



# Forum of Federations

THE GLOBAL NETWORK ON FEDERALISM

# Security Management and Federalism

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# INTRODUCTION

## Federalism and Security



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# WHY FEDERALISM?

- Balance unity and diversity
- Deepens democracy
- Especially relevant in societies with heterogeneous population and large territory
- Encourages win-win outcomes
- Promotes..... Local solutions for local problems



# SECURITY AND FEDERALISM

- Many federations are products of post-conflict settlements.
  - Old: Switzerland, United States
  - New: South Africa, Spain, Ethiopia
- Federations distinguish (constitutionally) between the delivery of, and responsibility for, national security and public security.



# NATIONAL SECURITY

- Securing country against external threats
- Always a responsibility of Central/Federal level of government
- Primary instruments: Armed Forces, border security forces, intelligence and counter-intelligence agencies



# PUBLIC SECURITY

- Concerned with the enforcement of laws, administration of justice and maintenance of public order.
- Usually shared function between Nation/Federal and State/Provincial level. Sometimes municipal authorities have public security functions.
- Responsibility varies by level – Federal organizations enforce federal laws, state organizations enforce state laws, etc.
- Primary instruments: Police Forces, Criminal Intelligence and Investigation Agencies.



# Section 1

## Security Management in Post-Conflict Countries



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# IN ESTABLISHED FEDERATIONS

*Issues of concern are mainly are mainly operational and relate to:*

- Coordination between agencies
- Coordination across orders of government
  - Horizontal coordination, i.e. coordination among sub-national governments
  - Vertical coordination, i.e. coordination between federal and sub-national governments
- Financing and resource allocation



# IN POST-CONFLICT SOCIETIES

Two major issues of concern

## 1. *Separating national security issues from public security issues*

- Establishing state monopoly over legitimate use of force by disengagement of combatant forces from enforcement duties.

## 2. *Democratic consolidation*

- Defined and limited role for Armed Forces and Demobilization
- Integration of forces post-conflict
- Achieving representativeness and diversity

Let's look at each of these more closely.....



# Separating National and Public Security

- In post conflict societies no clear demarcation between forces maintaining national security and those with public security mandate. This has to be re-established.
- Deliberate efforts needed to restore legitimacy of state power. The state needs to have the monopoly of force to assure law abiding groups it will be protecting them.

*This may be achieved by:*

## **Excluding ex-combatants from law and order functions**

(E.g. South Africa, post-Apartheid transition - Exclusion of armed forces from law enforcement and public order duties, and expansion of civilian police by inclusion of alienated groups )

## **Empowering local/marginalized communities with Public Security functions**

(Devolving enforcement functions to local communities so that enforcement agencies closely reflected the values and mores of the local community - Spain from 1980 onwards)



# Democratic Consolidation

- Constitutional Reforms – *Important to provide constitutional basis for keeping forces out of politics.*

**Spain:** Article 8, Armed forces main job “...the defense of its territorial integrity and the constitutional order.”

**South Africa:** Sec 11: Article 198(c), “National security must be pursued in compliance with the law...” ; Article 200(2),” The primary object of the defense force is to defend and protect the Republic..... in accordance with the Constitution ...”.

- Legal Instruments - *Frame organic laws or acts of parliament putting armed forces under civilian control and civilian oversight.*

**Spain:** Organic Law 6 /1980, and modified by Organic Law 2/1984 provided for civil authority over the military; restricted military establishment to operational matters and established civilian supremacy in budgetary matters.

**South Africa:** New Defence Act of 2002 – reinforced the SANDF’s subordinate and advisory role in the formulation of national policy; introduced parliamentary oversight and limits the SANDF to territorial defense.



# Democratic Consolidation

## Other Practical Measures

- In addition to SSR (security sector reform) with its objective of professionalizing, increasing transparency, accountability and restoring civilian control over security forces) it is important to ensure proper rehabilitation and reintegration ex-combatants into civilian life – job training, re-employment, pensions, etc.
- Importance of international oversight during a transition period to nurture democracy.
- Diffused control over state's coercive powers – e.g. paramilitary forces outside Defence Ministry control.



