



# APEX-LEVEL INTERGOVERNMENTAL RELATIONS IN FEDERAL SYSTEMS

COMPARATIVE PERSPECTIVES AND LESSONS  
FOR THE INDIAN CONTEXT

Rupak Chattopadhyay and Liam Whittington



# **THE WORLD BANK**

Prepared by the Forum of Federations at the request of the World Bank as part of its submission to the Fifteenth Finance Commission of India.



# **APEX-LEVEL INTERGOVERNMENTAL RELATIONS IN FEDERAL SYSTEMS: COMPARATIVE PERSPECTIVES AND LESSONS FOR THE INDIAN CONTEXT**

**Rupak Chattopadhyay<sup>1</sup> and Liam Whittington<sup>2</sup>**

**August 2019**

# CONTENTS

<b>Executive Summary</b> .....	<b>i</b>
<b>1. Introduction</b> .....	<b>1</b>
<b>2. Key Dynamics of IGR in Federal Systems</b> .....	<b>3</b>
2.1 Types of IGR.....	3
2.1.1 Formal vs. Informal IGR .....	3
2.1.2 Vertical, Horizontal, and Sectoral IGR.....	3
2.2 IGR Institutions and Processes .....	4
2.2.1 The Legislature.....	4
2.2.2 The Executive.....	5
2.3 Other Intergovernmental Relations Mechanisms .....	6
2.4 Dispute Resolution .....	7
2.5 Performance Measurement and Benchmarking .....	7
<b>3. The Impact of Constitutional Arrangements and National Context</b> .....	<b>9</b>
3.1 Constitutional Arrangements: Dualist Vs Integrated Federations .....	9
3.2 Form of Government and Political Parties .....	10
3.3 National Context .....	11
<b>4. Apex IGR Institutions and Processes: Comparative Country Analysis</b> .....	<b>13</b>
4.1 Argentina.....	13
4.2 Australia .....	14
4.3 Brazil.....	16
4.4 Canada.....	17
4.5 Germany.....	19
4.6 South Africa .....	20
4.7 Spain.....	22
4.8 Switzerland .....	24
4.9 United States.....	26
<b>5. Fostering Effective IGR: Some Observations</b> .....	<b>29</b>
5.1 Some reflections for the Indian context.....	30
5.1.1 Comprehensive Mandate .....	31
5.1.2 Location within Government .....	33
5.1.3 Capacity enhancement .....	33
<b>6. Concluding Thoughts</b> .....	<b>35</b>
<b>Bibliography</b> .....	<b>36</b>

# EXECUTIVE SUMMARY

Cooperative Federalism is a concept of federalism in which national, state, and increasingly local governments interact cooperatively and collectively to solve common problems, rather than making policies separately but more or less equally. The complexity brought on by globalization means that even in traditionally dualist federations like Canada, the U.S., and Switzerland, where each order of government has its own constitutionally mandated tasks, different orders need to work collaboratively to obtain policy outcomes that no single order of government could on its own. Obtaining international agreements on free trade or now tackling climate change are the most well-known examples of policy issues that have forced multiple orders of government to work together. Cooperative federalism therefore requires robust mechanisms for promoting intergovernmental relations (IGR). This paper aims to offer a comparative survey of recent trends in intergovernmental relations and to draw out some implications for the Indian context.

IGR are an integral part of every federal system, and interaction and interdependence between different orders of government is becoming increasingly important as actors strive to improve governance. Federal partners share information, create joint institutions, determine each other's roles in the case of shared competences, negotiate over funding, and conclude formal agreements over the performance of respective functions. Federal nations vary in relation to their history, geography, constitutional framework, legal culture, distribution of competences or resources, and federal design. Consequently, IGR can take a wide variety of forms, often in response to the design of the federal system and culture around it. IGR may involve any or all levels of government, legislatures, executives, and quasi autonomous agencies.

There is a multiplicity of existing IGR mechanisms, and different federal systems are subject to diverse pressures in relation to: timing; partisan politics ideology; key policy areas; economic conditions; and institutional channels of conflict and collaboration. In spite of these differences, the majority of federations rely on a mixture of vertical and horizontal IGR mechanisms, and on both formal and informal practices. Various levels of government engage in conflictual and consensual dealings.

This paper is primarily concerned with the vertical IGR and the important role that Apex level IGR platforms can play in bringing about whole of government coherence on a range of public policy issues in any country. While almost all federations have relatively dense networks of intergovernmental interactions on a sectoral basis, this has not always led to the establishment of successful or effective Apex level IGR institutions. The paper provides a comparative analysis of nine federal countries, covering two integrated and seven dualist federations; and three presidential and six parliamentary federations.

The paper reaches the following conclusions. First, normative concerns around the issue of democratic accountability aside, the most effective Apex level IGR are executive driven. Second, the most effective forum/institutions for Apex level IGR are housed within central agencies at the federal level, or are autonomous institutions. Third, regardless of whether Apex IGR mechanisms are constitutionally mandated, the formalisation of key IGR institutions and mechanisms can help to ensure that governments

interact with one another on a regular (and ideally meaningful) basis. Fourth, previous practice suggests that an IGR system which combines both formal and informal elements is likely to achieve better, more productive policy outcomes. Interpersonal relationships developed through the combined elements are a key component of successful IGR management. Lastly, although the above details generalizable conclusions of this study, it is critical to keep in mind that above all, context matters and there is no single 'one-size-fits-all' solution or method of best practice. At best one can draw some lessons from these general observations which could be applicable in other countries.

Keeping in mind lessons from international practice, one can draw the following inferences for the Indian context. First, its constitutional mandate makes the Interstate Council an ideal forum for Apex level IGR. The abolition of the Planning Commission and the uncertain future of the National Development Council provides a unique opportunity to address the hitherto fragmented nature of Apex level IGR by consolidating all IGR under the umbrella of the Interstate Council. A number of government commissions have recommended the application of conflict resolution mechanisms, as well as regular meetings of the ISC. Second, a relocation of the ISC to a central agency such as the cabinet secretariat or Prime Minister's Office would provide it with the leverage required to coordinate across government. This would be on the pattern of the more successfully established Apex IGR bodies like COAG in Australia, IGA in Canada, or PCC in South Africa. Functions of existing sectoral IGR bodies such as the GST Council, River Water Tribunals or Central Water Commission could be subsumed as thematic working groups within the ISC mechanism. In parallel, the Zonal Councils could continue to function as territorially based sub-committees within the ISC mechanism. NITY Aayog would have an important role to play by bring issues on the good governance agenda before ISC and/or evaluating the outcomes of ICS interactions. Indeed, one could argue that relocating responsibility for the ICS to a central agency would help address the issue of attractiveness and morale and greatly enhance access to human and financial resources.

# 1. INTRODUCTION

Intergovernmental relations (IGR) are an essential and integral component of governance in modern federal systems. The interdependence between different orders of governments is an inevitable condition of federal structures in which there are jurisdictional overlaps in the design, development, and implementation of policy. In contrast to unitary systems, the separation of powers between multiple orders of government has generally required the development of processes of consultation, collaboration, and coordination which enable the different players in the federal system to influence outcomes in various areas. Fundamentally, IGR provide a means through which governments in federal systems can adapt to changing demographic, economic, social, political and cultural circumstances, as well as diffuse and resolve conflict between different orders.

The prominence and importance of IGR in federal systems has increased as the scale and complexity of governance has grown. Public policy challenges such as those brought on by international trade, climate change, global migration and demographic transition is increasing forcing national, state, and increasingly local governments interact cooperatively and collectively. These forces engender a range of economic, political, social, and environmental issues, and consequent governance challenges, which impact upon governments at all levels in federal systems and potentially blur the lines of responsibility between them. To effectively meet these challenges, there is a need for greater coordination mechanisms and joint decision making between different orders of government. In short, Cooperative Federalism requires effective institutions and processes for IGR.

The purpose of this paper is to provide a comparative survey of different approaches to IGR in a number of federal countries and federal type systems. The choice of cases in this paper is meant to offer a representative survey of federal systems covering both the global north and global south, including parliamentary and presidential forms of government, classical and post-war systems, and dualist as well as integrated federations. The paper is particularly focused on apex IGR forums and their effectiveness. Finally, the paper draws out lessons that may be of relevance in the Indian context.

The earliest modern federations (particularly the Anglo-Saxon federations of Canada, the United States, and Australia) did not make explicit provision for IGR in their foundational laws. It was assumed that the two orders of government established – the central (sometimes termed ‘federal’ or ‘national’) government and constituent unit (CU) governments – would operate largely autonomously in their areas of competence as allocated by the constitution. As the twentieth century progressed, however, it became clear that this pure ‘dualist’ federal structure could not adequately address a range of new developments in areas such as transport, the environment, and business regulation which concerned both central and CU governments [Phillimore 2013, 229]. In particular the increase in central government revenue as a result of the implementation of income taxes, and the need to transfer redistributive funds to CUs, dictated that IGR processes of some form were necessary. The reliance on judicial rulings to resolve conflicts between orders of government, due to the lack of an alternative mechanism for dispute resolution, was another factor which threw the need for regular IGR mechanisms into stark relief [Phillimore 2013, 229].

IGR today are primarily tools of social and economic policy making which enable different orders of government to collaboratively discuss, develop, coordinate, and implement policy which effectively serves the needs of citizens across various jurisdictions. They also enable CUs to collaboratively develop policies and convey their positions both to one another and the (often more powerful) central government, as well as influence the formulation of policy in areas that are cross-jurisdictional or in which the lines of responsibility are blurred. Moreover, they provide an arena in which disputes between different orders can be resolved without resort to judicial rulings. Apex level IGR institutions and mechanisms in particular – those that operate at the very top level of the governance structure - act as aggregators and providers of national policy coherence. This type of collaboration can give rise to ‘Cooperative Federalism’ - the increasing cooperation and coordination between different levels of government and the erosion of the clear distinctions between the division of powers [Watts 2008, 122; Phillimore 2013, 229]. The development of Apex level IGR mechanisms has been necessitated by a desire to establish greater national policy coherence, which in the past was often constrained by the narrow policy focus of IGR forums comprised of line ministries with particular sectoral focus.

There is considerable variety in the IGR institutions and processes developed by federal countries, with a range of legislative, executive, and other mechanisms utilised to facilitate coordination. The types of mechanisms utilised, and the respective influence (and potentially dominance) of different orders within the IGR system, is conditioned by a number of factors related to the constitutional arrangement, the political context, and the ‘federal tradition’ in which a respective country is situated [Poirier and Saunders 2010, 3].



## 2. KEY DYNAMICS OF IGR IN FEDERAL SYSTEMS

IGR in federal systems takes many forms and operates at different levels. Apex-level mechanisms involving the legislature and/or the heads of central and CU governments may sit alongside associations of local government officials and forums for sectoral ministers within the same system. While IGR in federal systems is characterised by variety, a number of common dynamics can be identified that provide a broad conceptual framework for comparative analysis between countries.

### 2.1 TYPES OF IGR

#### 2.1.1 FORMAL VS. INFORMAL IGR

IGR can be undertaken formally or informally. **Formal** mechanisms are those which are underpinned by a specific constitutional or statutory provision, or some other mode of formal agreement between respective parties. They are institutionalised within the federal structure, and could, for example, take the form of a regular or ad-hoc meetings between ministers, legislators, officials, or agencies of different governments [Phillimore 2013, 231; Anderson 2008, 67]. Alternatively, formal IGR mechanisms may be integrated into the legislative structure, as they are in the second chamber of the German parliament, the *Bundesrat*.

**Informal** IGR processes are generally just as important, if not more so, than formal mechanisms. While they may encompass a range of actions, they typically involve the various means of direct communication between actors (ministers, officials, and representatives) from different governments, and the relationships developed and maintained through these interactions. In addition, informal IGR comprises the unspoken conventions and principles which are crucial to the IGR process in a respective country [Phillimore 2015, 231; Poirier and Saunders 2010, 4]. Informal IGR can be seen as the glue which brings different governments together and helps to facilitate coordination.

Almost all federations display some form of formal and informal IGR, although the importance of formal mechanisms in relation to informal ones varies according to the specificities of the federal structure of a respective country.

#### 2.1.2 VERTICAL, HORIZONTAL, AND SECTORAL IGR

The intergovernmental relationships developed between different orders of government in federal systems fall into three broad categories: Vertical IGR; Horizontal IGR; and Sectoral IGR.

**Vertical IGR** is the most prominent type of IGR developed in federal systems. Vertical mechanisms are those in which the central government interacts with the lower levels of government within the federal system [Phillimore 2013, 230; Anderson 2008, 67]. In dualist federations, such as Canada, in which local government is established as a provincial government creation, vertical IGR is the interaction between the central government and the governments of the states/provinces/territories. In federal systems with

three constitutionally separated orders of government however, such as Brazil and South Africa, vertical IGR includes processes of interaction between the central, CU, *and* local governments [Phillimore 2013, 230]. Vertical IGR processes may be developed between central government and CU governments, central government and local government, or between all three orders. In the majority of federal systems (although not all), the critical intergovernmental relationship is between the central government and the government of the CUs, particularly at the Apex level. While some systems involve local government representatives in their apex IGR mechanisms, the majority do not [Phillimore 2013, 230].

