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Foreword: The Resurgence of the Federal Idea

By Bob Rae

There has been a profound resurgence in interest in the federal idea in the last decade. I choose the phrase "federal idea" carefully because the "ism" in federalism has a way of limiting debate and understanding. In Spain, the central government is reluctant to use the word because it seems to connote the dissolution of sovereign authority; conversely the Catalonians won't use it because in their eyes it does not sufficiently represent the unique nature of the Catalan claim to self-government. In South Africa the word fell into disrepute because it had some official approval from the apartheid government; similarly the African National Congress' vision of "one South Africa" made the party reluctant to describe any new constitution as "federalist."

These are hardly new debates: the Jeffersonian tradition in American politics was proud to call itself "anti-federalist" because it concluded that the centralizing forces behind John Adams and Alexander Hamilton had branded the "f word." Yet both Thomas Jefferson and John Adams were clearly federalists who shared far more key assumptions than the rhetoric of democratic debate might have led some to believe.

What is happening today in South Africa, Spain, Mexico, Nigeria, the United Kingdom, Russia, Brazil, India, Pakistan, Cyprus, Iraq and Sri Lanka, to mention just a few countries, is a reflection of some important common tendencies that need to be understood. There is certainly more than one way to be a federalist; it is the common idea that matters.

Political arrangements of cooperation and association have their roots in many ancient societies, from African tribal councils to city state pacts to the Iroquois Confederacy. The modern federal idea is first and foremost a democratic idea. It implies a respect for people's identities and their political choices. It is incompatible with populist concepts of democracy that are not based on a respect for individual rights, constitutional process and the rule of law. It also runs against those elements in society who believe they have a pipeline to the "real" or "best" interests of the people. Ideologies that express a certain knowledge of political truth (or religious truths as made manifest in the world) are implacable enemies of the federal idea.

The federal idea, therefore, understands the vitality of politics and rival notions of the public interest. It also speaks to a common concern about limiting the sphere of government. Constitutions that set out which level of government can do what, and then

also guarantee rights and freedoms, if they are combined with a court structure with the capacity to interpret this balance – and to enforce that interpretation – are inevitably about the limits of popular sovereignty and the protection of both group and individual rights.

These points are basic to the defining element of the federal idea, namely that a federal country is one where power is at once divided and coordinated. That, of course, is the central tension in federalism: it is not just "one idea." It implies a common agreement to do certain things separately and other things together. It is about more than just devolution, because the premise is that state or provincial governments have as much sovereignty in their sphere as the national or federal government has in its. There are no "higher" or "lower" governments, no "senior" or "junior" governments, just different governments doing different things within a common framework. Nor is the national government a mere creature of the provinces, delegated by them to do certain tasks. It too has its own sovereignty, its own direct connection to the people.

The federal idea, therefore, implies an ongoing, indeed a never ending dialogue about who does what. There are significant issues in each federation about fiscal issues, how money is raised, how it is shared, how it is spent. In Canada resources are provincially owned and the windfall from that flows to different provincial governments. In Nigeria the central government claims all oil revenue and then divides it up according to a formula. With the return of democratic federalism to that country, the issue of how revenue should be divided is now being argued in court. Australia's revenue sharing formula is said to be so complicated that it brings to mind the British statesman's comment that "there are only three people who know the causes of the Crimean War. Two of them are dead and I can't remember."

There is a growing consensus that local and state governments need to be able to raise the money to spend on their own programs: this increases both transparency and accountability. Where this is not possible, central revenue sharing needs to be both clearer and less unilateral. When this doesn't happen, as is often the case, it gives rise to inevitable conflict.

Those opposed to federalism point to these conflicts, the sometimes bewildering complexity of federal institutions, and the alleged cost of too many governments as justification either for simply abolishing regional governments altogether, or for separatism. Federalism has often been opposed by elements of the majority because it is said to imply costs in countries that are "too small" for federal arrangements. One also hears arguments from determined minorities that the right of self-determination is absolute, and that federalism adds too much complexity to the simplicity of separate states.

Yet we should be skeptical of these claims. They have little basis in fact. It would be hard to point to the "efficiency" of a one party Mexico or the Nigeria of the military

dictatorships. Switzerland is geographically small and politically complex. Yet it has remained for decades a symbol of efficiency and tolerance.

The federal idea is indeed about the complexity of things, but better the give and take of an endless negotiation – isn't that what much of life itself is, anyway? – than the simple world of the Jacobin, the Leninist, the militarist, the religious fanatic, or even the old fashioned ethnic nationalist who has difficulty with any kind of pluralism.

The resurgence of the federal idea has at its core many different causes. The vitality of the values of democracy, the revolutions in the politics of identity and human rights, the twin collapse of apartheid and bureaucratic communism, the impact of the technological revolution, the economic changes we associate with the word "globalization," all these have made their contribution. In Mexico, for example, one party rule for most of the twentieth century meant that while the constitution spoke of the federal nature of the country, the reality was quite different. The same was even more true for the Soviet Union. The man on horseback had an equally brutal effect in Brazil and Nigeria: the federal idea is quite incompatible with the command and control mentality of the military hierarchy.

This renewal is not at all confined to countries that have a federalist tradition. Countries have long had to struggle with the simple truth that geography is rarely synonymous with automatic homogeneity. Ethnic, linguistic, racial and religious conflicts have become the dominant issue facing the world order today. Wars after 1945 have been as much within countries as between them, with disastrous consequences for peace and security. It is no longer soldiers dying in the millions, but civilians. From Rwanda to Cambodia, from the Balkans to East Timor the battle ground is within countries that are unable to resolve the conflicts of what Michael Ignatieff has called "blood and belonging."

It is in this context that the federal idea is re-emerging. In Sri Lanka negotiations are focusing on practical arrangements for both dividing and sharing power, for civil rights for minorities, for linguistic and religious tolerance: this after a conflict which has taken over 60,000 lives in the past 25 years. The painful back and forth in Northern Ireland – where thousands have also died – depends for its resolution on a willingness to recognize the legitimacy of "the other," a capacity for political and administrative flexibility, and an ability to bring terrorism into line. These are all easier to say than to do, but it is hard to see how the federal idea won't be part of the solution – if solutions are to be found – in each case.

In Sudan, an end to the civil war between north and south that has claimed two million lives is now being negotiated. Federal arrangements are part of the strategy to resolve this intensely difficult conflict. Similarly, in Iraq, the existence of a self-governing Kurdistan clearly puts the question of federalism at the centre of discussions about new constitutional arrangements for a unified, but not unitary, Iraq. Indeed, issues of federal governance are at the centre of active political and legal discussions in every part of the

globe, particularly in areas where conflict resolution is a critical necessity.

The federal idea is part of another trend as well. European cooperation since the 1950s has now led to an elected European Parliament, common court, freedom of movement as well as free trade and a common currency. Supranational federalism is now a reality, despite extensive mutterings about the "f" word. National sovereignty is not dead and the age of the nation-state is not over. But the notion that these are exclusive or all defining is clearly outmoded. Governance practices within countries are inevitably subject to the scrutiny of world political and economic opinion, and most important, to the rule of law itself.

At the conclusion of the Mont Tremblant Conference on federalism in 1999, President Bill Clinton remarked that "maybe the federal idea isn't such a bad idea after all." He was right. The collapse of one party states, the demands of identity, the urge to local empowerment, the insistence on greater openness and transparency in government, and the recognition that in a smaller and much more interdependent world "sovereignty" is no longer an absolute, has brought the federal idea to the fore again.

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