 2007). So the permanent representation (of Germany), as well as the *Länder* representation, organized a cultural program to support the general presidency here in Brussels. We show German culture and innovation through various activities such as concerts, debates and receptions... There are sometimes, frankly, issues for debate because we are working more as lobbyists for our states and thus we might differ from the Federal Republic's policy or we might set different priorities that are not the same as the federal government's. But that does not mean that we are working against the federal government, rather that we are playing our part.

**FEDERATIONS:** So that is how you relate with the German Embassy?

**STEIN:** To give you an example, after the enlargement, the policy of how to divide structural funds financed by the EU, between member states, it was in our interest that regions with older industries who are facing a structural development process also have to be supported in future. So we lobbied together with Scotland and the British Midlands and French regions, whereas our federal government had also to keep in mind the new German *Länder* as well as the new member states. So we on the one hand worked closely together with the federal government and the permanent representation of the federal government. But we highlighted the aspect of these older

regions such as the Ruhr Valley, in our case, which still need support.

**FEDERATIONS:** The federal government no doubt has concerns that Germany present a coherent voice in Brussels. Can you give examples where there were significant differences between the federal government and at least some of the *Länder*?

**STEIN:** For the last while I cannot recall a problem we had.



Miners leave a coal mine in Rhine-Westphalia at the end of their shift. The EU pays financial compensation to the *Länder* for the loss of such aging industries.

**FEDERATIONS:** In many cases, EU laws and directives require legislation by the *Länder* for implementation. Apparently, Germany is non-compliant in certain areas because of the lack of such implementation at the Land level. Is this a major problem?

**STEIN:** I think Germany is neither better nor worse than other member states and the *Länder* play their responsible part. I don't see that you can blame *Länder* for not implementing legislation soon enough. I mean if you have a look at the statistics of all member states in all regions that in the view of the European Commission have problems in implementing laws and directives but seen overall, you cannot say that is a very serious problem, especially not a German problem.

**FEDERATIONS:** The EU has developed the concept of a "Europe of the Regions."

Is this a priority for you? Why?

**STEIN:** The future of Europe lies in the concept of a Europe of Regions because the European regions have such a variety that only if you take the special characteristics of the regions into account, you will get the support of the people, you will create or establish the European house... that makes it interesting and strong, so we should focus more on the principle of subsidiarity and we should support the regions and their characteristics. (Editor's note: Subsidiarity, as defined by the Oxford dictionary, is the principle that a central authority should have a subsidiary function, performing only those tasks which cannot be performed effectively at a more immediate or local level.)

**FEDERATIONS:** Could you explain Article 23 of the Basic Law (the German constitution) adopted in 1992?

**STEIN:** This article settles the relationship between the federal government and the *Länder* governments. It means that while more political issues went upwards to the level of the European Union, in our federal system, the *Länder* got the right to participate through our second chamber, the Bundesrat, in matters concerning the EU. So we are part of the official legislative procedure on EU matters via the second chamber in Berlin.

**FEDERATIONS:** In 2003 there was an attempt made by your federal government to limit the *Länder* rights in dealing with the EU. What was the essence of that disagreement and how was it resolved?

**STEIN:** Very often it is said that it is difficult to deal with the federal republic because of our federal system and because the *Länder* play an important role in the decision-making process. The federal government tried to reduce the influence of the *Länder* but in the end we came to an agreement that the *Länder* play their part in the decision-making process. So we secured our position and right now after the first part of our reform on federalism, in matters of cultural affairs, broadcasting, education, it is the *Länder* who are representing Germany in the European institutions and not the federal government. We strengthened our impact. (6)

# Experts Tackle the Constitution

Second round of talks on amendments expected to succeed after previous stalemate

BY PETER BUßJÄGER



REUTERS/LEONHARD FOEGER

Austrian Chancellor Alfred Gusenbauer (l.) faces the press with Vice Chancellor Wilhelm Molterer during a news conference in Linz. Gusenbauer, a social democrat, pledged constitutional reform as part of his coalition agreement with the conservatives.

**A**USTRIA'S NEW CHANCELLOR, Alfred Gusenbauer, a Social Democrat, has declared reform of the Austrian federal state and of the administration as "the heart" of the governing agreement between the two parties in his coalition Government.

Gusenbauer was sworn in as chancellor in January 2007, after more than three months of difficult negotiations between his party and the conservative People's Party that ended in a coalition agreement.

National elections last Oct. 1 led to a near tie in the number of legislative seats held by the Social Democrats and the People's Party.

The choice of federal reform was hailed as a breakthrough, because the conservative People's Party had traditionally favoured a high degree autonomy of the *Länder*, the equivalent of states or provinces, while the Social Democrats had in the past argued for a strong central government.

In fact, the section of the agreement dealing with the new constitutional reform does not aim to write a new constitution, but rather seeks to achieve other reforms such as:

- establishing administrative courts in the *Länder* which would allow participation of the *Länder* in courts.
- organizing a new system of administration for education, which could enable the *Länder* to play a more important role in Austria's educational system.
- enhancing the constitutional autonomy of the *Länder* and reducing the supervising powers of the federation.
- creating a new distribution of competencies by a so-called "third pillar," which would allow a certain form of cooperative legislation between the federation and the *Länder*.