**Horizontal IGR** refers to the relationships, processes, and institutions developed between different governments operating at the same level of the federal system [Phillimore 2013, 231]. Typically, it involves CU governments coming together in various ways to better coordinate policy implementation in areas of common interest, to address trans-geographic border issues such as transport, local taxation, and service provision, and to develop common positions on issues of national importance which require negotiation with the central government. Horizontal IGR does not require involvement of all CUs within a respective country: regional groupings of CUs coming together in IGR processes are common in Canada and the United States [Phillimore 2013, 231].

Finally, IGR can be undertaken within specific policy sectors. In **Sectoral IGR**, different governments interact around a sector-specific issue. This could involve, for example, the individual ministers, officials, or administrators responsible for a particular sector within their government convening to address specific sectoral issues. Sectoral IGR may be vertical or horizontal, and the intensity and frequency of interaction varies between different policy sectors and countries [Phillimore 2013, 231]. While typically operating below the apex-level (involving sectoral ministers rather than the heads of government), the majority of federations possess some form of sectoral IGR, even those with no strong apex-level mechanism.

## 2.2 IGR INSTITUTIONS AND PROCESSES

### 2.2.1 THE LEGISLATURE

The national legislature is one sphere through which IGR can be effected in federal systems. The majority of federations operate bicameral parliaments, with the second chamber or upper house typically including some form of CU representation [Anderson 2008, 45]. However, despite the second chamber or upper house often being seen as ‘federal houses’, their influence with regard to shaping and facilitating IGR varies and is fairly insignificant in most systems. This is attributable to a range of factors in different federations, including a lack of power afforded to the second chamber, the small proportion of the total number of seats allocated to CU representatives, the dominance of a single party throughout all orders of government, and a tendency to vote along party lines rather than in CU-specific interests [Phillimore 2013, 232]. One key exception to the general impotence of second chambers is German upper house – the *Bundesrat* – which is composed of delegations from the state (*Länder*) governments and whose members have a direct influence over federal government policy and law making through a mandatory approval process [Phillimore 2013, 232].

Although legislatures do not play an especially prominent role as IGR institutions in many federations, various legislative techniques are used to facilitate IGR and contribute to national policy coherence between the orders of government. Mirror and template legislation are commonly utilised mechanisms. These instruments provide model or template laws typically developed by one order of government, which are then replicated or transmitted by other orders to ensure a degree of uniformity in the respective area of action. They enable all orders to enact legislation which achieves the same or a similar outcome, while providing a degree of flexibility for the specific conditions of particular CUs [Poirier and Saunders 2010, 5]. Furthermore, in some federations, such as Australia, there is scope for the intergovernmental referral or delegation of legislative powers from one order to another, although this has been used rarely. Moreover, the incorporation of strong mechanisms of direct democracy into federal legislative structures can impact on IGR. In Switzerland, legally binding inter-cantonal treaties can be challenged through referenda [Poirier and Saunders 2010, 5].

While legislative techniques can support and shape IGR in federations, in most systems interaction between different orders of government is facilitated through, and remains the prerogative of, the executive branch, which is where the most significant apex-level mechanisms often operate.

---

### 2.2.2 THE EXECUTIVE

The executive branch of government is typically dominant in relation to IGR in most modern federations, and particularly in those systems which operate a parliamentary regime [Phillimore 2013, 232]. Presidential systems generally have a more structured division of powers between the executive and legislative branches which can result in a greater diffusion of power and the legislature playing a more prominent role in relations with CU governments. However, even presidential systems may have strong executives which dictate the IGR environment, particularly where the presidential party dominates the legislature (such as in South Africa) or the president has quasi-legislative powers to issue decrees (such as in Argentina) [Anderson 2008, 45].

The dominance of the executive branch – and specifically of governmental executives in the form of government ministers and their officials - in the performance and design of IGR in federal systems is known as ‘Executive Federalism’ [Anderson 2008, 45]. The most common instruments of Executive Federalism are standing and ad hoc intergovernmental meetings between officials, civil servants, policy advisors, ministers, and heads of government both at vertical and horizontal levels. Processes and mechanisms of Executive Federalism have generally developed outside of constitutional provision as a pragmatic response to the need for greater coordination on pressing governance issues [Phillimore 2013, 232]. Many federations are characterised by a complex network of different relationships between government executives. Heads of government in federal systems – particularly the head of the central government – often have an office for IGR close at hand within the cabinet office or interior ministry, frequently overseen by a responsible minister [Anderson 2008, 67].

In many federations, forums which convene the head of the central government and the heads of the CU governments represent the apex IGR mechanism. They provide institutional processes for consultation, negotiation, cooperation and coordination between orders of government. They also supply

a means for the resolution of disputes between orders of government outside of the courts. Notable examples of these peak intergovernmental bodies include the Council of Australian Governments (COAG) in Australia, and the First Ministers Conferences in Canada. These vertical forums exist in the majority of parliamentary federal regimes, with discussions usually taking place behind closed doors [Phillimore 2013, 232]. Constituent Units tend to enjoy equal representation in these apex-level vertical bodies, although in some cases other actors also participate, usually for specific purposes. These other actors have included finance ministers in Australia, traditional leaders in South Africa, and Aboriginal leaders in Canada. The establishment of forums in which the head of the central government meets with the heads of the CUs (vertical executive IGR mechanisms), has in a number of federations been accompanied by the development of inter-unit horizontal executive forums. These inter-unit forums enable the states or provinces within a federation to cooperatively and collectively address issues of wider scope without involving the potentially centralizing powers of the central government [Phillimore 2013, 231; Poirier and Saunders 2010, 6].

Below the Apex level, Executive Federalism manifests itself primarily in meetings of ministers, officials, and policy advisors responsible for specific sectors or policy domains. Typically meetings are convened around a particular sectoral or public policy issue which necessitates some form of coordination and collaboration between different governments [Phillimore 2013, 232].

### 2.3 OTHER INTERGOVERNMENTAL RELATIONS MECHANISMS

Alongside the IGR institutions and processes which are derived directly from either the legislative or executive branches of government in federal systems, several other instruments which facilitate intergovernmental coordination can be identified.

One such instrument is formal agreements between governments. While in some countries these agreements can be legislated, in the majority of federal systems they are established as result of discussions between government executives. Executive-generated agreements may subsequently form the basis for legislation and new funding programs or agencies. Intergovernmental agreements may be either multilateral or bilateral, and are struck between different orders government (vertically), or between different governments operating at the same level (horizontally) [Phillimore 2013, 233]. Intergovernmental agreements have been utilised extensively in Australia, with each agreement typically assigning roles and responsibilities to the signatory governments, detailing any financial provisions, and establishing reporting requirements. The level of detail in relation to the obligations of signatories varies between agreements, as does the legal status of the accord [Phillimore 2013, 233].

Another prevalent IGR mechanism is joint or independent agencies which are established to deal with particular public policy issues [Poirier and Saunders 2010, 6]. These agencies may be developed as a result of an intergovernmental agreement, and are almost always executive bodies which bring together key actors from different orders of government with specific expertise or responsibility for the respective policy issue. The establishment of joint or independent agencies can help to depoliticise an issue that has previously generated tension between different governments, although to have this effect typically the

conflicting parties must first have reached an agreement over how the issue in question is to be tackled [Phillimore 2013, 233].

Finally, the importance of the role of the civil/public service to the conduct of IGR in federal systems cannot be underestimated. Officials from different governments support and participate in formal intergovernmental meetings, and perform informal IGR through personal relationships and interaction. Furthermore, the civil/public service has responsibility for maintaining relations with other governments during times of political tensions and ensuring that dialogue between different orders does not break down entirely [Phillimore 2013 233].

## 2.4 DISPUTE RESOLUTION

Formal and informal IGR processes provide a crucial domain for dispute resolution between different orders of government. Apex-level meetings of heads of government are key forums for discussion and negotiation which can help to prevent the escalation of grievances between governments (in particular the central and CU governments). In Spain, for example, the central government and each of the Autonomous Communities cooperate in what are known as Bilateral Commissions. Rather than a formalised forum for high level coordination, the primary function of Bilateral Commissions is to provide an arena which enables the central government and Autonomous Communities to settle disputes. If either the central government or one of the Autonomous Communities puts forward a law to which the other party objects, the disputing party may request that the Bilateral Commission convene. Representatives from both parties engage in political negotiation in an attempt to settle the dispute without resorting to bringing the case before the Constitutional Court for adjudication [Morales and Marín 2010, 60-62].

A significant number of intergovernmental agreements also make explicit provision for dispute resolution through various means. When disputes occur over the interpretation or implementation of the agreement, the conflict resolution mechanisms utilised in the first instance usually involve compulsory negotiation or mediation processes [Poirier and Saunders 2015, 473-474]. Litigation is not necessarily excluded as a means for resolving disputes which arise in relation to intergovernmental agreements, but is generally seen as a last resort to be invoked when negotiation and mediation has failed. This is certainly quite common in the case of intergovernmental agreements in Australia, where COAG acts as a referee when sectoral ministers are unable to resolve disagreements [Phillimore and Harwood 2015, 55-56]. In South Africa, Chapter 3 of the constitution entrenches principles of co-operative governance. The Constitutional Court has repeatedly ruled that this section binds all organs of the national, provincial and local spheres of government involved in intergovernmental disputes to exhaust all forms of mediation before it approaches a court to resolve the dispute [Powell 2015, 309-310].

## 2.5 PERFORMANCE MEASUREMENT AND BENCHMARKING

An emergent and developing sphere of IGR in federations is the interaction which occurs as a result of government performance measurement processes. In order to ensure that services provided by

governments can effectively meet the needs of citizens (and improve on a continuous basis), some form of performance assessment is required. In federal systems, in which there is a separation or overlap of powers and/or functions between different orders of government, conducting performance measurement necessitates coordination across and between jurisdictions. The implementation of coordinated monitoring and evaluation processes between different orders of government, and/or between different governments at the same level, enables them to assess their performance against one another, and consequently to identify areas of good practice in the delivery of government services [Knüpling 2012, 1; Fenna 2012, 12-13]. This in turn can contribute to the provision of effective integrated service delivery, and greater national policy coherence.

Intergovernmental benchmarking is perhaps the most prominent intergovernmental performance measurement mechanism utilized in federations. While benchmarking in federal systems is a developing area of practice, those processes that have emerged vary in their operation. Comparing performance across different orders of government, and between different, CUs is complicated by the fact that there may be a significant degree of asymmetry among the units whose performance is being measured, both in terms of operational procedures, and powers and functions. The complexity of developing benchmarking processes in contexts in which there are significant differences between the systems can limit the extent to which benchmarking activities are undertaken. Benchmarking of health care in Canada, for example, has been challenging because the health systems in each of the 14 Canadian jurisdictions are constantly evolving due to political agendas and efforts to control costs while improving quality, safety and access. Moreover, reform processes within each jurisdiction are often on different time trajectories [Baranek, Veillard and Wright 2012, 104-105].

Broadly, there are three general approaches to benchmarking in federations, all of which have advantages and disadvantages. Firstly, in some federations, the performance monitoring of CU governments has been undertaken by a non-governmental organization or institution. In the United States and Germany, the Pew Center and the Bertelsmann Foundation respectively have conducted performance assessments of the States and *Länder* [Fenna 2012, 24]. Secondly, performance monitoring can be undertaken on a top-down basis by the central government, which establishes benchmarks against which CU government performance is measured. Sometimes accompanied by incentives for high achievement (often in the form of financial transfers), this approach is typically used by central government to drive improvement in CUs in policy areas high on the federal government agenda [Fenna 2012, 25-26]. Perhaps the best example of this type of top-down benchmarking approach was the U.S. government's *No Child Left Behind Act* of 2001, in which the distribution of federal education funding to State educational agencies was conditional upon schools meeting certain standards [Fenna 2012, 26]. Finally, the third approach is 'collegial benchmarking', in which performance monitoring and assessment is undertaken on a cooperative basis between jurisdictions. Central government is typically involved in the process, but in a facilitative capacity. The leading example of collegial benchmarking in federal systems is Australia's *Report on Government Services* [Fenna 2012, 27-28].

# 3. THE IMPACT OF CONSTITUTIONAL ARRANGEMENTS AND NATIONAL CONTEXT

The IGR institutions and processes which are developed and utilised within a federal system are fundamentally shaped by the governance structure established by the respective national constitution. IGR thus evolves within the framework set out by a federal nation's foundational law, which may or may not make specific provision for forms of intergovernmental coordination. In addition, IGR is shaped by the political context, and particularly the ways in which political parties operate within a country. IGR in federations in which a single party dominates all orders of government, for example, may differ significantly from that in countries in which a greater variety of parties are involved in government at various levels. Furthermore, the historical, political, and cultural attitude towards collaboration and coordination between different orders of government influences the IGR environment of federal countries.

## 3.1 CONSTITUTIONAL ARRANGEMENTS: DUALIST VS INTEGRATED FEDERATIONS

The institutional architecture of federations impacts on how IGR manifests within the governance structure, and the forms and mechanisms processes which develop to facilitate it. The constitutional definition of the orders of government which comprise the federation, and the division of powers and resources between those different orders, inevitably shapes relations between the constituent units and the central government. In terms of the distribution of legislative and administrative competences, federations can be broadly classified as either 'Dualist' or 'Integrated', although these distinctions are not absolute and some systems display characteristics of both.

