

THE INTERNATIONAL CONFERENCES ON FEDERALISM[*]

The Forum of Federations was established by Canada as the secretariat for the First International Conference on Federalism held at Mont-Tremblant in October 1999. This conference provided the first opportunity for experts and practitioners from around the world to ponder the relevance of “Federalism in an Age of Globalization”. Following the success of the Mont-Tremblant conference, the Swiss government invited the Second International Conference to be held in Switzerland. A joint initiative by the Federal and cantonal authorities, the Second International Conference was held in August 2002 at St. Gallen under the title “Federalism in a Changing World: Learning from each other”. At the conclusion of the Swiss conference, Belgian Prime Minister invited the next conference to Brussels. The Third International Conference on Federalism conference was held in March 2005 in Brussels under the title *Federalism: Turning diversity into harmony, sharing best practices*. The Conference was timed to coincide with a series of events aiming to celebrate the 175th anniversary of Belgium’s independence, and the 25th anniversary of federalism in the country. The Fourth International Conference on Federalism to be held in New Delhi from 5 to 8 November 2007 follows in the same tradition. It also coincides with the Diamond Jubilee of India’s independence.

There are several common elements running through each conference. All conferences were designed to address the needs of those involved in the practice of federalism at all levels. All created a neutral and safe space for free discussion. All fostered a sense of community among participants, forged by a shared interest in the practice of federalism. All offered an opportunity to network and share in a variety of ways. All reflected, in some way, the particular culture and personality of the host country. The proceedings of published the conclusion of each conference provided a link to the next conference. And finally, the Forum of Federations worked closely with each country to offer assistance on content and organizational matters, as well a share information and knowledge gained from the lessons of organizing successive conferences.

This paper provides a content analysis from the First, Second and Third International Conferences. Each analysis is followed by a list of themes and subthemes from each of the last three conferences.

First International Conference on Federalism Mont-Tremblant, Canada, 5-8 October 1999

Introduction

Government of Canada took the initiative in 1998 to establish a non-governmental Committee to explore the establishment of a Forum of Federations – an organisation that would provide opportunities for practitioners of federalism throughout the world to exchange information on best practices and experiences, and which would engage in projects designed to improve federal governance. The Forum's first major activity was the International Conference on "Federalism in an Era of Globalization", which took place in Mont-Tremblant, Quebec, Canada from 5–8 October 1999.

The conference focused on the challenges for the management of federal and decentralised systems at a time when the significance of international borders is declining. This brought together over 500 elected representatives and civil servants from different levels of government within federations, academics, private sector and NGO representatives, and youth delegates from over 25 countries. The Forum's success in gathering, from around the world, an impressive array of those active and interested in the practice of federalism lent further support to the idea of a permanent international Forum. As a consequence the Canadian government agreed to be the first co-founder, and a new international Board for the Forum was established. In January 2000, the Forum of Federations began work as an ongoing institution.

Method

The deliberations were structured to maximise the opportunity for participants to share information, best practices, and experiences in problem-solving. Presentations at plenary session by heads of state, such as President Bill Clinton, and leading political figures from many other federal countries, were interspersed with a large number of small roundtable workshops. In addition to three plenary sessions of the conference, there were plenary sessions for each of four main themes: (1) social diversity and federalism, (2) economic and fiscal arrangements, (3) intergovernmental relations and (4) federalism and the welfare state.

There was also a range of 30 smaller workshops on various practical issues relating to the operation of federal systems, and for each of these workshops a background paper was prepared in advance, for distribution to all the participants before the conference. In order to ensure that the conference was practitioner-oriented, practitioners were asked to lead the workshops, thereby establishing a convention for the following conferences. This ensured that the conference addressed practical policy issues that contributed to an exchange of information on best practices and experiences.

Content Analysis

From that vast array of presentations and background papers at the Forum, a selection was chosen for publication in issue 167 of the *International Social Science Journal*, to provide an insight into a range of salient issues within contemporary federations. This became the proceedings of the conference and was published in several languages. The discussions are summarized below.