This last goal, the creation of a "third pillar," is the most difficult. Many observers doubt whether there is any chance of reaching consensus on a new form of power sharing.

Austria last tried to reform its federal system between June 2003 and January 2005. But agreement was not reached on the distribution of competencies or the restructuring of financial relationships between the federal level, the *Länder* and local governments, or on the creation of a new charter of fundamental rights.

## One Expert from Each Party

One essential difference with the new constitutional reform under Chancellor Gusenbauer is that the reform proposals will be fleshed out by a small group of experts who played an important role in the past attempt at reforming Austria's federal system. The agreement between the Social Democrats and the People's Party names two experts for each of the parties in the coalition. The experts from the Social Democrats are Theo Öhlinger, professor of constitutional law at the University of Vienna, and Peter Kostelka, former speaker of the Social Democratic party caucus in the Austrian legislature, later named Ombudsman by his party. The experts from the People's Party are

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Andreas Khol, former President of the Austrian legislature, now retired but still one of the most prominent political experts on Austrian federalism, and Franz Fiedler, former President of the Austrian court of audit.

Two experts were delegated by the conference of the state governors. The first is Gabriele Burgstaller, state governor of Salzburg and a member of the Social Democrats; the second is Herbert Sausgruber, state governor of Vorarlberg, from the People's Party. These two individuals are partly represented by other experts. Georg Lienbacher, head of the Constitutional Service of the Federal Chancellery, is Secretary General of the group. The group of experts has until the end of June to work out its proposals.

### “Executive Federalism” Ahead?

Presently, the expert group is focusing its energies on issues related to administrative courts in the *Länder*, the organization of the educational administration in Austria and concentrating the administration of social welfare in a one-stop-shop on the regional level. There is a chance that these proposals will find support from the federal government and the *Länder*. As a result, these projects might strengthen “executive federalism” in Austria. It can be expected that the opposition parties, the Greens, the Freedom Party and the BZÖ (Jörg Haider's party), will object to these projects. They may not be able to block them if the Social Democrats and the People's Party, which also dominate eight of nine *Länder* (with the exception of Carinthia, governed by Jörg Haider's party) reach consensus.

Other chances for a new distribution of powers in legislative areas are very slim. There are huge differences between the positions of the *Länder* and the proposals of the federation. On the whole, it


is unlikely that the *Länder* will enhance their legislative functions and gain more legislative autonomy. Perhaps the creation of co-operative legislation between the federation and the *Länder*, in the form of a so-called “third pillar”, will work as a dry run regarding some matters such as those related to hospitals, social welfare and aspects of youth affairs. That could pave the way for further change.

### Past Attempts Failed

The chances for reform this time are much better than in the past. One previous attempt at reforming the federal system was the Structural Reform of the Competencies, which took place from 1989 to 1994. Faced with the possibility of Austria's accession to the European Union, the *Länder* demanded a fundamental redistribution of responsibilities within the federal system to compensate for their loss of powers and influence in various legislative realms. In the end, the *Länder* rejected the compromise formula.

The second project for structural reform of the Austrian federal system was the Austrian Constitutional Convention, held from June 2003 to January 2005.

The convention, spurred on by Austria's coming accession to EU membership, tried to draft reform proposals for the Austrian political system and the constitution. The convention finished its work in January 2005 without reaching an agreement.

Although both reform projects had similar goals, there is one important difference. In the late 1990s and the first years of the 21st century, the paradigms of the Austrian discussion about the federal system changed. Reform discussions no longer dealt with the strengthening of the powers of the *Länder*, but rather with the future of the federal system itself. 

## SCHWARZENEGGER [FROM PAGE 3]

own health care systems this year.

Colorado Governor Bill Ritter has pledged a program to provide universal access to health care by 2010. South Dakota Governor Mike Rounds unveiled a recommendation to raise the age for dependants covered by family health insurance plans to 30, whether or not they attend school. And New York Governor Elliot Spitzer proposed a four-year initiative to cover 500,000 uninsured low-income children and another 900,000 eligible adults through Medicaid.

Schwarzenegger plans to reduce the average cost of insurance by increasing the number of people insured in his state, and he has massive public support for this. He has also proposed charging new fees to doctors and hospitals. Although his proposals had not been drafted into a bill as of March 31, a January poll by the Public Policy Institute of California found that 71 per cent of Californians stand behind the Governor's efforts to fix the broken system.


“States and cities will become the important sources of leadership and the federal government will start shrinking,” Taplin predicted. “The states are asserting their right to create a just society for their citizens.”

Yet such policy innovation may be simply a cyclical phenomenon in American government.

“When the national government has been controlled by conservatives, it has been the states that have been the incubators of new responsibilities and programs for government,” wrote Richard Nathan of the Rockefeller Institute in *The Albany Times Union* newspaper in January. “Often, these state innovations morph into national policies when the national mood shifts and is more responsive to federal activism.”

However, there is a potential downside to the Schwarzenegger phenomena.