In dualist federations, both the central and CU orders of government possess their own set of governmental institutions and implement and administer legislation on an independent basis. Legislative competences are divided between the orders of government by the constitution, typically by subject matter. The dualist structure tends to be more prominent in older federations, whose constitutions did not make provision for IGR on the assumption that the clear division of (often exclusive) competences between the centre and the CUs provided a sufficient governance arrangement. Argentina, Australia, Brazil, Canada, Spain and the United States can be generally defined as dualist federations [Poirier and Saunders 2015, 445]. The lack of formal, constitutional obligations for intergovernmental cooperation and coordination within dualist systems means that the IGR mechanisms developed in these federations have tended to be informal, pragmatic, and strongly weighted towards executive federalism [Phillimore 2013, 231].

In integrated federations, there is a higher level of concurrency between different orders of government with regard to the division of competences. In these systems, the CUs implement both their own laws and those enacted by the central government, with powers assigned to the orders of government with reference to both subject matter and functions. There is typically a constitutional obligation for the different orders of government to cooperate in the exercise of their functions, although

the forms of cooperation vary between different federations. Integrated structures tend to be more common among newer federations such as South Africa, and are also found in Germany and Switzerland [Poirier and Saunders 2015, 445]. IGR within integrated systems is typically more formalised and institutionalised than that in dualist systems, as the federal architecture necessitates cooperation. These more formalised IGR processes are manifested in both the legislative and executive branches, and in integrated systems legislative mechanisms are more significant to the function of IGR than in dualist federations [Phillimore 2013, 231].

Whether the federal architecture of a respective country is dualist or integrated has implications which impact on IGR. In integrated systems, CUs are more likely to participate in the development of the central legislation that they deliver. This can be seen clearly in the German systems, where the *Bundesrat* – the second chamber of the central legislature – is comprised of CU representatives, who must approve any legislation with national impact. In contrast, in dualist systems, while the second chamber may include CU representatives the direct participation in federal lawmaking is not constitutionally guaranteed [Poirier and Saunders 2015, 452]. Furthermore, in integrated federations where CUs are required to implement federal legislation, their autonomy is typically constitutionally guaranteed subject to specific circumstances for federal intervention. In dualist systems, however, constitutional provision for central intervention in the exercise of CU powers is rare. Therefore, if a dualist federation becomes more ‘integrated’ through IGR (such as through the signing of an intergovernmental agreement in a specific policy area), the lack of constitutional protection for CUs means that they may be subject to greater levels of central interference [Phillimore 2013, 235].

### 3.2 FORM OF GOVERNMENT AND POLITICAL PARTIES

The type of government system through which power is exercised in federations also impacts upon IGR. As noted above, parliamentary systems in which the legislature is controlled by the executive (in which the executive requires the support of the legislature to form a government) has produced IGR characterised by Executive Federalism. If party discipline is weak, the electoral system produces a fragmented legislature, or the second chamber – which the executive is generally less likely to dominate – has significant powers, then the executive federalism effect may be somewhat diminished [Poirier and Saunders 2015, 449].

The separate elections for the legislature and the executive which characterise presidential systems generally decrease the likelihood that executive federalism predominates in IGR. This is not guaranteed, however, as the hyper-presidential IGR system of Argentina demonstrates. If the legislature and the executive are not unified around the same IGR agenda, this can lead to each branch pursuing distinct approaches, and potentially a multiplication of IGR processes. Lobbying of both the executive and the legislature is common, for example, in the United States [Poirier and Saunders 2015, 449].

Alongside the form of government, party politics and the political context in which parties function within a given federation can have an influence on IGR. In some systems, political parties operate across all orders of government, and by acting in a partisan fashion can diminish some IGR processes (for example, voting according to party interests rather than the interest of the CU). In federations in which a



single party is dominant at both the central and CU government levels, that party has the capacity to shape institutions and processes of IGR. Through this, the party is able to exert policy influence throughout the entire federal system – both at the central and CU levels [Poirier and Saunders 2015, 451; Watts 2008, 119; Anderson 2006, 65-66]. The dominance of the African National Congress (ANC) party in South Africa is perhaps the best example of this. This type of partisanship is less common in federations such as Canada, in which different political parties operate at different levels. Indeed, in some instances regionally based parties can have an important influence on IGR through their pursuit of distinct agendas, as has been the case with the province of Québec in Canada [Anderson 2006, 66]. Similarly, in Spain regional parties participating in national coalitions have provided platforms for the articulation of regional interests at the centre. Due to the inherent necessity for compromise within systems of proportional representation, these models tend to foster more cooperative political party attitudes to IGR, in contrast to strong majoritarian systems in which parties see fewer advantages in cooperation [Poirier and Saunders 2015, 451].

### 3.3 NATIONAL CONTEXT

Alongside the key role of the federal architecture, governmental system, and political context of a federation, historical, geographical, social, cultural, linguistic, and religious factors may also influence and shape IGR processes and institutions. Context matters and the IGR which emerge in a given federation is a product of the context in which they develop. A change in context may thus produce a change in IGR. For example, in Spain the distinctive identity of some CUs, and the desire to protect this identity against encroachment by the central government, has impacted the dynamics of IGR in the country, resulting in the development of vertical asymmetrical IGR mechanisms [Poirier and Saunders 2015, 448]. Furthermore, the presence of Aboriginal populations with varying degrees of self-governing territorial autonomy in federations such as Canada, the United States, and Australia, potentially expands the notion of IGR beyond a process of interaction between ‘traditional’ orders of government [Poirier and Saunders 2015, 486].

The extent to which a federation has an accepted culture of cooperation between different orders of government in the function of governance is important. This culture is more commonly found within countries with integrated federal structures, and in some cases is constitutionally mandated. The Swiss Constitution, for example, states that the confederation (the central government) and the cantons (the CUs) owe each other a duty of ‘consideration and support’ in the exercise of their functions [1998, article 44.2] Similarly, Chapter 3 of the South African constitution defines the country’s ‘Principles of co-operative government and intergovernmental relations’ [1996, para. 41]. The concept of ‘federal good faith’ is known in Germany as *Bundestreue*, and requires the central government and the *Länder* to consider the interests of the federation as a whole in the exercise of their functions [de Villiers 1994].

In contrast to this ‘cooperative culture’, the federal IGR environment may be geared more towards ‘competitive federalism’. ‘Competitive federalism’ is the concept that competition between different governments (horizontal) and/or orders of government (vertical) within a federation produces more beneficial outcomes and effective services for citizens [Watts 2008, 122]. Advocates of competitive

federalism argue that excessively close cooperation between governments suppresses competition between them, thereby producing inefficiencies. While competitive federalism does not necessarily equate to conflictual relationships, an over-competitive environment can lead to intergovernmental conflict, as has been experienced in Canada [Watts 2008, 122-123].

The extent to which the prevailing culture of federalism in a country is cooperative or competitive has an impact on the practice of IGR. Almost all federations display elements of cooperation and competition – cooperation is needed to avoid conflict in areas of interdependence, while competitive bargaining among governments enables each of them to act autonomously in an effort to secure action that will better serve the needs of their citizens. The differences between federations in the extent to which a cooperative or competitive culture prevails reflects their specific federal architectures, the divisions within their societies, and context of party politics within the country [Watts 2008, 123].

## 4. APEX IGR INSTITUTIONS AND PROCESSES: COMPARATIVE COUNTRY ANALYSIS

The features and characteristics of IGR in a particular federation are thus shaped by a variety of influences. This has given rise to a profusion of mechanisms for intergovernmental coordination and cooperation, with both legislative and executive provisions utilised at the Apex level.

### 4.1 ARGENTINA

IGR in Argentina is often considered by observers to be weak, despite a constitutional foundation which in theory establishes decentralization and provincial autonomy as key elements of the federal architecture. A broadly dualist federation, with the central and CU (provincial) orders each possessing their own legislation, programs, regulatory agencies and judges, Argentina's constitution did not initially provide any explicit IGR framework until a 1994 revision entrenched coordination between the orders of government, particularly in fiscal areas, for the first time [Carnota 2015, 14; 2010, 10-11]. But although the framework for Argentinean IGR has been established, it effectively remains unfulfilled. Instead Argentinean federalism is generally characterised by the dominance of the executive branch and political parties, congressional inaction, uneven fiscal allocation, and a high degree of centralisation. IGR is conducted mostly on an informal, ad hoc basis.

While the second chamber of the national legislature – the Senate – technically represents the provinces, with three senators for each of the twenty-three provinces and the city of Buenos Aires, in practice senators represent political parties dominated by national figures. Senators typically operate along partisan political party lines which transcend provincial boundaries [Carnota 2015, 20]. Moreover, the constitution contains a supremacy clause which outlines that in the event of a conflict between federal and provincial law, the former prevails (with the exception of particular provincial competences) [Carnota 2015, 17].

The supremacy of national, as opposed to sub-national, government in Argentinean IGR is also reflected in the dominant role played by the executive, particularly the president, in driving the process. This is sometimes referred to as 'hyper-presidentialism' [Carnota 2010, 11]. The Argentinean national executive is comprised only of the president, and there is no constitutional requirement for regional or ethnic representation in cabinet positions. There is no formal institutional forum for executive IGR in Argentina. Instead, the president meets with small groups of individual provincial governors (the heads of CU governments) on an ad hoc basis. Often these meetings are convened on a partisan basis – i.e. a meeting between the president and all the governors from their political party. Meetings are typically focused on fiscal transfers to the provinces, budget matters, and federal public works. The president chairs the meetings, and there is no formal voting process (Carnota 2015, 23). The importance of the informal aspects of IGR are thus very significant in Argentina.

With regard to horizontal IGR, while it is rare for all provincial governors to meet, they do interact on a regional basis to discuss issues of shared interest. Governors set the agendas of these meetings and senior ministers and staff also attend. The meetings are primarily consultative and information sharing events, with no accompanying decision-making powers [Carnota 2015, 23-24]. Below the Apex level, IGR coordination is facilitated through federal councils - sectoral or issue based forums designed to generate policy consensus between different orders of government. Perhaps the best example of this is the Federal Council of Culture and Education, which was established in 1979 and is comprised of an assembly of all provincial education ministers and an executive committee, both of which are overseen by the national education minister [Carnota 2015, 24-25].

## 4.2 AUSTRALIA

In Australia, IGR processes developed incrementally, progressively, and pragmatically in response to need as closer coordination between the orders of government became essential. The Australian constitution established a dualist structure with clear delineation of competences between the central (Commonwealth) and CU (States and Territories) governments. Moreover, IGR was not a prominent feature of the federal architecture. Consequently, IGR institutions and processes developed over time, and have been led primarily by the Commonwealth government [Phillimore 2010, 12; Phillimore and Harwood 2015, 44-45].

Australian IGR has been characterised by an increasing engagement with IGR, accompanied by a general trend of centralization and an expansion of central government powers [Phillimore 2010, 13; Phillimore and Harwood 2015, 46-47]. Informal IGR is crucial, and the central government retains influential financial, legal and political levers which can be leveraged if its desired outcomes are not being met [Phillimore 2010, 13]. Australian IGR demonstrates strong features of Executive Federalism, reflected by the most significant intergovernmental body, the vertical Council of Australian Governments (COAG).

The most important vertical apex IGR mechanism in Australia is COAG, which was established in 1992 through an informal agreement between the prime minister and the state premiers. There remains no formal intergovernmental agreement or legislation establishing the Council, and it is therefore an informal mechanism the operation of which has shifted over time [Phillimore 2010, 13]. COAG is comprised of the head of the Commonwealth government (the prime minister), the heads of the State and Territory governments (premiers and chief ministers), and the head of the Australian Local Government Association. The Council aims to facilitate consensus among the Australian governments in national policy areas and provide a means through which collaborative approaches can be developed on contentious issues. Meetings of COAG are called and chaired by the prime minister, who also sets the agenda [Phillimore 2010, 13-14]. COAG usually meets twice a year. However, meetings are convened as needed and at times the Council has met up to four times in a single year. COAG may also settle issues out-of-session by correspondence [Phillimore and Harwood 2015, 53]. Decision making in COAG is taken by consensus, and while not formally or legally binding, the heads of government are expected to abide by them. The outcomes of COAG meetings are contained in public communiqués published at the end of each meeting. Where formal agreements are reached, these may be embodied in intergovernmental

agreements, including National Agreements and National Partnership Agreements [Phillimore and Harwood, 54].

While COAG is a forum for cooperation and collaboration between the different orders of government in Australia, some argue that the Commonwealth Government is the 'first among equals' within the Council, due to the fact that the power to convene and set the agenda is held by the prime minister. Moreover, the Commonwealth government provides the administrative facility required for its function in the form of the COAG secretariat, which is housed within the Department of the Prime Minister and Cabinet [Phillimore 2010, 13].

In addition to COAG, the States and Territories have their own horizontal coordination body, the Council for the Australian Federation. Established via a memorandum of understanding signed between the CU governments in 2006, CAF represented a significant development in a country in which horizontal IGR has traditionally been weak. CAF is comprised of the premiers and chief ministers of the States and Territories, and is modeled on Canada's Council of the Federation [Phillimore 2010, 14]. It meets at least once per year to discuss matters related to COAG, or issues of cross-jurisdictional importance. Unlike COAG, CAF has a rotating chair and its secretariat is funded by all members, but similar to the vertical body, the focus is on consensus decision making and decisions are not formally binding [Phillimore and Harwood 2015, 54-55].