Social Diversity and Federalism

The discussion of this theme pointed to the disappointing consequences of the centralism of so many of the first-generation leaders on the African continent, and argued for the potential of federalism as a way of achieving internal harmony among seemingly irreconcilable distinct groups. The theme examined the issue of how to construct institutions to reconcile ethnic and

cultural diversity with a mature and cohesive nationhood. This first conference also provided the opportunity for practitioners to identify different models of federal power sharing.

The discussions also focused on the accommodation of specific aspects of social diversity within federations. The sessions examined diversity as an issue not only of human rights, but also of accommodation, through establishing institutions that uphold existing diversity. The impact of distinct national groups within federations, and the challenge of religious and linguistic diversity within federations were all considered.

Economic and Fiscal Federalism

With respect to economic policy, the sessions analyzed the advantages and disadvantages of the federal model for economic policy-making. The financial arrangements in federations have invariably had a crucial impact on the operation and evolution of the federations themselves. Two aspects of such financial relations were analyzed, i.e. the tax assignment question, of which level of government should levy taxes and which bases they should utilize, and the use of equalizing transfers from federal governments to governments of constituent units in order to meet imperatives for equity and efficiency. Also discussed were the advantages and disadvantages of devolution in the context of income support policies and objectives of inter-regional and intra-regional equity.

Intergovernmental relations

Given the impossibility of distributing powers between levels of government into watertight compartments, interdependence and interpenetration have been common features of the operation of governments within federations. Work sessions reviewed the factors shaping intergovernmental relations and forms of their institutionalisation, as well as surveying the large variety of mechanisms for conducting relations between federal, regional, and local governments. The conference also identified four broad approaches to conflict management in federal systems.

Emerging levels of government are increasing in importance in many contemporary federations. One of these is the pressure of indigenous peoples for their own autonomous units of government. The conference, examined the issues of self-government for indigenous peoples and the resulting impact on intergovernmental relations within federations. Another increasingly important level of government is local government. The conference highlighted the role of local governments and the new phenomenon of international cities in terms of their growing impact within federal systems.

Federalism and the Welfare State

Given the conference title “Federalism in an Era of Globalization”, the conference expended much time in considering new challenges that globalization was bring to federal governance. Issues of governance, equity and new were opportunities considered as were the role of technology and external pressures in shaping the future of federal governance. These issues were particularly relevant because federations contain nearly two billion people representing about 40% of the world population, and they encompass about 480 constituent units or federated states. And if one were to include other variations such as decentralizing states, or emerging federations or supra-national entities, issues of federalism have a direct impact on governance for over half of humankind.

Conclusions

A striking conclusion that emerged from this conference was the degree to which contemporary federations are facing many of the same problems and issues. Equally striking, however, was the enormous variety in the ways in which different federations have responded to these. There is much to be learned, therefore, from exchanging information and from the lessons, both positive and negative, of the experience of others.

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Themes and Subthemes
First International Conference on Federalism
Mont-Tremblant, Canada, 5-8 October 1999

Theme I - Social Diversity and Federalism

Models of Federal Power Sharing
Models of Federal Citizenship Rights
Immigration and Migration
National Groups
Diversity

Theme II - Economic and Fiscal Federalism

Economic Policy Making: Advantages and Disadvantages of the Federal Model
Taxing Choices
Burden Sharing or Dividing the Spoils
Globalization and the Decline of the Nation State
Coping with Multi-Level Government: The View from the Private Sector
Regional Economic Development: Building Partnerships or Transfer Dependencies?

Theme III - The Challenges of Intergovernmental Relations

Mechanisms for Intergovernmental Relations
Indigenous Peoples: Self Government and Intergovernmental Relations
The Role of the Private Sector in Intergovernmental Relations
Local Government / International Cities
The Role of Non-Governmental Organizations in Intergovernmental Relations
Internationalization, Globalization and Federal Systems
Adaptability and Change in Federations

Theme IV - Federalism and the Welfare State

Responsibility, Accountability, and Finance
Reconciling Equity and Decentralization: Health, Education and Income Security
Emerging Challenges and Opportunities: Technology and the Global Market / External Pressures

Second International Conference on Federalism St. Gallen, Switzerland, 27-30 August 2002

Introduction

In 2002 the Swiss federal government and 26 cantons organized the second International Conference on Federalism 2002 entitled “Federalism in a Changing World – Learning from Each Other”. This was the follow-up to the first international conference on federalism held 1999. The Swiss conference brought together over 600 participants, including elected representatives, officials, academics and youth from over 60 countries. The conference also assigned conference tasks to a very high proportion of its participants.