# Integration of Forces/Demobilization, Disarmament and Reintegration

- Highly contested issue.
- Relevant in post civil war situation, but also post insurgency.
- Always a trade-off between. efficiency/cohesion and representation.
- Long drawn out process.
- Mixed results.



# Demobilization, Disarmament and Reintegration (DDR)

## 4 Cases Studies

1. Ethiopia – post-1991
2. South Africa – 1994-2004
3. India – post-1946
4. Germany – 1990-1994



# Ethiopia – *No integration of forces*

## Background

- Civil war resulting in overthrow of *Derg* regime 1991
- 455,000 *Derg* troops + 21,000 OLF troops demobilized between 1991-1995 – *no Dreg troops employed*
- New armed forces reconstituted by merging rebel armies into Ethiopian National Defence Force from 1991 onwards (200,000 troops)
- 30,000 ENDF troops demobilized between 2000-2003

## Successful DDR:

- Comprehensive disarmament program
- Provision of pensions to veterans (Derg and Government)
- Extensive donor assisted civilian reintegration program.
  - Phase 1: US\$195 million 1991-1995
  - Phase 2: US\$174 million 2000-2003

**\* CONTRAST WITH IRAQ WHERE SYSTEMATIC DDR NOT ATTEMPTED!!**



# South Africa – *Integration of Forces*

## Background

- Negotiated transfer of power. 1991-1994
- ANC nationally and internationally recognized as successor to NP government post apartheid.
- Agreed integration of Statutory Forces (SADF - 85,000 and Bantustan forces -10,000) and Non-Statutory Forces (MK\* - 30,000 and APLA\*\* - 6,000) into a National Defence Force.
- NSF absorbed into existing structures of defence forces.

## Results

- Successful in achieving diversity and representativeness
- 31,173 non-statutory forces (NSF) integrated
- Costs: Loss of trained personnel; Long integration process 1994-2005; questions about the effectiveness of the new SANDF

\*MK – ‘Spear of the nation’: Armed force of the African National Congress

\*\* APLA –Azanian People’s Liberation Army: Armed wing of the Pan-Africanist Congress

# India – *Selective Absorption*

- Indian National Army debate, 1946-47:
  - 40,000 ex-Indian Army who fought on Axis side
  - No re-employment into post-Independence Army. Provided pensions and several re-employed in civil jobs.
- Integration of Princely States, 1947-1950
  - 22,000 out of 50,000 troops selected for integration based on training and proficiency of individual units
  - Failure to comprehensively disarm leading to law and order problems
- Post-insurgent forces 1986 onwards
  - Individual, assessment, training, and placement of ex-insurgents
    - Mizo National Front – 600 insurgents absorbed into Central and State Police
    - Bodo Liberation Tigers – 1200 insurgents absorbed into Central Police Forces
    - Various Kashmiri Groups - 4500 absorbed into State /Central Police and TA



# Germany – *Absorption*

## Background

- German Reunification and collapse of GDR
- Negotiated process of re-unification
- NVA (90,000) disbanded; personnel and assets passed onto Bundeswehr (370,000) control

## Results

- No NVA Generals were retained in service
- Majority of enlisted men retired through attrition and completion of conscription terms. 25,000 enlisted men absorbed on merit and retraining (1990-1995)
- 2'800 of 16,000 NVA officers found permanent commission in the Bundeswehr. NVA officers re-ranked and often demoted following professional assessments.
- All inductees had to be trained to western professional standards and instilled with democratic principles.



# Some lessons

- No unconditional integration of combatants. Emphasis on individual rather than unit integration.
- Standing armies and established governments are generally averse to policies that dilute cohesion within the uniformed services.
- Integration, even when successful, is constitutes an institutional ‘take-over’ rather than a ‘merger’.
- Integration, if properly achieved, can be a long and costly process – 10 years in S. Africa and 4 years in Germany.
- Effective DDR requires money and takes time in order to prevent law and order problems.



# Achieving Representativeness and Diversity

- Particularly relevant in diverse countries
- Dangers of under-representation of ‘minorities’ (Case of Pakistan, Nepal) – Danger of over-representation of minorities often relevant in post-colonial countries where colonizers put minorities at the helm contributing to the conflicts experienced by the countries later on (Lebanon a good example).