Ministerial Councils, at a lower level, are informal instruments in which ministers with responsibility for specific policy areas or sectors from different orders meet on a regular basis to discuss areas of common interest [Phillimore 2010, 14]. While their operation varies, increasingly the formation and agendas of these ministerial meetings are established by COAG. Importantly, COAG also deals with issue of intergovernmental fiscal issues [Phillimore and Harwood 2015, 55]. While the Commonwealth Grants Commission establishes the technical basis for equalization grants, principles are negotiated at the COAG level [Phillimore and Harwood 2015, 63-64].

Despite the general dominance of the executive branch in IGR, some legislative mechanisms have facilitated coronation. At the national level, the second chamber - the Senate - is comprised of representatives of the States and Territories. There are no meaningful formal cooperative mechanisms between Commonwealth Parliament and the legislatures of the States and Territories (Phillimore 2015, 50). However, the States and Territories have the ability to refer powers to the Commonwealth, such as the regulation of corporations and securities for example [Phillimore 2010, 13]. In addition, mirror and template legislation has been used extensively in Australia to ensure a degree of legislative harmonisation across the federation [Phillimore and Harwood 2015, 52].

With regard to intergovernmental performance measurement, Australia's *Report on Government Services* (RoGS) is one of the most highly institutionalised cooperative benchmarking mechanisms in a federal system. The RoGS was first produced in 1995 as a result of the *Review of Government Service Provision*, which established a systematic approach to reporting comparative data on the effectiveness and efficiency of government services [Banks and Macdonald 2010, 200]. Every year, the Australian governments cooperate in producing the report, which in 2017 contained performance information on

six 'social services', encompassing seventeen service areas [Report on Government Services 2017]. Designed as a collaborative and consensual exercise, the Commonwealth Government plays a facilitative role in its production, as opposed to a coercive or directive role. The RoGS is primarily designed as a tool of government which aims to promote better service outcomes and provide comparative performance information which allows Australian governments to learn from each other's experiences. The equity, efficiency, and effectiveness of service areas are assessed, and the production of the report is overseen by a Steering Committee comprised of senior officials from central agencies (the departments of first ministers, and treasury and finance). Furthermore, the RoGS operates with an impartial chairman and secretariat, thereby facilitating a collaborative and cooperative environment [Banks and Macdonald 2010, 206-209]. The RoGS can be seen as one of the success stories of Australian cooperative federalism, facilitating agreement among the various orders of government within the country about what matters in terms of performance, and enabling the collection and publication of robust data to inform performance comparisons on an array of potentially sensitive issues [Banks and Macdonald 2010, 214].

### 4.3 BRAZIL

The use of symmetrical arrangements to coordinate a federation characterised by geographic and regional inequality characterises Brazilian federalism and is at the core of IGR in the country. The federal architecture determines that an empowered central government performs a redistributive and regulatory function, leaving the subnational governments to play an important role in developing and implementing decentralised policies [Arretche 2015, 108]. In contrast to a number of other federations, the Brazilian constitution establishes local government as the third order of government alongside the central and CU (State) orders. Local government has a significant degree of responsibility as the main provider of services in their localities, meaning that the implementation of policies requires cooperation between the different orders [Arretche 2015, 109-110]. Indeed, the importance of the local level in Brazil has arguably led to the marginalisation of the State level [Arretche 2010, 20].

The influence of the legislative branch in Brazilian IGR is more prominent than is the case in many other dualist federations. In the bicameral federal parliament (the National Congress), the lower and upper houses – the House of Representatives and Senate respectively – are co-equal, and almost all bills must be approved by both houses. The States are represented in both houses. Each of the twenty-six states possess three seats each in the Senate, while seats in the (lower) House of Representatives are allocated according to the size of the population of the States [Arretche 2015, 114]. The structure of the legislature therefore functions as partial substitute for other forms of IGR, as the CU orders of government are actively involved in passing legislation with a national impact. The most important federal issues are therefore typically addressed in the agenda of the federal legislature [Arretche 2015, 114]. However, the voting behaviour of senators tends to follow partisan, party lines, and party discipline therefore often prevails over state interests [Arretche 2015, 110].

In contrast to the legislative structure, executive IGR mechanisms are not highly institutionalised in Brazil. Indeed, similar to its South American neighbour Argentina, there is no top-level forum in which leaders from all orders of government – federal, state, and municipal – meet to discuss issues of common

interest. Meetings between the president and state governors are rare events, and are typically only convened by the president in exceptional circumstances to discuss and negotiate federal bills and subnational fiscal issues, such as borrowing authorization [Arretche 2015, 117-118].

There are exceptions to this general trend. The first is the institutionalization of federal-local relations in the Committee for Federal Articulation (CFA), which was enshrined in legislation in 2007. The CFA is an official forum designed to promote executive interaction between the federal government and the leaders of municipalities (mayors). It is comprised of representatives of the federal executive and the three municipalities' organisations, with consensus required for committee decision making [Arretche 2015, 118]. The second is the National Council of Finance Policy (CONFAZ), which while not an apex body is nevertheless highly institutionalized. CONFAZ is made up of the Secretaries of the Treasury of the States and the Federal District and is chaired by the Federal Minister of Finance or by a representative appointed by the minister. Representatives of the federated units also form part of this council. The purpose of the body is to promote actions necessary for the elaboration of policies and harmonization of procedures and norms inherent to the exercise of the tax jurisdiction of the States and the Federal District (Brasilia) [Arretche 2015, 119].

At the horizontal level, meetings of all state governors are rare but regional forums are quite active, with discussion focusing primarily on matters of mutual interest relating to the economic development of the States in the region. The decisions of these forums are, however, rarely binding, and attendance varies [Arretche 2015, 120]. In addition to these high-level forums, a variety of sector or policy specific meetings of heads of departments (known as state secretaries) assemble the key actors from the different orders of government in areas such as health or taxation to facilitate coordination across the federation [Arretche 2015, 120].

#### 4.4 CANADA

IGR in Canada, like in many older federations, developed largely on a pragmatic basis outside of the constitution, as the foundational law did not make suitable provision for IGR within the federal architecture of the country. A multiplicity of different mechanisms, practices, and processes of interaction has been developed over time, but at its core Canadian IGR remains essentially informal.

Increased intervention by the central (federal) government in provincial areas of jurisdiction through 'federal spending power', particularly following the end of the Second World War and through the process of constructing the welfare state, encouraged intergovernmental dialogue. As the CUs (provinces) in Canada felt that the central government was beginning to encroach on their areas of competence, they demanded greater involvement in the elaboration of policies and the determination of national (and provincial) priorities [Adam, Bergeron and Bonnard 2015, 140]. The Canadian constitution does not include any arrangements or mechanisms for federal comity, and courts have historically been wary of intervening in disputes between different orders as they perceive them to be political, rather than judicial, issues [Adam, Bergeron and Bonnard 2015, 140].

In general, legislative mechanisms do not play a significant role in IGR in Canada. Canada is a dualist federation, with a bicameral federal legislature and unicameral provincial legislatures. Unlike some other federations, the upper chamber in Canada – the Senate – does not represent provincial interests. It has limited power to oppose the more powerful lower chamber – the House of Commons – and senators are appointed by the Governor General on the advice of the federal prime minister [Adam, Bergeron and Bonnard 2015, 141-142]. Furthermore, it is impossible for a legislature to delegate its legislative powers to another legislature, and therefore change the balance of powers, without a constitutional amendment. However, some legislative IGR mechanisms are permitted, including administrative delegation<sup>3</sup>, incorporation by reference<sup>4</sup>, and legislation which is conditional on the actions of another order of government [Adam, Bergeron and Bonnard 2014, 144].

Informal executive mechanisms, on the other hand, form the core of Canadian IGR. The most significant vertical apex-level mechanism is ‘First Ministers’ Meetings’, one of the oldest and arguably least well-structured processes of interaction in the federation. First Ministers’ Meetings bring together the Prime Minister with his/her provincial counterparts to discuss a varied range of subject matter, depending on the key issues of the day [Adam, Bergeron and Bonnard 2014, 146-147]. There are no written rules which govern the meetings, and they are called on a unilateral basis by the Prime Minister. The Prime Minister solely determines the agenda, chairs the meetings, and if they so choose, invites other parties such as the main national Aboriginal organisations. While some elements of the meetings may be held in public, the majority of discussions take place behind closed doors. Decisions are reached by consensus and are not formally binding [Adam, Bergeron and Bonnard 2014, 147]. They typically result in a joint press release which outlines in general terms the collective view of the first ministers on a particular issue. Even though they are not legally binding, the releases can put significant pressure on future government action and shape the policy agenda. More often than not, however, the press releases reflect the dominant policy position of the federal government [Adam, Bergeron and Bonnard 2015, 147].

These Federal-Provincial meetings are supported by the Canadian Intergovernmental Conference Secretariat (CICS), a jointly funded and staffed body which provides the infrastructure for the gatherings. Since its establishment in 1973, the CICS has organized 42 First Ministers’ meetings and arranges several sectoral meetings each year [Adam, Bergeron and Bonnard 2015, 152]. On the federal government side, a Secretariat of Intergovernmental Affairs is embedded within the Privy Council Office, the body which provides non-partisan advice and support to the prime minister and cabinet). Provincial IGR departments typically provide support to the Premiers in preparing the First Ministers’ meetings [Adam, Bergeron and Bonnard 2015, 151-152].

The Council of the Federation (CoF), founded in 2003, is the premier horizontal IGR forum in Canada. The CoF is a rare example of a formalised intergovernmental assembly in Canada. Bringing together the heads of the provincial governments, the founding agreement of the CoF establishes that the Council meets at least twice per year, collectively sets meeting agendas, and that chairs rotate on an annual basis between the provinces. Similar to many IGR forums, the CoF operates on the basis of consensus [Adam, Bergeron and Bonnard 2015, 148]. It is designed to act as a permanent forum for inter-provincial cooperation and a means to improve joint action when dealing with the federal government. The closer coordination and cooperation between the provinces that has been facilitated by the CoF seems to have



enabled them to more effectively ‘push back’ against (from their perspective) undesirable federal government policies and encroachment, although its tangible achievements remain difficult to determine [Adam, Bergeron and Bonnard 2015, 148].

Alongside these apex-level bodies, there are a multiplicity (numbering in the thousands) of sectoral meetings, forums, conferences, and working groups of ministers and civil servants on a range of policy topics, both on a horizontal and vertical basis [Adam, Bergeron and Bonnard 2015, 148].

## 4.5 GERMANY

The highly integrated federal architecture of Germany is mirrored in a highly integrated, cooperative form of IGR, with strongly developed and institutionalised legislative and executive mechanisms for interaction between different orders of government. The German constitution establishes the central (federal) and CU orders of government. In Germany, the CUs are the sixteen *Länder* and the division of competences between this order and the federal government encourages a highly cooperative system which is sometimes referred to as ‘intra-state federalism’ [Lhotta & von Blumenthal 2015, 211; 2010, 31].

The German federal architecture divides competences in such a fashion that the different levels of government are required to work with one another in order to achieve national policy coherence. The federal government possesses nearly all of the legislative powers (with the exception of some that are the exclusive domain of the *Länder*), while the *Länder* possess nearly all of the administrative competences, and are responsible for the implementation of federal laws [Lhotta & von Blumenthal 2015, 206]. As the consequence of this division of powers is necessary coordination and cooperation of the different orders, IGR are used to variously develop, approve, and implement federal legislation.

Germany has a strong, institutional mechanism for IGR embedded into the structure of the federal legislature. Comprised of two separate chambers, the *Bundestag* and the *Bundesrat*, it is the second chamber, the *Bundesrat* which is the key IGR arena [Lhotta & von Blumenthal 2015, 213]. The *Bundesrat*, which consists of representatives of the *Länder* government, must approve every important federal law, as well as any encroachment by the federal government on the *Länders’* implementation of federal laws. The *Bundesrat* representatives are bound by the decisions of their respective governments, and thus ensure that CUs are involved in the process of passing national legislation. While the *Bundesrat* does have the power to veto legislation, in practice this right is rarely exercised, and on the whole both chambers demonstrate a willingness to cooperate [Lhotta & von Blumenthal 2015, 213].

Alongside the strong IGR processes built into the structure of the legislature, an series of apex-level executive mechanisms, complemented by a large number of working groups and committees, further bolster the cooperative IGR approach adopted in Germany. With reference to article 31 of the Standing Orders of the German Government, the Federal Chancellor invites the heads of the *Länder* government to informal discussions at least twice per year. These meetings are designed to help coordinate governance at both levels of the federal system, to mitigate conflicts, and to help communicate political agendas. These discussions are strictly confidential, and the conclusions of the meetings are not

necessarily communicated to the public, although in the past some outcomes have been presented at press conferences [Lhotta & von Blumenthal 2015, 218].

Conferences of the *Ministerpräsidenten* (heads of the *Länder* government) represent the peak horizontal IGR forum. These conferences are a long-established practice which predates the formation of the Federal Republic [Lhotta & von Blumenthal 2015, 218]. Conferences of the *Ministerpräsidenten* take place at least four times per year, with sessions prepared and hosted by the chairing *Land*, and with each *Land* serving as chair for a period of one year. Decisions are typically reached through a process of compromise, and may take the form of mutual agreements on standards for *Land* legislation, and common positions in relation to European institutions or negotiations with the federal government [Lhotta & von Blumenthal 2015, 218-219; 2010, 32].

As noted above, in addition to apex-level executive mechanisms, there are a number of complementary, lower-level IGR instruments, most notably sectoral ministers' conferences [Lhotta & von Blumenthal 2015, 220]. These conferences are primarily horizontal forums convening sectoral ministers from the different *Länder*, but the federal government is often involved to varying extents – sometimes as a full member, and other times as a guest [Lhotta & von Blumenthal 2015, 223]. Furthermore, executives from *Länder* in the same region with mutual interests engage in various forms of informal interaction [Lhotta & von Blumenthal 2015, 223].