For the second conference the following three themes were singled out and discussed by participants from all over the world: (1) Federalism and Foreign Relations, (2) Federalism, Decentralization and Conflict Management in Multicultural Societies and (3) Assignment of Responsibilities and Fiscal Federalism. Each theme was further subdivided into four subthemes. The results of the conference proceedings have been published in two books and a film. The following sections discuss some of the most important explored during the conference and describes how the conference itself was structured. This is important because the conference was oriented around a new concept known as the "knowledge spiral".

Method

The conference was structured around a process where participants expanded their individual as well as their institutional knowledge through a process known as a "knowledge spiral". The core of the conference consisted of four hour work sessions which aimed to achieve multi-national dialogue among equals. The results were taken into conference modules such as the dialogue tables and plenary sessions. Preparatory work and review of background materials was conducted at a pre-conference.

The first stage of this took place prior to the conference and entailed introducing participants to the innovative and new thinking in the three core themes. In the second stage, the purpose was to enable participants to reflect on their own experience in light of the contemporary research provided in the combination stage. This took place during the conference in a series of work sessions. Scholars, politicians at the federal and state levels, administrators, and business people presented these case studies from a variety of angles. In the third stage, participants shared their reflections and identified patterns and new insights from the prior stage of internalization. In the conference setup this was enabled by dialogue tables. The fourth stage integrated the reflection from the work sessions and the new insights gained at the dialogue tables in an integrated whole. Besides the conference proceedings the article at hand is one more example of how to create opportunities to use material for this next twist of the knowledge spiral.

Content Analysis

Discussions in the various work sessions were recorded by “scientific summary writers”, and their reports provided the basis for the following analysis. They are published in full length together with the scientific background papers and the plenary speeches of the Heads of States in the conference book "Federalism in a Changing World – Learning from each other" (McGill-

Queens University Press, 2002). The analysis identified a number of common points, which can be grouped together within four over-arching themes. (1) Identity, (2) Responsibility, (3) Mutuality and (4) Pragmatism.

Identity: Multiculturalism

Every individual or group in a federal system enjoys more than one identity, and these identities almost always overlap. A successful federal approach ties the identities together so that they reinforce rather than contradict each other, to create multiple identities and loyalties within a state. This can extend as far as a sense of different nationalities: one nation with several nationalities.

Although a federal state structure can never be a complete safeguard against armed conflicts in the context of a struggle for regional independence, it implies and requests a culture to endorse what the French call "respect de la différence". With this approach it becomes clear that it is a misapprehension that multiculturalism is a problem per se. The federalist approach demands that different cultures must not just be tolerated; they must be understood and even appreciated by each other. This means that one group not only speaks another group's language, but also understands its mentality or culture. This can be called the spirit of living together.

Increasingly it has been stated that regional autonomy is threatened by the development of supra-national institutions, which make decisions previously regarded as those belonging in the domestic sphere. Two interesting observations can be made in this regard. First, federal states that are members of supra-national organizations do not perceive their own federal structure to be threatened by their membership to a larger entity. Second, the relationship between the central government and the constituent units intensifies when a country joins a supra-national institution, particularly when the policy area straddles federal and constituent-level competencies. At the same time, this leads to a major role in the bargaining process. Furthermore, the process of involvement in a supra-national organization seems to make it more necessary for subnational units to establish cross-border agreements.

Identity: Solidarity

Participants felt that to achieve mutual understanding and accommodation of multiple identities, every citizen has to enjoy the same conditions in every part of the federation. This is often achieved through a process of equalization, which can take a variety of forms, depending on the level of commitment to "solidarity" as a working principle. One way to strive towards greater solidarity is the implementation of fiscal equalization transfers that can preserve regional/linguistic identities and ensure that all groups get high quality public services everywhere in the country, thus contributing to political stability. This inter-regional transfer can contribute to the avoidance of self-perpetuating regional disparities, especially if low-income levels are due to a lack of infrastructure or education.