Earl Fry, Director of Brigham Young University's Washington Seminar Program in Provo, Utah, cautioned about sustainability.

“What happens when Arnold leaves office and the star power evaporates? How will the so-called Bear Flag Revolution be institutionalized when so much has been done on a personal basis and linked so closely to the well-known and charismatic Governor?” 

### 1920 Constitution Originated in a Bi-partisan Compromise

The Austrian Federal Constitution, drafted by jurist Hans Kelsen and others in 1920, created Austria as a highly centralized federation. Many of the amendments since then modified the distribution of competencies and transferred additional powers to the federal level.

The constitution was a compromise between the political intentions of the conservative Christian Social Party (the predecessor of today's People's Party, the ÖVP), which favoured a high degree of *Länder* autonomy, and the Social Democratic Party (SPÖ), which preferred a strong central power.

# The Unanimity Trap

BY GEORGE ANDERSON

**A**RGININA HAS A FEDERAL FISCAL regime that few will defend but no one sees how to change. It has no underlying principle regarding fiscal capacity, or need, or derivation, but is essentially the opaque product of past deals. Its main defenders are some provinces that are “winners.” Unfortunately, in 1994 this fiscal “co-participation” agreement was entrenched in the constitution so that all twenty-seven provinces as well as the federal Congress and President would need to agree to any change.

Unanimity is the most rigid of all decision-making rules. In fact, the founding of the first modern federation in 1789 emerged from the unhappy experience of the American states with confederal arrangements that required unanimity for any collective action.

Federalism was meant to break away from this by creating two orders of government, each normally able to make decisions in its own area of jurisdiction.

Joint decision-making between the orders of government is very much the exception in federal constitutions. The biggest exception is constitutional-amending formulas, where there are often rules requiring some measure of consent from both orders of government for certain amendments. But even here, unanimity is rare. Since 1981, the Canadian constitution requires unanimity for changes to the monarchy, the Supreme Court or the amending formula itself. However, one day such a formula could lead to a real crisis of legitimacy should one small province exercise a veto.

Federations can slip into a requirement for unanimity in ways that constitutional drafters never envisaged. In Argentina, it arose initially as the price the federal government paid for taking over various provincial taxing authorities. Something analogous has arisen in Brazil, where efforts at fiscal reform must come to terms with a unanimity rule regarding changes to the states' value added tax regime.

In both cases, the unanimity rule was rooted in an agreement by the two orders of government to cooperate in using their respective authorities. Could it have been avoided? There are various alternatives.

One alternative is weighted voting. The European Community (EC) long used unanimity for its decision-making. At its worst, this led to paralysis during former French President Charles de Gaulle's “policy of the empty chair.” As the EC added members and deepened its functions, it eventually moved to weighted majority voting, except in exceptional circumstances. It has served them well, though some would like to see further evolution in a “federal” direction.


Within federal constitutions, weighted majority voting is uniquely found in Germany, where the *Länder* governments form the *Bundesrat*, Germany's upper chamber, and vote on laws affecting them. Even this frequently led to blockage, known as the “joint decision trap.” The recent constitutional reforms have thus reduced the number of laws requiring *Länder* approval. Australia's two orders of government have delegated powers to a competition commission whose members are elected by the states (one vote each) and commonwealth government (three votes). But even Australia has fallen into the “unanimity trap” with its goods and services tax.

Under Canada's social union accord the federal government will not introduce new social transfer programs in areas of provincial competence without a majority of provinces agreeing. However, provinces that disagree are given a right to equivalent transfers so long as they introduce new programs that achieve the same objectives.

The reality is that in modern federations the two orders of government



frequently bump up against one another so that they try to work out integrated arrangements. In practice many federal governments address this by effectively imposing their will on subnational governments – legally or through fiscal levers. Such unilateral federalism is probably more functional than excessive dependence on unanimity,

but many federations would do well to explore alternatives to these extremes. 

## Federations

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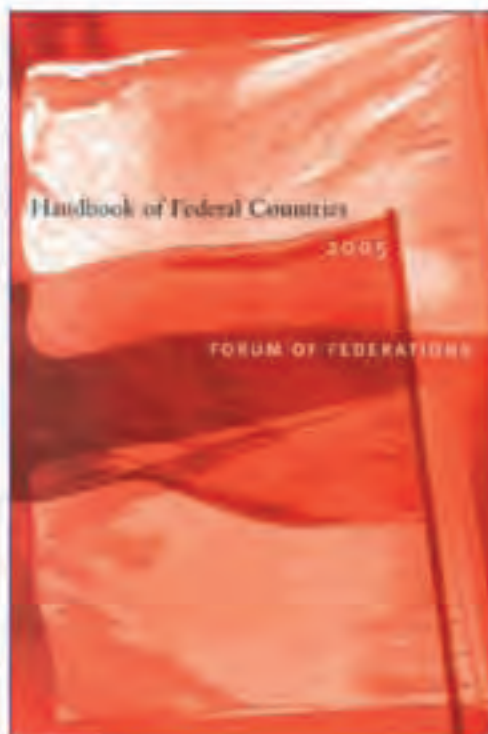
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