# Section 2

## Policing and Public Security in Federal Countries



# Competing models exist for the provision of public security nationally and a local public good.

- Centralized Systems
- Mixed Systems
  - Canadian Model
  - Indian Model
- Issues of Inter-agency coordination
  - The Canadian Experience INSET
  - US-Canada Border IBET



# Centralized Policing

Nigeria, South Africa, Malaysia – National Police forces centrally recruited and managed.

## Advantages

- Unity of command and control
- Avoid problems of coordination and information sharing
- Uniformity of standards
- Cost effective

## Disadvantages

- Unresponsive to local needs – viewed with suspicion by minorities and local communities
- Unaccountable to local and sub -national authorities (exception, South African police is subject to provincial oversight)
- Lack of operational flexibility



# Mixed Systems

- Examples of countries with mixed systems include: Australia, Brazil, Canada, Germany, India, Mexico, Spain, Switzerland, USA.
- Constitution allows for policing and enforcement functions to be devolved.
- In most cases law and order functions delegated to states/provinces by constitution (E.g. Switzerland has no general purpose federal law enforcement agency)
- Federal level may keep enforcement functions that relate to federal laws
- Policing models may be 2-tier (Federal-State) or 3-tier (Federal-State-Municipal)
- Considerable variation in the way services are organized



# The Canadian Model

- 3- levels of police forces: municipal, provincial, and federal.
- Policing is a primarily a provincial responsibility.
- However, federal agencies exist to enforce federal laws – e.g. Royal Canadian Mounted Police, (RCMP) Canadian Border Services Agency.
- Provinces of Quebec, Ontario and Newfoundland and Labrador maintain own police forces. Other provinces contract out policing to the federal RCMP.
- Newfoundland Provincial Police is only responsible for urban policing; rest of the province is contracted out to RCMP
- Smaller municipalities often contract police service from the provincial policing authority, while larger ones maintain their own force



# Canadian Model

## **Advantages**

In principle most responsive to local needs

Accountable to local authorities

Communities adequately represented in security services

Flexibility

Checks and balances against centralization

## **Disadvantages**

Fragmented structure

Lower order police may lack requisite resources

Coordination issues – vertically and horizontally



# Interagency Coordination in Canada

## Integrated National Security Enforcement Teams

### Integrated National Security Enforcement Teams (INSETs)

- Since 1990s Canada has come under increasing threat from Terrorism and Organized Crime.
- These offences span provincial and federal offences and offenders operate across provincial boundaries
- INSETs are made up of representatives of the RCMP, federal partners and agencies such as Canada Border Services Agency (CBSA), Canadian Security Intelligence Service (CSIS), and provincial and municipal police services. INSETs exist in Vancouver, Toronto, Ottawa and Montreal.

### The mandate of INSETs is to:

1. Increase the capacity to collect, share and analyze intelligence among partners, with respect to targets (individuals) that are threat to national security.
  2. To create an enhanced enforcement capacity to bring such targets to justice.
  3. Enhance partner agencies' collective ability to combat national security threats and meet specific mandate responsibilities.
- Through shared federal, provincial and municipal resources - INSET members are better able to track, deter, disrupt and prevent criminal activities (major or minor offences) of terrorist groups or individuals who pose a threat to Canada's national security. This type of increased capacity enables INSET members to work with their partners nationally and internationally.

# Indian Model

- Policing is constitutionally a jurisdiction of the states
- 2-tier model – with each state having its own police force, but the Union government maintaining specialized enforcement agencies.
- 4 major metropolitan areas have own police forces.
- State forces are locally recruited but officer cadre is drawn from a Central pool through the Indian Police Service



# The Indian Model

## Advantages

- Well trained executive cadre
- Uniformity in management capacity across the country
- (Potentially) Smooth personal interface between levels of government and enforcement agencies

## Disadvantages

- Differences between enlisted ranks and officer cadre – low morale
- Lack of secure tenure for = Lack of local accountability
- Lack of executives' stake in local forces
- Limited exposure to local circumstances



# The challenge of inter-agency coordination

- All countries have multiple and specialized agencies dealing with different aspects of public security.
- Inter-agency coordination is a challenge; particularly with respect to operational cooperation and information sharing.
- Challenge in federal countries is the coordination across the various orders of government.
- Additional issue is balancing the inevitable centralizing tendency associated with higher level coordination and sub-national autonomy.
- Trans-border cooperation, particularly relevant where borders are open – US-Canada, Nepal-India, EU, etc.