Responsibility: Autonomy

Autonomy is a key feature of federal systems. Federal entities are only able to maintain their political significance according to their constitutionally granted power if they participate effectively in the federation's governance. For example, it was generally agreed that regional and local autonomy is a prerequisite for effective cross-border relationships. Without the domestic autonomy of regional units, the advantage of such agreements would be impossible to deliver. It

is noticeable that these agreements rarely exist outside federal states. When subnational units are allowed to develop their own policies in areas of specific interest and concern, the flexibility of the policy area of the state as a whole may be increased.

However, it must be admitted that not all subnational units are created equally, and those that have the power to forge ahead in regard to a given policy will undoubtedly do so. Those that cannot will be left behind. This “creative destruction” will have a serious impact on the development of federal governance, especially considering the nation state in the global era.

Responsibility: Corruption and Efficiency

There is a clear relationship between the development of federalism and democracy. For example, in less developed countries, corruption and weak infrastructure as well as unhealthy competition can have a negative impact on poorer regions. Strong and viable democracy at the local level is therefore a vital condition for a federal system to function as a check on the government. On the other hand, problems in interpreting complicated legal documents at a local level can lead to “elite capture” of the process by those who can understand them, and corruption then appears to prevail at each level of government and not only at the federal level.

“The principle that s(he) that pays, decides”, is well known. There was general consensus during the dialogue that public services should be allocated to the different levels so that citizens obtaining benefits from, paying the costs of, and deciding on public services belong to the same group. Therefore, the level of government responsible for a particular service should have the capacity to raise taxes to pay for that service. However, there seems to be a gradual erosion of effective spending responsibilities across federal countries, with the central government or supra-national organizations more frequently dictating norms and standards. Revenue-raising powers of subnational governments are still rather limited in many nations, and do not match their spending responsibilities. A more effective application of the above principle would promote autonomy and accountability and would be likely to promote greater public sector efficiency.

The capacity of many regional and local governments to implement projects or financial planning and budgeting is often inadequate. If one wants to empower local government, money should not come from the top but should be sourced from local levels as much as possible. Where it is not possible that the state and local level raise their own money, central revenue sharing needs to be both clearer and less unilateral. Governments at all levels must be made to face the financial consequences of their decisions in order to ensure fiscal discipline.

Responsibility: Cooperation and Competition

One function of federalism is to create a certain amount of competition among subnational entities. Therefore, although a certain amount of equalization is necessary to foster a sense of solidarity among these entities, many participants agreed that full compensation of poor regions through equalization grants should be avoided.

Any equalization system should be designed with the utmost care, since poorly thought out regional balancing is responsible for a reduction in local revenue-raising efforts, and lack of motivation among local authorities to search for innovative ways of consolidating their revenue. While matching grants are intended to offer incentives for efforts in tax collection, there is a contradiction in the regional balancing principle, since those with high revenue-raising capacities receive more funds. The matching grant for resource mobilization rewards relatively rich

provinces for additional tax effort. Fiscal equalization based on actual, rather than potential, fiscal capacities can result in an “unhealthy” tax competition. It could be said that cooperative federalism is a kind of collusion, aiding governments instead of citizens.

It should be noted that an excess of competitive federalism can lead to inter-governmental conflicts, and that fear and anger are destructive in a federation. Excessively competitive fiscal policies, whether or not they are stimulated by equalization systems, often produce undesirable results. But while most tax competition is aimed at attracting investment, it has been observed that this is only a secondary factor in investment decisions, although firms can sometimes respond unpredictably, undergoing corporate restructuring in order to take advantage of fiscal concessions.

Mutuality: Inclusiveness

As previously discussed, respect for diversity is a cornerstone of a democratic polity – and even more so in a federal environment. Minority rights and cultures should not only be sheltered but also secured by the state. Group rights must be protected through a country’s constitution.