#### 4.6 SOUTH AFRICA

In South Africa, IGR, and governance processes more generally, are dominated by central government. While the South African constitution establishes a three tier structure comprised of the central, CU (provincial), and local orders of government, the latter two do not participate as equals in the governance arrangement. Instead, they implement national policy on behalf of the central government in a system that has been described as 'corporatized': provincial and local governments are 'minority shareholders' and implementing agencies of national policy subject to the direction of the 'majority national shareholder' [Powell 2015, 305; 2010, 42]. The national executive in particular is supreme in IGR.

South Africa's federation is also characterized by the dominance of the African National Congress (ANC) party at all levels of governance, which has a clear influence on IGR. The emergence of the new nation from the oppressive and exploitative apartheid regime fundamentally underpins the ANC's desire to build a developmental state marked by radical economic and social change [Powell 2015, 305-306; 2010, 42]. The centralised approach taken in the attempt to achieve this outcome has generally reinforced the centralised structure of IGR.

In principle, the South African constitution established the institutional framework for IGR within the federation. Principles of Co-operative Governance are enshrined within the document, binding the three orders to conduct IGR in a manner that fosters friendly relations, consults with one another on matters of common interest, supports one another, and coordinates actions and legislation with one another. These provisions are legally binding. Alongside this, the Constitution established the second chamber of the

parliament, composed of representatives of the provincial and local orders [The Constitution of the Republic of South Africa 1996]. Finally, the Constitution required parliament to enact legislation to create institutions to facilitate IGR and dispute resolution mechanisms. This resulted in the 2005 Intergovernmental Relations Framework Act, which established alternative dispute resolution mechanisms and included protocols as an incentive for the different sides to negotiate terms of cooperation [Powell 2015, 310]. In practice, however, some of these IGR institutions and processes have not operated as effectively as anticipated.

At the legislative level, the second chamber of the bicameral South African parliament, the National Council of the Provinces (NCOP), represents provincial interests in the national sphere of government. Its members comprise multi-party delegations from each province drawn from the provincial executive and legislature, with each delegation consisting of ten delegates [Powell 2015, 316]. The local order also participates in the NCOP through a ten-person delegation, although they have no voting rights. The NCOP has varying powers to veto a bill depending on its content (whether it 'affects provinces') and pursuant to various special procedures [Powell 2015, 317]. However, despite the fact that this structure would seem to facilitate IGR within the legislature, in practice the dominance of the ANC (and the partisan voting behaviour of representatives) at all levels of government has prevented the NCOP from achieving organised provincial influence on national policy making [Powell 2015, 318].

In order to facilitate IGR as mandated by the 1993 interim constitution, South Africa initially established the Intergovernmental Forum (IGF). The IGF was initially seen to be important mechanism for consultation between provincial and national government. It was potentially well placed to facilitate planning and co-ordinate the activities of the three spheres of government. But the IGF's institutional location within the Department of Provincial and Local Government (DPLG) (formerly known as Department of Constitutional Development) inhibited its capacity to facilitate cooperation between the different orders. As the intergovernmental agenda grew in scope and complexity, it was found that the IGF lacked the ability to provide leadership on often sensitive issues requiring greater inter-governmental consultation, co-operation and co-ordination [DPLG 2007]. Its place within the machinery of government limited its convening power. Consequently, it was superseded by the President's Coordinating Council in 1999 [Powell 2015, 325].

The President's Coordinating Council (PCC) is the apex-level executive IGR instrument in South Africa, and the most significant executive arena in which the provincial and local orders of government can influence national policy making, albeit one controlled by the central executive. The PCC is comprised of the President and Deputy President of South Africa, the provincial premiers, the national ministers responsible for provincial and local government, finance, and the public service, and representatives of local government. Convened at least twice per year, the President both chairs and sets the agenda for the meetings. They are forums which enable the president to raise issues of national interest and consult with the other orders of government [Powell 2015, 325]. As per the Intergovernmental Relations Framework Act, the PCC comes to resolutions rather than binding decisions, but the majority of resolutions are typically implemented in some form even if they are not legally binding. In addition, the provincial premiers and representatives of local government attend the 'special sessions of the national cabinet',

held in January and June respectively each year. These meetings are used to prepare the national executive's agenda for the year (January), and review progress (July) [Powell 2015, 325-326].

Below the Apex level, the nine 'Premier's Coordinating Forums' facilitate vertical IGR between the provincial governments and their respective local governments. There are also a range of vertical and horizontal sectoral forums and meetings, alongside the District Intergovernmental Forum, which brings together mayors in a respective district to coordinate district-wide integrated development planning and clarify functions and responsibilities [Powell 2015, 326-327].

South Africa has also taken various steps in establishing a coordinated approach to government performance monitoring and evaluation. In 2005 the President's Office recommended the development of a Government-Wide Monitoring & Evaluation (GWM&E) system in order to address the challenge of increasing the effectiveness of government through monitoring, reporting, and evaluation [Engela and Ajam 2010, 2]. The system was designed to strengthen the role of the monitoring function within the three orders of government and provide for better decision making, accountability, and learning. It consisted of a policy framework and a document containing: a set of principles; key monitoring and evaluation concepts; GWM&E system goals; descriptions of the various component parts of the system; guidelines on the roles of departments and civil servants as implementing agents of Monitoring and Evaluation (M&E); the institutional arrangements and legal mandates underpinning these roles and responsibilities; and guiding principles for the implementation of future monitoring and evaluation systems [Engela and Ajam 2010, 4].

The policy framework, which served as a conceptual anchor for the development of the system, did not initially incorporate input from the governance actors already engaged in M&E system implementation at the subnational level, but later rectified this to ensure it was not a purely top-down imposition from central government. A series of documents accompanied the framework, such as *M&E Guidelines for Premiers' Offices*, which were designed to support the core coordinating departments in each order of government to bring their M&E processes and related activities into closer alignment [Engela and Ajam 2010, 4]. The key stakeholders for the GWM&E system – the President's Office, the National Treasury, the Department of Public Service and Administration, the Statistical Agency of South Africa, the Department of Cooperative Governance and Traditional Affairs, the Public Administration, Leadership, and Management Academy, the Department of Education, and the Eastern Cape provincial Premier's Office – constituted a Coordinating Forum for the system [Engela and Ajam 2010, p. 9].

## 4.7 SPAIN

The Spanish Constitution of 1978 did not account for processes of intergovernmental relations in establishing the federal state. The dualist federal architecture established left implementation of the so-called 'Statutes of Autonomy' to each of the individual Autonomous Communities (ACs) [Morales and Marín 2010, 44]. The expansive political decentralisation process which has subsequently taken place in the years since should have made cooperation mechanisms between the central government and the CUs (Autonomous Communities) essential. However, IGR institutions and processes in Spain have lagged behind political developments.

The vast majority IGR in Spain consists, with some notable exceptions, of vertical relationships between the central government and the Autonomous Communities. There is very little formal horizontal cooperation or coordination [Morales and Marín 2015, 351]. Moreover, there is no formal, institutionalised apex-level executive discussion forum. The central government leads, and has significant control and influence over, IGR processes in the country. Typically, intergovernmental relationships are developed between the central government and the Autonomous Communities on a bilateral, or less commonly, a multilateral basis [Morales and Marín 2015, 358-359].

Far more significant to IGR in Spain are the Sectoral Conferences which operate below the top level. In these vertical forums, sectoral ministers from the central government and their counterparts from the ACs meet to discuss a range of issues relating to a particular sectoral issue or topic. This includes discussing draft legislation, coordinating the participation of ACs in European affairs, and most commonly, reviewing the allocation of funds from central government to the ACs for specific sectoral purposes [Morales and Marín 2015, 359-360].

Finally, Bilateral Commissions represent a unique dispute resolution mechanism in Spanish IGR. Bilateral Commissions are general, non-sectoral forums in which the central government and an Autonomous Community come together in order to thrash out their differences over a particular issue and reach a mutually satisfactory resolution. They can be convened by either party, and are designed to prevent the different orders of government from bringing disputes before the Constitutional Court for adjudication [Morales and Marín 2015, 360-361].

In legislative terms, the representation of the Autonomous Communities in the Spanish parliament is weak. The Spanish parliament is bicameral, and comprised of the Congress of Deputies and the Senate. The Senate is nominally (according to the Constitution) the 'chamber of territorial representation', but the distribution of seats prevents it from affording the ACs a demonstrable role in the national legislative process. Only 58 of the 208 total senators represent the Autonomous Communities and are elected by their respective legislative assemblies. Moreover, the majority of senators vote along partisan party lines, thereby nullifying CU perspectives [Morales and Marín 2015, 355-356]. However, the presence of regional parties in the Congress and as part of ruling coalitions meant that since democratization most IGR negotiations have occurred on an ad hoc party-to-party basis [Morales and Marín 2015, 355].

Until recently, executive mechanisms at the apex-level have proven relatively ineffective at facilitating IGR. The most important executive forum, the Conference of the Presidents (CdP), is designed to bring together the President of the Government of Spain (Prime Minister) with the heads of government of the Autonomous Communities. Formed in 2004, the internal regulations of the Conference of Presidents define it as the highest body of political cooperation in the Spanish federation, and outline its dual purpose as a forum in which major political matters concerning the central government and the ACs could be discussed, and cooperative relations between the two orders of government be fostered. Despite these laudable intentions, however, the Conference of Presidents has not cultivated particularly effective IGR. Supposed to meet at least one per year, since its founding in 2004 the conference has met only six times (to date) [Morales and Marín 2015, 358]. The Conference of Presidents is convened by central government, who also solely establishes the agenda. Held in the Senate, meetings are chaired by the

Prime Minister, and central government concerns have typically dominated the agendas. Moreover, the commitments undertaken by the various heads of government are purely political commitments, rather than legally binding resolutions, limiting the power of the Conference. While the Conference of Presidents has potential to operate as a strong IGR mechanism, its implementation to date has failed to produce this outcome [Morales and Marín 2015, 358-359].

At the 6th meeting in 2017, all stakeholders collectively agreed to gazette a reform of the rules of the Conference of Presidents since previous administrative arrangements had been found to be unsatisfactory. Under the new rules the CdP is to meet once a year and its preparatory committee will meet at least once every six months to develop agendas for future meetings, adopt the necessary measures to ensure compliance with the agreements, coordinate the actions of the different sectoral conferences and submit to the Conference an annual report on compliance with the agreements. Significantly, the reforms also moved responsibility for the CdP out of the Ministry of the Treasury and Public Administration to Ministry of the Presidency (Prime Minister's Office) where the Vice President (Deputy Prime Minister) in their capacity as Minister for the Presidency and the Territorial Administrations now chairs an intergovernmental preparatory committee [Ministerio De Política Territorial Y Función Pública 2017].

At the time of writing, a seventh meeting of the CdP has yet to occur. Plans for a seventh meeting in 2018 were abandoned after the collapse of the Rajoy government. During its 2017 annual meeting, it became clear that political bickering and administrative issues had hampered the CdP's success. Consequently, during this meeting all the stakeholders agreed to the need for its institutionalization. Of course, it is too early to assess the impact of these reforms.

## 4.8 SWITZERLAND

IGR in Switzerland are framed by the both unusual federal architecture of the country, and a number of prevailing forces which characterise Swiss federalism. While there is generally a strong culture of consultation, cooperation, and collaboration between the different orders of government, as well as a dedication to the federal idea, the sovereignty of the CUs (the cantons) is a fundamental principle which is resolutely adhered to. The long and ingrained Swiss tradition of direct democracy means that citizens play a more active role in shaping IGR than in the majority of federations [Pfisterer 2015, 381; 2010, 48]. Vertical mechanisms of interaction between different orders of government are rare in Switzerland. There is, however, a significant and dynamic heritage of horizontal coordination between cantons [Pfisterer 2015, 389]. The success of relatively smooth IGR is argued by some to result from the country's consensual political culture, in which conflicts are disputed and resolved within the traditional political forums and arenas. This was recognized and enshrined in the Federal Constitution of 1999, which establishes in Article 44 (3) that "disputes between cantons, or between cantons and the confederation, shall, to the extent possible, be resolved through negotiation or mediation."

The Swiss Federal Constitution established the core institutions of the Swiss federation as 'the people' (the electorate), and the twenty-six cantons. In terms of the federal architecture, both the federal and cantonal orders of government possess their own legislative, executive, and judicial branches. The

constitution defines the powers of the federal order, with the remaining powers exercised by the cantons. Alongside possessing a range of important powers, the cantons also play a fundamental role in implementing the majority of federal policies [Pfisterer 2015, 383]. Historically the cantons have operated with and maintained a great deal of autonomy, both with regard to their own competences and the ways in which they implement federal policies. Periodic reforms have been undertaken to sustain the autonomy of the cantons against perceived increased centralization of government processes [Pfisterer 2015, 383].