# Section 3

## Trans-border Security



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# Open borders and coordinated security

- A number of federations, emerging federations and federal type entities share ‘open’ borders; e.g. US-Canada, India-Nepal, Switzerland-EU, Argentina-Brazil.
- ‘Open’ borders usually based on mutual economic interests – facilitating unhindered flow of both goods and people.
- Openness along ‘open’ borders always under stress due to the rise of transnational crime and terrorism. Typical problems around border management may include:
  - Smuggling of contraband; including drugs and firearms
  - Human trafficking
  - Movement of insurgents
- Servicing open borders between federations is complex business –a multiplicity of security sector organizations actors are responsible for different aspects of securing the border.
- Openness best preserved when security management is coordinated within neighboring countries, but also across their shared international boundary.



# Securing open borders Canada-US

## Integrated Border Enforcement Teams (IBETs)

- IBETs enhance border integrity and security along the shared Canada/U.S. border, between designated ports of entry, by identifying, investigating and interdicting persons, organizations and goods that threaten the national security of one or both countries or that are involved in organized criminal activity.
- IBET units protect both Canada and the United States from potential threats of terrorism and impede the trafficking/smuggling of people and contraband.

## Partners

- The five core IBET agencies – each having law enforcement responsibilities for areas at or near the shared border – are:
  - Royal Canadian Mounted Police (RCMP)
  - Canada Border Services Agency (CBSA)
  - US Customs and Border Protection/Office of Border Patrol (CBP/OBP)
  - US Bureau of Immigration and Customs Enforcement (ICE)
  - US Coast Guard (USCG)

## IBETs:

- Secure the shared border between Canada and the United States, while respecting the laws and jurisdiction of each nation
- Focus on national security and target organized crime and other criminal activity between the ports of entry
- Collaborate with municipal, provincial, state, federal and First Nation law enforcement agencies, stakeholder agencies and related government departments

# Section 4

## Reflections and Discussion



# • The Nepal Context – Fundamental Questions to Consider

- » What are the fundamental security threats confronting Somalia .
- » How can different organizations be crafted to meet these challenges. Specifically:
  - » Role of the Army?
  - » Need for Central Paramilitary forces? Role?
  - » Need for Central forces?
  - » Need for Regional Police forces?

- The Nepal Context 2 – Centralization vs. Decentralization of public security management
  - » What are their strengths and drawbacks? Costs and benefits?
  - » How to reconcile unity with diversity when it comes to security? Including protection of minority rights?
  - » How does one reconcile federal, regional, sub-regional, and local interests and priorities with respect to security?

## • The Nepal Context 3 – Accountability

- » How is oversight and accountability of security organizations ensured in multilevel-governance systems?
- » How are civil-military relations structured to ensure that national defence, policing and investigative resources complement local security without usurping, threatening, or undermining sub-national autonomy?
- » How do we ensure that the federation's national security culture is sensitive to differences in sub-national practices?

# • The Nepal Context 4 –Emergency Preparedness

- » Given Somalia's vulnerability to natural disasters, what are the models and best practices for emergency preparedness and response?
  - » National plans – nationally implemented
  - » National plans –locally implemented
  - » Local plans – locally implemented – nationally coordinated and harmonized
  - » Consideration of local/national resources and capacity
  - » Consideration of issues of coordination for emergency preparedness, including sub-national and federal surge capacity

- The Nepal Context 5 – Other specific operational issues

- » What is the relationship between fiscal federalism and the provision of security in federal systems? What mechanisms exist for ensuring that financial means and local autonomy are reconciled?
- » How does the multilevel-governance security arrangement in one country affect the system's cross-border interaction with other federations and their levels of government?