In making such a constitution, it is vital to respect another cornerstone of democracy: that the people, not the elite, should make decisions. For example, to ensure the representativeness of the constitution-making body, it is necessary to involve the people, notably through public debates. The inclusiveness of the constitution-making process in developing a constitutional compact is decisive for the development of a common identity underlying nation building. The principle behind this inclusive approach is that the more people are involved in consultations or negotiations leading to new laws, and the better informed they are, the more motivated they will be to implement those laws.

This is also true of the involvement of subnational units in the federal decision-making process. New research on member states of supra-national organizations suggests clearly that in federal states where those responsible for implementing agreements at a subnational level are involved in the negotiation process, implementation records are better. The participation of subnational units in shaping the foreign policy of a federal state whenever their powers or essential interests are concerned strengthens that state’s foreign policy. In addition, subnational units bring know-how and experience relevant to the negotiation, which are often lacking at the central level. As a rule, the participation of the subnational units is crucial for the federal government. The federation needs the willing cooperation of the federated entities in order to implement its foreign policy and international law.

Mutuality: Trust

Federalism does not provide a panacea for all the ills of a multicultural society but it does offer a greater capacity for solving problems. However, it should be noted that a federal model in one state cannot be transferred wholesale into another. The success of any federal solution depends on how a given state copes with the group rights and cultural rights of its diverse people, and how it creates a feeling of security among them. Any power-sharing arrangement must empower the minorities and reduce their fear in face of the natural power of the majorities. This is especially true when a country has suffered from a violent conflict. When this has been the case, tremendous and sustained efforts are needed by all parties to work for what is needed most: reconciliation and reconstruction of the country while rebuilding trust. In this phase of trust

building, particular emphasis must be placed upon the political process. Additionally, the role of human rights is crucial and they often cannot simply be defined in the abstract, but require mutual respect and negotiated agreement among the various members of diverse societies.

Mutuality: Balance

While looking at federalism as a means by which to solve multicultural conflicts, one has to be aware that federalism is not only a device for self rule, but also a structure for shared rule, and this shared rule structure is equally important. If federalism is understood as a license to self rule without at the same time fostering a cooperative spirit of living together, it can lead to local tyranny. A concept and vision of federalism have to exist, according to which a commitment to power sharing is at least as important, if not more important, than the legitimate quest for autonomy. Federalism can only bring about good governance if it finds a middle path between self-determination and living together, fiscal autonomy and solidarity, respect for cultural identity and a commitment to a mutually agreed-upon common good.

Consequently, it is necessary to understand federalism as a system of mutual checks and balances. This means that both the state and the constituent units need to have a strong position in the constitution. This notion of balance is crucial. Minimally, it gives expression to two manifestations of popular will: national and regional. However, at the same time the system of checks and balances must be supported by a strong, respected, and independent court system – albeit a court system that is itself reflective of diversity.

Pragmatism: Complexity

Federalism is a process that aims to create a more complex system in order to simplify things. Like the engine of a Formula 1 car, it is efficient but complicated, as can be seen by the phenomenon of equalization, a typically complex feature of a federal system, encompassing financial, economical, political, legal and even ethical components. The greatest possible coordination between the different positions of the subnational units and the federation often leads to a complex compromise.

For example, during the process of decentralization the emergence of parallel administrations and bureaucracies at central, regional, and local levels often leads to a more complex system in which there are no clear-cut allocations of responsibility. This can facilitate elite capture by politicians who tend to make short-term decisions, whereas most of the features and incentives of a successful federalist system are long-term issues. In reality the fact remains that federalism is complicated to arrange, difficult to manage, and cumbersome in operation. But it's the price some federal countries have to pay in order to live together.

Pragmatism: Informality

In the search for possible policies, discussions in a federal system are often less driven by the insistence on getting it right than by a spirit of getting along. One possible explanation is the complexity mentioned above. Additionally, each level is empowered to design its own adapted policies, which often result in informal and pragmatic solutions. For example, if a policy needs regulation at the federal level, it often becomes stuck, and the subnational units have to adopt a less formal response to the issue in question. Or, if a national border is a hindrance to the successful delivery of policies, subnational units increasingly develop cross-border relationships, with or without the involvement of the federal level. Hence, different examples show that

explicit authorization by law is less important than the political power of a state in the federation. However, the conference discussions demonstrated that it is wise to make a distinction between more formal agreements and informal arrangements (*arte di arrangiarsi*). Some participants felt that as long as solutions continue to exist in a legal limbo, they lack the necessary power to have a significant impact.