In legislative terms, the Swiss political model includes IGR mechanisms within its parliamentary structure. The Swiss federal parliament, known as the National Assembly, is comprised of two chambers with equal powers. The first is the National Council, whose two hundred members are elected through a system of proportional representation. The second chamber – the Council of States – represents the cantons in the legislative process. Comprised of forty six cantonal representatives (two per canton), members are elected by the people of the cantons. While members of the Council of States are not obliged to vote according to the instructions of the cantonal authorities, as members of the German *Bundesrat* are, in practice the representatives typically vote according to specific cantonal interests [Pfisterer 2015, 381]. Furthermore, the legislative process does not only involve the members of the legislature – the adoption of legislation includes a prior period of consultation with the cantons and the public. This may include decision-making actions, such as referendums [Pfisterer 2015, 381]. In addition to the legislature, various reforms and amendments undertaken over the past two decades have formalised some of the previously informal consultation and collaboration processes.

As noted above, at the executive level, there are very few mechanisms for interaction between the cantons and the federal government, despite the latter's role in proposing and developing legislation [Pfisterer 2015, 390]. The supreme executive body in Switzerland, known as the Federal Council, heads the federal administration. Its seven members, each of whom stands as candidates for one of the main political parties, are elected individually by the National Assembly to serve four year terms [Pfisterer 2015, 381]. One exception to this lack of vertical executive IGR institutions is the Tripartite Conference of Agglomerations (TAC). This body is responsible for urban planning and regional policy, and brings together federal government and cantonal representatives to facilitate multi-level cooperation in areas of infrastructure development and transportation policy [Pfisterer 2015, 390].

In contrast to the relative paucity of vertical mechanisms, there are many inter-cantonal horizontal coordination and cooperation bodies, with reforms implemented in 2000 and 2008 enabling the cantons to formally establish joint organizations and institutions (although many existed on an 'informal' basis before this) [Pfisterer 2015, 390]. The most notable of these is the apex-level Conference of the Cantonal Governments (CCG), founded in 1993. Designed specifically to address high-level (i.e. non-sectoral) governance issues such as European policy and constitutional revision, it aims to build consensus both among the different cantons, and between the cantons and the federal government. It facilitates joint action and the development of common positions. While the approach adopted by the cantonal representatives to discussions is very cooperative, the decisions made by the CCG are not legally binding on the cantons and an individual canton has the ability to act in opposition to the CCG position. In practice, however, this happens very rarely [Pfisterer 2015, 391].

Alongside the top-level CCG, fourteen conferences of cantonal sectoral ministers in various fields, including education, environment and public transport, meet on a regular basis to discuss various policy issues. While the precise operation of the individual conferences varies, typically each is financed by the cantons, and is composed of a plenary assembly, an executive board, and an administrative office. All of the conferences hold at least one plenary assembly per year, and at times a member of the Federal Council may be invited as a guest [Pfisterer 2015, 391].

## 4.9 UNITED STATES

The United States (U.S), much like its long established, English-speaking federal counterparts Canada and Australia, made no formal provision for IGR within its federal structure. The U.S. constitution created a clear separation of powers between the central (federal) and CU (state) governments, with federal laws or treaties being supreme instances in which state laws conflict with federal legislation [Smith 2010, 52]. Over time, constitutional interpretation by the Courts led to erosion of state powers and increasing centralization, with the federal government gaining more authority in range of policy areas [Smith 2015, 413].

Consequently, IGR processes developed over time from minor, minimal interactions between the federal and state orders, to a dynamic and complex series of relationships. Today, IGR in the U.S. is characterised by this complexity, and as no single institution or order of government can control the governance system, mutual accommodation between the different orders of government is generally necessary for policy implementation [Smith 2015, 414]. While the federal government often acts 'coercively' (primarily through use of financial incentives) in the creation and development of policy, there is a considerable degree of necessary cooperation in relation to implementation [Smith 2015, 416; 2010, 54]. One of the most significant recent developments in U.S. IGR was the creation in 2017 of a bipartisan Speaker's Task Force on Intergovernmental Affairs, comprised of congressional members and an advisory council drawing from state, local, and indigenous associations.

The closest the U.S. came to an Apex-level IGR institution was the U.S. Advisory Commission on Intergovernmental Relations (ACIR). The ACIR was created in 1959, and was comprised of twenty-six members from federal, state, and local governments [McDowell 1997, 111-112]. The ACIR provided recommendations on a variety of IGR-related issues. The Commission reached its peak in size, budget, and influence in the 1970s, but was eliminated in 1996 due to federal spending cuts and amid an increasingly partisan political environment [Conlan 2006, 666; McDowell 120-122]. Bipartisan legislation to restore the ACIR was introduced in the House of Representatives in July of 2019. The bill proposes having the new ACIR include not only federal, state, and local governments, but also indigenous tribal governments [see HR.3883 2019].

The presidential system of government affords the national U.S. legislature considerable influence in constructing the framework of IGR in the country. Known as Congress, the legislature consists of two chambers: the Senate; and the House of Representatives. Two representatives from each state, constituting a total membership of 100 Senators, comprise the Senate. The 435 seats in the House of Representatives are distributed between the states according to their respective populations [Smith 2015,



417]. Through enacting and approving legislation, as well as providing financial incentives for the states to implement the respective policies, Congress shapes the IGR system, but has little involvement in monitoring day-to-day IGR. While state legislatures are able to create laws in their areas of competence, the importance of these institutions in relation to coordination with the federal order is minimal in comparison to informal interaction processes among the executive branches [Smith 2015, 416-418].

Informal IGR based on the personal relationships developed and maintained by members of the executive branches of governments are crucial in the United States. As no constitutional or statutory forums exist to facilitate communication or policy coordination between the different orders of government, state and local officials are one of a number of different interest groups competing with others for influence over federal policy making. This results in an increased emphasis on lobbying of members of the federal executive (or alternatively of members of Congress) [Smith 2015, 426-427].

There are, however, a number of 'professional associations' operating in the United States which do facilitate some intergovernmental cooperation. Members of these organisations typically hold a specific office or post within the executive branch of the state government, while the associations themselves may be established along national, partisan, or regional lines [Smith 2015, 423]. The most prominent of these organisations is the National Governors Association (NGA). The NGA brings together (with occasional exceptions) all of the heads of the government of the states in annual meetings to develop and approve policy positions on national issues. These positions are communicated to members of Congress by NGA staff, while individual governors perform the same function by providing testimony at Congressional hearings and lobbying members of Congress or the executive. The President typically attends the annual Washington DC meeting of the NGA, providing an opportunity for the highest level members of the executive from both orders to interact. As it is comprised of both Democratic and Republican Governors, it can be challenging for the NGA to reach the super-majority required to adopt an official position on a variety of key issues [NGA 2018; Smith 2015, 423]. There is, however, no coordinated or cooperative process by which formal agenda items may be developed or follow-up action initiated between the two orders. The majority of presidents since Lyndon B. Johnson have maintained an office responsible for IGR- the White House Office of Intergovernmental Affairs. Officials focus primarily on liaison activities – that is, facilitating informal policy coordination between the different orders of government – rather than influencing the development of IGR policy [Smith 2015, 425].

In addition to the national association, there are a number of partisan and regional associations which perform similar functions: the Democratic Governors Association; the Republican Governors Association; and the Western Governors Association, which includes governors from nineteen different States in the western half of the continental United States. Furthermore, there are numerous specialised associations focused on specific issues related to IGR, including the National Association of Secretaries of State, National Association of Insurance Commissioners, and Conference of State Bank Supervisors.

### Summary of Case Studies

	Argentina	Australia	Brazil	Canada	Germany	South Africa	Spain	Switzerland	United States
<b>Form of Government</b>	Presidential	Parliamentary	Presidential	Parliamentary	Parliamentary	Parliamentary	Parliamentary	Parliamentary	Presidential
<b>Federation Type</b>	Dualist	Dualist	Dualist	Dualist	Integrated	Integrated	Integrated	Integrated	Dualist
<b>Number of Constituent Units</b>	24	8	27	13	16	9	19	26	50
<b>Constitutional mandate for IGR</b>	No	No	No	No	Yes	Yes	No	Yes	No
<b>Apex Vertical IGR Forum</b>	None	COAG	None between Federation and states	First ministers conferences	Bundesrat	President's Coordinating Council	Conference of the Presidents	Council of States (Senate)	None
<b>Executive Driven</b>	N/A	Yes	Yes	Yes	Yes, but embedded in legislative process	Yes	Yes	No	Yes
<b>Administrative responsibility for IGR</b>	N/A	Department of PM and Cabinet	Office of the President	Privy Council Office	Bundesrat	Office of the President	Ministry of the Presidency	Senate	White House Office of IGR
<b>Decision Rules</b>	N/A	Consensus	N/A	Consensus	Majority vote but consensus in practice	Consensus	Consensus	Majority vote but consensus is preferred	N/A

## 5. FOSTERING EFFECTIVE IGR: SOME OBSERVATIONS

The experience of different federations in developing, implementing, utilising, or in some cases neglecting, IGR facilitates learning about the dynamics of intergovernmental processes, and how they may be improved to promote better governance. While the experiences of individual federations are always to some extent *sui generis*, and from this perspective the learning derived from them heuristic, this does not preclude the identification of transferable knowledge which may support the development of IGR moving forward.

A good proxy of the efficacy of a particular IGR forum or mechanism is the frequency with which it is employed to deal with important policy matters. By this measure, some countries have clearly been more successful than others in establishing Apex IGR forums. When one looks specifically at Apex level IGR forums, a number of patterns are clearly visible.

First, whatever normative concerns might exist around the issue of democratic accountability, the most effective Apex level IGR are executive driven. Indeed, with the exception of Switzerland where the constitutional structure and practice provide the legislature (the Senate specifically) with significant capacity to shape IGR, even in Germany the *Bundesrat* is essentially composed of state executives. In dualist federations the establishment of Apex level IGR bodies has been led by the heads of the federal government. Almost everywhere else upper houses which were designed to represent the CU's interests function along partisan lines and seldom contribute to IGR policy.

Second, the most effective forum/institutions for Apex level IGR are housed within central agencies at the federal level, or are autonomous institutions. COAG in Australia, the Intergovernmental Affairs Secretariat in Canada, and the President's Coordination Council in South Africa are all housed within Cabinet Offices. In Germany the *Bundesrat* is established by the basic law. Even in the United States, where there is essentially no Apex IGR institution, the main liaison for intergovernmental affairs is housed within the White House. This location at the centre of government is important not just because it provides intergovernmental affairs departments with greater convening power, but more importantly it allows them to play an effective coordinating role across sectoral silos in government. Furthermore, the establishment of dedicated staff to manage these interactions either within with key central agencies (Cabinet Offices, PMO, etc.) or in autonomous agencies has been key to developing substantive agendas and facilitating follow-up. The failure of the IGF experiment in South Africa, and Spain's Conference of Presidents to become institutionalized, are instructive in this regard.

Third, regardless of whether Apex IGR mechanisms are constitutionally mandated, the formalisation of key IGR institutions and mechanisms can help to ensure that governments interact with one another on a regular (and ideally meaningful) basis. Where constitutional and/or statutory protections exist for the status, powers, and responsibilities of the CUs, they are less likely to feel threatened by intergovernmental interaction, particularly if IGR is accompanied by principles to guide cooperative behaviour.

Fourth, previous practice suggests that an IGR system which combines both formal and informal elements is likely to achieve better, more productive policy outcomes. Indeed, informal IGR is a necessary accompaniment to formal processes and institutions. The personal relationships and communication processes maintained between actors in different orders of government foster the respect, trust, mutuality, and willingness to engage and cooperate that is necessary for effective coordination. This is particularly important and easier to achieve in countries with fewer constituent units (Australia), than with many (United States or Germany). Where formal IGR proves deficient, informal interaction provides a bulwark against deterioration in relations that can lead to damaging conflict between orders. Even where majority decision rules exist (e.g. in the *Bundesrat*), the tendency can be to seek consensus on issues. Engaging in discussion and mediation is seen as an alternative to conflict and litigation. Even in dualist systems where there is no constitutional requirement to cooperate such as Australia and Canada, negotiated settlements to disputes are the preferred option. This is because litigation is seen as a zero-sum game and potentially damaging for national cohesion, whereas negotiated outcomes on IGR issues allow all stakeholders to gain something in return for making concessions.

Finally, it is important to remember that the development or lack thereof, of effective IGR mechanisms reflects the unique, political, social, historical, and cultural contexts in which different governments interact with one another. These contexts have a profound effect on the institutions, processes, and mechanisms which comprise the practice of IGR, and their relative efficacy. Context matters and there is no single 'one-size-fits-all' solution or method of best practice. At best one can draw some lessons from these general observations which could be applicable in other countries.

## 5.1 SOME REFLECTIONS FOR THE INDIAN CONTEXT

Among the dualist federations, India is unique in that the need for an Apex level IGR forum was envisaged under Article 263 of the Indian constitution. However, the Interstate Council (ISC) was only established 40 years after the promulgation of the constitution based on recommendations from the Sarkaria Commission on Centre-State Relations, which gave its report in 1988. Without a radical overhaul of the India's constitutional architecture to create a more integrated federation, or reconstitute the Rajya Sabha as a true federating chamber, the Australian, Canadian and South African examples have the most to offer in terms of the successful institutionalization of Apex IGR bodies. All three are parliamentary democracies, and while the South African system is very integrated with weak provinces, the Australian and Canadian systems have institutional structures comparable to India's. There is also much to learn from failure. While Spain too is a parliamentary democracy, the failure to institutionalize the Spanish Conference of Presidents offers important lessons for India. The South African experience with the IGF is equally instructive. Despite recommendations from a number of commissions over the years which have provided detailed suggestions for invigorating the ISC, the Council has failed to live up to the purpose for which it was envisaged.