Pragmatism: Uniqueness

Federalism is not cast in stone; it grows differently in different soils and its success in one state may not be replicable in another. There is no single model to follow and it is difficult to transfer elements from a model in one country to a model in another country. All federalism can do is provide examples which may prove to be useful reference points for other societies. Historical and cultural traditions mean that the same conclusion pertains to the transferability of entire policy systems. Each state must develop its own unique and pragmatic approach, if necessary with the help of the international community and transnational institutions.

Conclusions

A major issue running through most of the sessions of the second International Conference on Federalism 2002 held was the crucial importance for effective federations of the presence of an underlying supporting political culture and attitudes. Whether in the conduct of foreign relations, the management of decentralization and conflict in multicultural societies, or in the financial arrangements, effectiveness in practice has depended not just on appropriate institutions and processes, but even more upon widespread respect for the values inherent in federalism. A major conclusion with significant relevance for future discussions, therefore, is the need for further analysis of how such values, so necessary for effective federalism, can be fostered and developed.

A second major theme emerging from the St. Gallen conference was the importance of the financial arrangements in terms not only of economic efficiency, but for their impact upon political policies and decision-making. Particularly important are the features of equalization arrangements and the extent to which they contribute to, or undermine, the preservation of regional and linguistic identities and the promotion of “solidarity” within federations.

Themes and Subthemes

Second International Conference on Federalism

St. Gallen, Switzerland, 27-30 August 2002

Theme I - Federalism and Foreign Relations

Foreign Relations of Subnational Units

Participation of Subnational Units in the Foreign Policy of the Federation

Implementation of International and Supra-national Law by Subnational Units

Federal Structures and Foreign Policy of International and Supra-national Organisations

Theme II - Federalism, Decentralisation and Conflict Management in Multicultural Societies

Constitution Making and Nation Building

Decentralisation and Good Governance
Communities – Civil Society and Conflict Management
International and Regional Action with regard to Conflicts in Multicultural Societies

Theme III - Assignment of Responsibilities and Fiscal Federalism

Fiscal Federalism and Political Decision Structures
Problems of Equalisation in Federal Systems
Fiscal Competition
Fiscal Decentralisation in Transition Economies and Developing Countries

Third International Conference on Federalism Brussels, Belgium, 3-5 March 2005

Introduction

In March 2005, the federal and federated governments of Belgium hosted the Third International Conference on Federalism. In a number of ways, the Brussels conference is an important turning point, and presents an opportunity to reflect not just on the conference itself but also the ongoing international dialogue on federalism of which the conferences are an integral part. With the success of the Brussels conference, and the confirmation of the Fourth Conference in Delhi for 2007, the continuity of the International Conference on Federalism on a triennial basis has been established.

While each conference is unique, each also makes an important contribution to what is now an ongoing process. Looking back, the 1999 conference in Mont-Tremblant offered a chance for practitioners and scholars to look broadly at the role of federalism in a globalizing world. The level of participation from around the world, including many from the highest levels of government, demonstrated the high degree of interest in these issues. The conference in Brussels brought together over 1,000 participants from over 80 countries, making it the largest conference to date. Harnessing and building on this interest, the St. Gallen conference took a methodical approach to continue the dialogue.

It is in this context which the Brussels conference must be considered. Held to coincide with the 25th anniversary of Belgian federalism, the event came at a time of significant political change internationally. The peace process in Sudan, nation-building efforts in Afghanistan and Iraq, the development of a European constitution: all had an important impact on the discussions in Brussels. In many ways, then, the third conference took the more thematic focus of previous conferences and applied it to topical issues around the world. In addition to ensuring a continued high level of interest, the event also showed the growing importance of federal approaches in managing social, political and economic change.

Method

With a hugely diverse list of speakers and participants, a wide range of cases and experiences was obviously covered over the course of the three days. The role of the general rapporteurs, however, served to identify common elements across each of the four themes. As a result, the conference proceedings offer two separate perspectives on the discussions. On the one hand, the

plenary speakers provided a range of views on the relevance of federal ideas to a particular country or region. The presentations in these sessions represented a cross-section of traditional federal states, emerging federations, and even unitary states: of the 14 countries represented in the plenary sessions, seven were from non-federal states. In comparison to previous conferences, this diversity in speakers clearly showed the growing interest in the possibilities of federal governance beyond the established federations of the world. The importance of these ideas to the most topical processes of political change around the world was made clear by the prominent interventions of representatives from Sudan and the Philippines, for instance.

The working groups, on the other hand, were able both to address particular case studies, as well as draw out common elements across a particular theme. The roles of the theme coordinator, vice-chairs, and general rapporteurs, both before and after the working group sessions, were particularly helpful in identifying trends from the broad range of case studies.

Content Analysis

The conference was broadly divided into plenary and working group sessions, with the latter organized along the following broad themes. (1) The Foundations of Federalism, (2) Federalism and the Distribution of Responsibilities, (3) Federal Techniques and Methods of Functioning, (4) Federalism and International Relations. The following attempts to highlight some of the main points of discussion, based largely on the work of the general rapporteurs, over the course of the conference.

The Foundations of Federalism

The discussions under this thematic heading focused on federalism and democratic legitimacy; socio-cultural identity and asymmetric federalism; and the role of federalism in conflict prevention. With respect to the first subtheme, the discussions highlighted the ambivalent relationship between a federal structure and democratic legitimacy. While federalism has enormous potential to enhance the democratic process, a federal system of government on its own would not guarantee this outcome. On the one hand, the application of the subsidiarity principle can increase democratic participation by bringing political decision-making closer to the individual. A robust system of multi-level government can also create further checks and balances within government. On the other hand, federalism carries with it certain risks. The discussions pointed to the possibility of enhanced regional cleavages, as well as the impact of complex institutional arrangements on efficiency, transparency and responsibility within government.

Discussions on asymmetry and conflict prevention also highlighted the potential for federalism to play a positive role in accommodating diversity and mitigating conflict. As with democratic legitimacy, however, federalism's positive contribution in this area depends on the wider governance context, and most importantly on a constructive dialogue among actors. At an institutional level, this dialogue must be represented by an active and constructive participation of constituent units at the national level. Overall, the discussions around the first theme focused on the potential of federal principles as a powerful tool; the realisation of that potential depends on the disposition of those in power. The theme of federalism as a tool, rather than the solution to a problem, reoccurs throughout the working groups.

Federalism and the Distribution of Responsibilities

Subthemes examined here were federalism and the protection of fundamental rights, the division of powers in education and cultural affairs, and questions of public finance. Given the strong correlations, it is not surprising that discussions on the protection of rights focused on the same federal ambivalence as the parallel debate on democratic legitimacy. By extension, those aspects of federalism which can contribute to enhanced democratic legitimacy – increased political participation, further checks and guarantees against abuses of power – can also contribute to improved protection of rights.

The substance and expression of those rights, however, raises the possibility of conflict between federalism and the principles of liberal democracy. If rights take the form of group rights, for instance in the case of minorities, then these must be reconciled with the rights of the individual. This theoretical tension becomes more tangible when minorities or other groups are represented, and their group rights protected, through federal structures. Education and media policy in federations, particularly those designed to protect cultural diversity, often highlights this tension. Those examining this theme pointed out, however, that larger forces of economic and technological change are forcing a deeper cooperation in these policy areas.

Discussions on public finances also highlighted the need to balance autonomy with cooperation on expenditures to ensure stability and economic growth. In both of these areas, therefore, federal governance plays an important role in reconciling inner diversity and autonomy with the need for coordination in quickly evolving policy areas. This emphasis on effectively managing change, whether political, economic or social, can be seen across the various themes.

Federal Techniques and Methods of Functioning

The working groups in this theme looked at a set of three institutions which are central to effective federal governance: constitutional courts, the participation of states in the federal government, and different forms of intergovernmental agreements.