The challenge for the ISC has been that in the intervening years before its creation the Planning Commission and associated National Development Council (NDC) filled the IGR policy space. The resources allocated to the states via the work of the Planning framework made the NDC a particularly attractive

forum for centre state relations. Lacking a dispute resolution function and without meaningful financial capacity, the ISC has remained a marginal player in the IGR space [Singh and Saxena 2015, 241; Saxena 2002]. The ISC has met only twelve times since its establishment and the meeting in 2016 was the first convened in a decade. That the council has met on average once every two years, rather than thrice a year as mandated, shows that its primary stakeholders ascribe marginal importance to its work. When viewed from a comparative perspective, a number of reasons can be identified as to why the ISC has not been as effective as it could have been. Most importantly, putting the ISC at the centre of IGR in India is achievable by a combination of executive order and administrative restructuring, something which is within the competence of any elected government. Indeed, with the abolition of the Planning Commission and uncertainty over the future of the NDC, there remains the need for a credible Apex level IGR Forum. NITI Aayog, which replaced the Planning Commission and has a good governance focus lacks a statutory basis and could well find itself defunct under a future government. Given the overlap in the membership of NITI Aayog and the ISC, and given ISC's constitutional mandate, one could argue that ISC should emerge as the Apex-level IGR forum in India.

While NITI Aayog and NDC have primarily dealt with issues of finance and development, the scope of IGR is in fact much broader. For the ISC to emerge as the key IGR forum, a number of important issues need to be addressed. In broad terms, these issues include:

1. Expanding the ISC's mandate to make it more comprehensive including dispute resolution
2. Revisiting its location within the machinery of government
3. Capacity enhancement

---

### 5.1.1 COMPREHENSIVE MANDATE

Firstly, although the Sarkaria Commission recommended the setting up of the ISC under Article 263, it also limited its importance by suggesting the continuation of the National Development Council (NDC) as a separate body [1988, para. 9.10.02]. Therefore, for much of its existence the ISC had to contend with a competing institution of intergovernmental coordination, which by virtue of its economic and developmental mandates became the more important forum for interaction. The establishment of NITI Aayog with its governing council composed of the Prime Minister and State Chief Ministers, and a broader research mandate and greater technical capacity than the ISC Secretariat, continues to raise doubts about the relevance of the ISC. The work of NITI Aayog is very valuable and the government needs to establish an organic link between this body and the ISC. In some federations, an organization like NITI Aayog would function in tandem as the secretariat to an Apex IGR Forum, or as a vehicle for evaluating the efficacy of IGR policy.

Practice suggests that economic and development issues tend to dominate the IGR in most countries and excluding these issues from discussions at an Apex level IGR forum like the ISC inevitable stunted its development. Even in countries like Australia (as well as South Africa), where statutory

bodies like the Commonwealth Grants Commission oversees fiscal equalization, the broad policy principles are established by COAG. An analysis of communiqués from COAG over the last ten years will

show that every meeting has had economic policy and service delivery issues at the heart of the meeting agenda. Similarly, in Canada, First Ministers meetings are the platform where decisions are made on all matters of national policy, including the scope of fiscal transfers, with line departments playing an administrative role. This is something that was well recognized by the 14<sup>th</sup> Finance Commission report [Finance Commission 2015]. In this regard the proposal for the ISC to deal with the allocation of non-statutory financial transfers would certainly be in keeping with the norm in other parts of the world. It would also be appropriate for the ISC to consider the goals, objectives and direction for the national economy as part of its mandate. Comparative practice and experience shows that economic and service delivery issues dominate IGR interactions in most countries.

To have a robust ISC, time has now come (28 years since its conception) to include in its Charter Article 263(a) which relates to: "Inquiring into and advising upon disputes which may have arisen between States" [Constitution of India 1949]. The Presidential Order of 1990 entrusts the Inter-State Council with duties enumerated in Article 263 (b) and (c) but excludes 263(a). In the Commission on Centre-State Relations Volume II, Chairman Justice Madan Mohan Punchhi has highlighted the need to strengthen and empower the Inter-State Council (2010, para 10.8.04). The Second Administrative Reforms Commission has also recommended that the conflict resolution role envisaged for the ISC under Art. 263(a) of the Constitution should be effectively utilized to find solution to disputes among States or between all or some of the States and the Union [2008, para. 14.3.1.1.2-3]. Dispute resolution outside the Courts is fundamental to IGR. So by excluding the same from the purview of the Council, the IGR structure gets weakened. An opportunity is also lost to settle inter-state matters within the executive both State and Federal. Mandating the ISC with Art 263(a) would not render it a quasi-judicial body that would encroach on the court system, as some fear. Rather it would help unclog the court system by reducing the need for litigation since Apex level IGR bodies tend to reach agreements through discussion and consensus. The Supreme Court has also suggested a mediation role to the Council in certain types of disputes involving the Union and the States, particularly in matters of policy where a consensual settlement is desired [Saxena 2002]. As is the case in most countries, effective IGR forums provide a platform for alternative dispute resolution. Indeed discussions on disputes at bodies like COAG or PCC have yielded solutions to thorny problems which would otherwise have resulted in litigation.

In its second volume, the Punchhi Commission recommended that ISC should meet at least thrice a year and if decision by consensus does not work it may be taken by majority in matters of national concern [2010, para 10.7.08]. The sense of consensus is determined by the Chair [2010, para 10.8.04]. As of now, ISC is a discussion group but in future it would have to step up its coordination role in view of the newer and complex challenges arising in federal-state relations. To make it empowered it could consider adopting the voting process of the GST Council where the federal government has one-third (1/3) vote share and the States two-third (2/3), which is equally divided among the States regardless of size and population. With a majority of 75% of the vote being necessary for a decision to be implemented, so far all decisions have been by consensus [GST Council 2016].

---

### 5.1.2 LOCATION WITHIN GOVERNMENT

Secondly, the ISC Secretariat is administratively located within the Ministry of Home Affairs, and is administratively subordinate to the Centre-State Relations Division of the Ministry [Singh and Saxena 2015, 241]. Not only does the Ministry of Home Affairs not focus on a developmental or service delivery issues, the ISC's location within the ministry deprives it of the leverage required to coordinate across government, as well as creating an additional administrative tier between Secretariat and its primary stakeholders. Administrative reorganization is sufficient to relocate its Secretariat functions to a central agency like the Prime Minister's Office or, more appropriately, to the Cabinet Secretariat. The Prime Minister is in any event Chair of the ISC. Moving responsibility for the ISC to the PMO or Cabinet Secretariat would impart intergovernmental relations with a greater sense of urgency and effectively enhance the ISC's role of coordination, mediation and consultation. As the agenda of ISC meetings is approved by the Chairman (PM), the ISCS [Inter-State Council Secretariat] would benefit by the direct supervision of the PMO in fixing priorities and focusing on issues of national concern.

As noted above, the failure of the South African IGF and Spanish Conference of Presidents Forum can be attributed at least partially to the fact that line ministries were largely tasked with the administration of bodies that should have a 'whole of government' perspective on IGR policy. The more successfully established Apex IGR bodies like COAG in Australia, IGA in Canada, or PCC in South Africa are administratively located within the offices of their chief executives or within central agencies such as Cabinet Offices. A relocation of ICS responsibilities as proposed to either the PMO or Cabinet Secretariat would provide the ISC with the necessary profile and leverage to coordinate IGR issues across government, and make it more attractive for its stakeholders. Functions of existing sectoral IGR bodies such as the GST Council, River Water Tribunals or Central Water Commission could be subsumed as thematic working groups within the ISC mechanism. In parallel, the Zonal Councils could continue to function as territorially based sub-committees within the ISC mechanism. Tasking the ISC as the single point IGR platform with a unified mandate on constitutional, administrative and fiscal matters would help bring greater coherence to national policies on development and service delivery. Indeed, experience from Australia and Canada suggests that in both countries their respective Apex level bodies were established because it was found that IGR interactions by line ministries were incapable of bringing whole of government coherence to policy discussions, and sometimes worked at cross-purposes. Thus, in order to clear blockages in the system and enhance coordination with and across levels of government, it became essential to establish higher-level IGR forums.

---

### 5.1.3 CAPACITY ENHANCEMENT

In the last two decades, several Commissions (Finance, Centre-State, and Administrative Reforms) have developed suggestions and recommendations on how to adequately empower the Council. Some have focused on location and mandate, while others have concentrated on capacity enhancement. Indeed, in order for the ISC to emerge as the Apex IGR organization, in addition to the above-mentioned remedies, there needs to be a serious re-examination of its human resource capacity as well as accompanying financial arrangements. The 14<sup>th</sup> Finance commission correctly noted that ISC Secretariat

is both under-staffed and lacks functional and financial autonomy [2015, para. 12.43]. The Punchhi Commission has also favoured the full range functional independence for the ISC backed up by a professional secretariat comprising experts drawn from Central and State Governments [2010, para. 11.25.10] . Clearly if ICS is to emerge as a credible IGR institution, it would not be unreasonable to expect the state government to second staff to support the secretariat in its administrative and policy functions.

The ISC Secretariat's location within government makes it an unattractive posting for career public officials. Furthermore, senior staff posted to the secretariat serves very short tenures. In some cases senior positions go unfilled for months or years at a time. In the last 20 years, the average Secretary has spent just over a year in office. This is partly a function of the importance of the ISC Secretariat and is affected by the structural realities of the Indian bureaucratic system. In contrast, public officials working in IGR bodies in Australia, Canada or South Africa typically have fixed tenures of at least two years and often longer. Consequently, if the ISC is to emerge as the Apex IGR body, as a first step, there needs to be greater staffing continuity and institutional memory. One could argue that relocating responsibility for the ICS to a central agency would help address the issue of attractiveness and morale.

The second issue around staffing concerns the size and expertise of the professional staff at the secretariat. The ISC would need the ability to engage technical/domain expertise on an ongoing basis to support its work. In its recommendations the 14<sup>th</sup> Finance Commission recognized the need for this based on international best practice [2015, para. 12.44]. Intergovernmental departments at both federal and CU levels in Germany, Canada, Australia and South Africa have significant policy research capacity. On both of these matters, the staffing structures, practices and processes at NITI Aayog and the Finance Commission are quite relevant and provide options that could be adopted under existing personnel policies of the Government of India. With the establishment of the NITI Aayog initiatives on good governance, social and economic development has been taken up by the Aayog. In the Srinagar meeting of the ISC (2003), the then Prime Minister had stated that people were demanding a higher level of performance by the governments they have elected. He directed that ISCS should focus on monitoring implementation of the action plan on good governance both in quantitative and qualitative aspects [Singh 2003]. In this respect there is now some overlap in the functions of the NITI Aayog and ISC. This can be reconciled by the NITI Aayog bringing agenda items regarding good governance to the ISC for better implementation and coordination as ISC is the highest constitutional body for IGR. NITI Aayog already has a mandate to undertake outcome-based monitoring [Mehta 2017]. So building up a repository of best practice and offering policy feedback along the lines of Australia's report on Government Services would greatly enhance transparency of the IGR process and provide members of the ISC with evidence based policy advice to assist in sometimes difficult political discussions.

With regard to the ICS financial situation, its current location within the machinery of government limits the organization's ability to fully develop its mandate even when resources are available for it to do so. This issue of financial autonomy is one that can be addressed administratively. If the ISC were to emerge as the Apex level forum for Centre-State relations it is inconceivable for it to be lacking in resources. The challenge therefore is more about positioning it appropriately and restructuring it to play an effective role.



## 6. CONCLUDING THOUGHTS

Each federation is a product of its own unique social, historical and cultural context. India is the world's largest and most diverse federation. It has some institutional elements which are comparable to other federal systems but unique political dynamics which are shaped by its own particular context. In this respect, one cannot and should not expect to reproduce or transplant institutions and processes from outside in their entirety. Therefore, studying international experiences provides a useful guide for understanding which practices have been successful and unsuccessful elsewhere. This in turn, it is hoped, could inform choices that policymakers in India might make when considering a re-design of national institutions. It is important to keep in mind that of the range of case studies discussed most countries have far fewer CUs than India. Of the countries where there has been some effort to build dedicated Apex IGR institutions, Australia has 6 CUs, Canada 13, Germany 16, Spain 19 and South Africa 9. The number of constituent units in India will clearly lend its own unique dynamic to the development of IGR policy.

This paper has focused on Apex-level IGR policy between National and CU governments. An emerging issue that many classical and newer federations are considering is how to manage relations with local governments. The constitutional recognition of local government in countries like Brazil and South Africa, as well as the rise of large metropolitan regions in countries such as Australia or Canada (where local government is not constitutionally entrenched) has led to a reconsideration of how local government can be included within IGR mechanisms. In countries like Brazil the Federal Articulation Committee provides such a platform, whereas in Australia the President of the Australian Local Government Association is an invitee to COAG meetings, and in Switzerland the Tripartite Agglomeration Conference deals with the issue of Federal-Cantonal-Urban Local government coordination. While this issue is outside the scope of this paper, it is nevertheless a key consideration when designing new platforms for IGR.

# BIBLIOGRAPHY

Adam, M-C., Bergeron, J. & Bonnard, M. 2010. *Canada: Evolution at the Margin of the Constitution*. In: Chattopadhyay, R. & Nerenberg, K. (Eds.) 2010. A Global Dialogue on Federalism: Dialogues on Intergovernmental Relations in Federal Systems. Montréal: Forum of Federations.