Constitutional courts were discussed as a key feature of federal states. As the arbitrator in resolving constitutional disputes, the courts play a crucial role in guaranteeing the integrity of the federal structure. To perform this role, the group concluded, the courts must have a high degree of legitimacy, often lacking in new or emerging federations. Establishing and maintaining this legitimacy, however, fell not just to the courts themselves, but to political leaders and the people. The question of legitimacy and its basis is closely linked to how well the rule-of-law is established, once again highlighting the importance of underlying attitudes and political culture.

Ultimately, federal governance is a function of both the federal and constituent levels. The question, then, of how they interact is central to the federal process. Here the discussions logically began with the role of second legislative chambers in federations, often the most common instrument for ensuring constituent-level input at the federal level. Despite its frequency, however, the difficulty in establishing effective bicameral legislatures has led to the expansion cooperative policy-making at the executive level. These mechanisms vary greatly in form and function, depending on a range of factors including the form of government and the role of political parties. The third working group looked specifically at intergovernmental agreements that arise from this interaction. Across the range of experiences, there was a common recognition that federal governance must be seen as a process, rather than a static structure. The

propensity for these processes to take place outside of a legislative environment, however, requires an effort to make them as transparent as possible.

Federalism and International Relations

The analysis of federalism in its international context has progressed dramatically since the topic was addressed at the Mont-Tremblant conference. Traditionally, international relations have been the domain of national governments: within the state, it is generally a reserved federal power; international bodies, moreover, tend to ignore the constitutional composition of member states. Federal principles have been propelled into international relations at two different levels. First, regionalization has to varying degrees created another level of governance at a supranational level. While the European Union represents the most developed example of this phenomenon, less dramatic but similar processes are underway on most continents. Deepening cooperation at the regional level brings with it an institutionalization of relations among members. The elements of federal governance that emerge from this process were the focus of many of the discussions under this theme.

The other component to this theme related to the greater role for constituent units in developing foreign policy and participating in international relations. The growing number of areas, especially in areas of subnational competence, in which international commitments and cooperation have an impact, has eroded the traditional jurisdictional divisions between federal and constituent-unit levels. While federal states have responded to these changing in a variety of ways, in no case is there still a clear and static division of competencies in the international arena.

Conclusions

The range of topics covered over the course of the conference clearly precludes any detailed conclusions being drawn. As with previous events, however, common issues across the sessions can be identified. These issues in turn give an indication of how the participants understand and qualify federalism, what they see as its merits and its limitations. In Brussels, these can to a great extent be summed up under the idea of federalism as a flexible tool. On the one hand, the underlying flexibility of federal institutions can be seen 1) in the accommodation of diversity within the state, and 2) in managing change both from within and beyond the limits of the state. The notion of federalism as a tool, on the other hand, refers to the importance of the underlying political culture, the disposition of key actors, in realizing the potential that federalism offers. This culture of dialogue requires federalism to be understood as a process, rather than a ready-made set of institutions.

The Fourth International Conference on Federalism in 2007 will undoubtedly revisit a number of these topics. Each conference, however, will address the questions at a different point in time, as well as in a different national and regional setting. The Fourth Conference, to be held in Asia for the first time, and hosted by the world's largest federal democracy, will offer a new perspective again.

Themes and Subthemes

Third International Conference on Federalism

Brussels, Belgium, 3-5 March 2005

Theme I - The Foundations of Federalism

Federalism and democratic legitimacy

Socio-Cultural Identities and Asymmetric Federalism

Federalism: Conflict Prevention and Settlement

Theme II - Federalism and the Distribution of Responsibilities

Federalism and Fundamental Rights

Division of Powers in Education and Cultural Affairs

Public Finances and Federalism: Autonomy, Coordination and Solidarity

Theme III - Federalist Techniques and Functioning Methods

The Role of Constitutional Courts in a Federal State

Participation of the States in the Federal Government

Intergovernmental Agreements and Cooperative Organs within Federations

Theme IV - Federalism in International Relations

Federalism and Global Governance

The European Union: A New Federative Experience?

Federal States and International Integration

Forum website: www.forumfed.org

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