Adam, M-C., Bergeron, J. & Bonnard, M. 2015. *Intergovernmental Relations in Canada: Competing Visions and Diverse Dynamics*. In: Poirier, J., Saunders, C., & Kincaid, J. (Eds.) 2015. Intergovernmental Relations in Federal Systems: Comparative Structures and Dynamics. Oxford: Forum of Federations.

Anderson, G. 2008. *Federalism: An Introduction*. Oxford: Forum of Federations.

Arretche, M. 2010. *Addressing Social and Regional Inequalities in Brazil: Achievements and Ongoing Challenges*. In: Chattopadhyay, R. & Nerenberg, K. (Eds.) 2010. A Global Dialogue on Federalism: Dialogues on Intergovernmental Relations in Federal Systems. Montréal: Forum of Federations.

Arretche, M. 2015. *Intergovernmental Relations in Brazil: An Unequal Federation with Symmetrical Arrangements*. In: Poirier, J., Saunders, C., & Kincaid, J. (Eds.) 2015. Intergovernmental Relations in Federal Systems: Comparative Structures and Dynamics. Oxford: Forum of Federations.

Banks, G. & McDonald, L. 2012. *Benchmarking and Australia's Report on Government Services*. In: Fenna, A. & Knüpling, F. (Eds.) 2012. Benchmarking in Federal Systems – Roundtable Proceedings. Melbourne: Commonwealth of Australia.

Baranek, P., Veillard, J. & Wright, J. 2012. *Benchmarking Health Care in Federal Systems: the Canadian Experience*. In: Fenna, A. & Knüpling, F. (Eds.) 2012. Benchmarking in Federal Systems – Roundtable Proceedings. Melbourne: Commonwealth of Australia.

Basic Law for the Federal Republic of Germany. 1949.

Carnota, W.F. 2010. *Intergovernmental Relations in Argentina*. In: Chattopadhyay, R. & Nerenberg, K. (Eds.) 2010. A Global Dialogue on Federalism: Dialogues on Intergovernmental Relations in Federal Systems. Montréal: Forum of Federations.

Carnota, W.F. 2015. *Intergovernmental Relations in Argentina: Systematic Confusion and Predominance of the Centre*. In: Poirier, J., Saunders, C., & Kincaid, J. (Eds.) 2015. Intergovernmental Relations in Federal Systems: Comparative Structures and Dynamics. Oxford: Forum of Federations.

Chattopadhyay, R. & Nerenberg, K. (Eds.) 2010. A Global Dialogue on Federalism: Dialogues on Intergovernmental Relations in Federal Systems. Montréal: Forum of Federations.

Commonwealth of Australia Constitution Act. 1900.

Conlan, T., 2006. From Cooperative to Opportunistic Federalism: Reflections on the Half-Century Anniversary of the Commission on Intergovernmental Relations. *Public Administration Review*, 66(5), pp.663-676.

Council of Australian Governments Website. Retrieved 09 May 2018. <https://www.coag.gov.au/>  
De Villiers, Bertus. "Intergovernmental relations: The duty to co-operate: A German perspective." South African Public Law 9, no. 1 (1994): 430.

Democratic Governors Association Website. Retrieved 10 May 2018. <https://democraticgovernors.org/>

Engela, R & Ajam, T. 2010. Implementing a Government-Wide Monitoring and Evaluation System in South Africa. Washington DC: World Bank.

Federal Constitution of the Swiss Confederation. 1998.

Fenna, A. & Knüpling, F. (Eds.) 2012. Benchmarking in Federal Systems – Roundtable Proceedings. Melbourne: Commonwealth of Australia.

Fenna, A. 2012. *Benchmarking in Federal Systems*. In: Fenna, A. & Knüpling, F. (Eds.) 2012. Benchmarking in Federal Systems – Roundtable Proceedings. Melbourne: Commonwealth of Australia.

GST Council. 2016. *GST Council: Mandate of the GST Council*. Retrieved from:  
<http://www.gstcouncil.gov.in/gst-council>  
<https://www.livemint.com/Opinion/EpV8XyCfKKTdndWWiqrMZL/NITI-AAayog-An-institution-to-fix-implementation-issues.html>

H.R. 3883. 2019. *Restore the Partnership Act*. 1<sup>st</sup> sess., 116<sup>th</sup> Congress,  
[https://connolly.house.gov/uploadedfiles/restore\\_the\\_partnership\\_text.pdf](https://connolly.house.gov/uploadedfiles/restore_the_partnership_text.pdf)

Knüpling, F. 2012. *Introduction*. In: Fenna, A. & Knüpling, F. (Eds.) 2012. Benchmarking in Federal Systems – Roundtable Proceedings. Melbourne: Commonwealth of Australia.

Lhotta, R. & Von Blumenthal, J. 2010. *Federal Governance in Germany Between Party Politics and Administrative Networks*. In: Chattopadhyay, R. & Nerenberg, K. (Eds.) 2010. A Global Dialogue on Federalism: Dialogues on Intergovernmental Relations in Federal Systems. Montréal: Forum of Federations.

Lhotta, R. & Von Blumenthal, J. 2015. *Intergovernmental Relations in the Federal Republic of Germany: Complex Co-operation and Party Politics*. In: Poirier, J., Saunders, C., & Kincaid, J. (Eds.) 2015. Intergovernmental Relations in Federal Systems: Comparative Structures and Dynamics. Oxford: Forum of Federations.

McDowell, B.D., 1997. Advisory Commission on Intergovernmental Relations in 1996: The end of an era. *Publius: The Journal of Federalism*, 27(2), pp.111-127.

Mehta, P. S. (2017) NITI AAayog: An institution to fix implementation issues. Retrieved from:  
<https://www.livemint.com/Opinion/EpV8XyCfKKTdndWWiqrMZL/NITI-Aayog-An-institution-to-fix-implementation-issues.html>

Ministerio De Política Territorial Y Función Pública." Conference of Presidents:: Ministerio De Política Territorial Y Función Pública :: 2017. Accessed July 31, 2019. [http://www.mptfp.es/en/portal/politica-territorial/autonomica/coop\\_autonomica/Confer\\_Presidentes.html](http://www.mptfp.es/en/portal/politica-territorial/autonomica/coop_autonomica/Confer_Presidentes.html)

Morales, M.J.G. & Marín, X.A. 2010. *Intergovernmental Relations in Spain*. In: Chattopadhyay, R. & Nerenberg, K. (Eds.) 2010. *A Global Dialogue on Federalism: Dialogues on Intergovernmental Relations in Federal Systems*. Montréal: Forum of Federations.

Morales, M.J.G. & Marín, X.A. 2015. *Intergovernmental Relations in Spain: An Essential but Underestimated Element of the State of Autonomies*. In: Poirier, J., Saunders, C., & Kincaid, J. (Eds.) 2015. *Intergovernmental Relations in Federal Systems: Comparative Structures and Dynamics*. Oxford: Forum of Federations.

National Constitution of the Argentine Republic. 1994.

National Governors Association Website. Retrieved 10 May 2018. <https://www.nga.org/cms/home>

Pfisterer, T. 2010. *The Latest Developments in Intergovernmental Relations in Switzerland*. In: Chattopadhyay, R. & Nerenberg, K. (Eds.) 2010. *A Global Dialogue on Federalism: Dialogues on Intergovernmental Relations in Federal Systems*. Montréal: Forum of Federations.

Pfisterer, T. 2015. *Intergovernmental Relations in Switzerland: An Unfamiliar Term for a Necessary Concept*. In: Poirier, J., Saunders, C., & Kincaid, J. (Eds.) 2015. *Intergovernmental Relations in Federal Systems: Comparative Structures and Dynamics*. Oxford: Forum of Federations.

Phillimore, J. & Harwood, J. 2015. *Intergovernmental Relations in Australia: Increasing Engagement within a Centralizing Dynamic*. In: Poirier, J., Saunders, C., & Kincaid, J. (Eds.) 2015. *Intergovernmental Relations in Federal Systems: Comparative Structures and Dynamics*. Oxford: Forum of Federations.

Phillimore, J. 2010. *Intergovernmental Relations in Australia: Increasing Engagement*. In: Chattopadhyay, R. & Nerenberg, K. (Eds.) 2010. *A Global Dialogue on Federalism: Dialogues on Intergovernmental Relations in Federal Systems*. Montréal: Forum of Federations.

Phillimore, J. 2013. *Understanding Intergovernmental Relations: Key Features and Trends*. In: Australian Journal of Public Administration. Volume 72: Issue 3. Pp.228-238.

Poirier, J. & Saunders, C. 2010. *Cooperative Mechanisms and Intergovernmental Relations in Federal Regimes*. In: Chattopadhyay, R. & Nerenberg, K. (Eds.) 2010. *A Global Dialogue on Federalism: Dialogues on Intergovernmental Relations in Federal Systems*. Montréal: Forum of Federations.

Poirier, J. & Saunders, C. 2015. *Conclusion: Comparative Experiences of Intergovernmental Relations in Federal Systems*. In: Poirier, J., Saunders, C., & Kincaid, J. (Eds.) 2015. *Intergovernmental Relations in Federal Systems: Comparative Structures and Dynamics*. Oxford: Forum of Federations.

Poirier, J., Saunders, C., & Kincaid, J. (Eds.) 2015. *Intergovernmental Relations in Federal Systems: Comparative Structures and Dynamics*. Oxford: Forum of Federations.

Powell, D. 2010. *Intergovernmental Relations in South Africa – Growing Pains of a New System or Multi-Level Government at the Crossroads?* In: Chattopadhyay, R. & Nerenberg, K. (Eds.) 2010. *A Global Dialogue on Federalism: Dialogues on Intergovernmental Relations in Federal Systems*. Montréal: Forum of Federations.

Powell, D. 2015. *Constructing a Developmental State in South Africa: The Corporatization of Intergovernmental Relations*. In: Poirier, J., Saunders, C., & Kincaid, J. (Eds.) 2015. *Intergovernmental Relations in Federal Systems: Comparative Structures and Dynamics*. Oxford: Forum of Federations.

Punchhi, M.M. *Commission on Centre-State Relations*. Report released March 2010 via the Interstate Council Secretariat, Government of India.

*Report of the 14<sup>th</sup> Finance Commission of India*.

<http://www.prsindia.org/uploads/media/Report%20Summaries/14th%20Finance%20Commission%20Report.pdf>

Report on Government Services. 2017. *Report on Government Services 2017*. Government of Australia. <https://www.pc.gov.au/research/ongoing/report-on-government-services/2017>

Republic of South Africa – Department of Provincial and Local Government. 2007. *The Implementation of the Intergovernmental Relations Framework Act – An Inaugural Report 2005/06 – 2006/07*. Pretoria: Republic of South Africa.

Republican Governors Association Website. Retrieved 10 May 2018. <https://www.rga.org/>

Sarkaria, R.S. 1988. *Report of the Sarkaria Commission*. Inter-State Council Secretariat. Retrieved from: <http://interstatecouncil.nic.in/wp-content/uploads/2015/06/CHAPTERIX.pdf>

Saxena, R. 2002. Strengthening federal dialogue: Role of NDC & ISC. *Contemporary India*, 1(3), 51-64.  
Second Administrative Reforms Commission. 2008. *7<sup>th</sup> Report: Capacity Building for Conflict Resolution*. Department of Administrative Reforms and Public Grievances. Retrieved from: [https://darpg.gov.in/sites/default/files/capacity\\_building7.pdf](https://darpg.gov.in/sites/default/files/capacity_building7.pdf)

Singh, O. 2003. *Article 356: States Want More Safeguards*. Rediff. Retrieved from: <https://www.rediff.com/news/2003/aug/28isc.htm>

Smith, T.E. 2015. *Intergovernmental Relations in India*. In: Poirier, J., Saunders, C., & Kincaid, J. (Eds.) 2015. *Intergovernmental Relations in Federal Systems: Comparative Structures and Dynamics*. Oxford: Forum of Federations.

Smith, T.E. 2015. *Intergovernmental Relations in the United States in an Age of Partisanship and Executive Assertiveness*. In: Poirier, J., Saunders, C., & Kincaid, J. (Eds.) 2015. *Intergovernmental Relations in Federal Systems: Comparative Structures and Dynamics*. Oxford: Forum of Federations.

The Constitution of the Federative Republic of Brazil. 1988.

The Constitution of the Republic of South Africa. 1996.

The Constitution of the United States. 1788.

The Spanish Constitution. 1978.

Watts, R. L. 2008. Comparing Federal Systems – Third Edition. Montréal: Institute of Intergovernmental Relations.

Western Governors Association Website. Retrieved 10 May 2018. <http://westgov.org/>

---

<sup>1</sup> Rupak Chattopadhyay is President and CEO of the Forum of Federations

<sup>2</sup> Liam Whittington is Organizational Development Officer at the Forum of Federations

The authors are grateful to Vikram Chand, Ravi Dhingra, Rekha Saxena and John Kincaid for their comments on earlier drafts, and would like to thank George Stairs and Nathan Russell for their research support.

<sup>3</sup> This allows the federal or provincial legislature to delegate administrative powers to an administrative body created by another order of government.

<sup>4</sup> This instrument enables a legislature to adopt the legal standards of another order of government in a related field.

The Forum is an international organization that develops and shares comparative expertise on the practice of federal and decentralized governance through a global network.



75 Albert St, Suite 411 | Ottawa, ON K1P 5E7 | Canada