



Federations

What's new in federalism worldwide

Federalism and Nation Building

Late in 2001, after the events of September 11 and the start of the military operation in Afghanistan, we brought out a special issue of *Federations* that explored the option of federalism for Afghanistan. There were articles both pro- and con- the notion of Afghanistan as a federation – and some that were neutral on the question.

The aim of that issue was not to advocate but to investigate and inform. Perhaps immodestly, we believed that the Forum, as an international network on federalism devoted to dialogue and information sharing, was ideally suited to the task of opening dialogue on federalism for Afghanistan.

Today, more than two years later, Afghanistan, and now Iraq, are both still smoldering — and occasionally exploding. Their conflicts are far from resolved, whether politically or militarily. Still, we are convinced it is now a good time to consider the relevance of federalism to situations of conflict between religious, ethnic or linguistic groups within one nation-state.

It may seem a Quixotic exercise in the face of so much news of continuing violence. Today's news, for instance, tells of the massacre of Kurds in Iraq by suicide bombers – hardly an encouraging backdrop for examining a political arrangement that would see shared rule combined with self-rule for Kurds, Shiites and Sunnis in Iraq. But that is exactly what we propose to do!

Again, we are not *advocating* federalism. The Forum of Federations is not about advocacy. There are other groups that have made federalism their rallying cry, for whom federalism is a cause. That is their right. It is not what the Forum does.

Rather than proselytizing and promoting, the Forum of Federations seeks to encourage shared learning. If this organization is committed to any proposition, it is to the notion that federalism is not a simple recipe. Those who want to consider some kind of federal option as part of any political solution or arrangement owe it to themselves to take that option seriously and study it in all its dimensions and complexity.

There may exist a perfect federal paradigm in some Platonic cave, but we won't be looking for that in these pages. Our purpose is to explore the actual federal experience, warts and all. And that relates to a second postulate that guides the work of the Forum: that an important way of learning about federalism is to learn from each other.

Among the experiences we look at in this issue are the Indian and Ethiopian models of multi-ethnic federalism, the failed Yugoslav experience and the potential for some

What's inside

- Federalism and diversity
- How Indian federalism works
- Ethiopia's return to federalism
- Why Yugoslavia failed
- Sudan moves toward peace
- A new Iraq – how federal?

variety of federalism in two areas of conflict: Sudan and Iraq. John McGarry also tries to paint a more general picture of when, how and under what circumstances federalism might have a chance of succeeding.

We are far from proposing anything remotely resembling a

panacea here. But we hope these articles help at least some readers think more clearly about the questions they raise.

When one considers that federalism has been around since the late 18th century and that more than 40 per cent of the human race lives in one federal country or another, it is a bit surprising that until fairly recently federalism was the subject of so little international discourse. It almost seemed that those who practiced federalism thought it was in some way applicable only to their own situations and of no conceivable interest to others.

Over the past few years we have seen growing interest among the practitioners of federalism to learn from each other. We are now beginning to witness a real hunger for knowledge and information about the practice of federalism from people in places as diverse as Sri Lanka, Guyana, Italy, Burma and, of course, Iraq and Sudan. This issue of *Federations* can only hope to offer some preliminary insights and avenues for further study and reflection. We hope it leads some readers to go further.

One place you will be able to find out more about federalism and its challenges is the Forum web site, with our online library of downloadable materials:

www.forumfed.org

In this publication and on the web site you can also learn about the Forum's other publications and activities.

We will soon be launching two new videos that deal, in different ways, with the subject of federalism. We will also be bringing out more useful resources for the study of federalism as it is actually practiced. These include the *Handbook of Federal Countries, 2005* and the first two volumes of the *Global Dialogue* series that focus on federal constitutions and the matter of the division of powers and responsibilities. ☺

As always we invite you to share your comments, complaints, arguments and criticisms with us.

You can do this by: e-mail to nerenberg@forumfed.org; Fax to: +1(613) 244-3372; or regular mail to: 325 Dalhousie, 7th Floor, Ottawa, Ontario, K1N 7G2, Canada.

–The Editors



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Cover Photo: Ex-child soldiers walk away from the weapons they once carried, during a demobilization ceremony near Rumbek, southern Sudan, after being evacuated by UNICEF from a combat zone in a nearby province.

Photos: Cover - UNICEF/HQ01-0093/STEVIE MANN: Cover design by More in Typo; page 6 - photo of Hindu blessing by WHO/P. Virot; page 9 - UN photo of Meles Zenawi by Eskinder Debebe; page 12 - photo of rally for Tito by New York Times in 1950; page 15 - photo of Sudanese war amputees by ICRC - SD-N-00216-17

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Can federalism help to manage ethnic and national diversity?

BY JOHN MCGARRY

The answer to the question in the title, throughout much of the world, is a resounding “No”. Most states in Africa, Eastern Europe, and Asia are fiercely resistant to the idea of accommodating national and ethnic communities through federal institutions. Federalism is their “f” word.

In Western Europe, the French are also hostile to federalism. Even Americans, those who live in the world’s first and longest enduring federation, tend to be against using federalism to give self-government to distinct peoples. They consciously drew the internal boundaries of their own federation to avoid this. Today, when American experts recommend federalism for other countries, such as Iraq, it is the American model they usually have in mind: a federation in which internal boundaries intersect with rather than coincide with ethnic and national boundaries.

Post-communist break-ups

The widespread opposition to multinational (or multi-ethnic) federalism is connected to the belief that it does not work. It is thought that giving self-government to distinct peoples unleashes centrifugal forces that result in the break-up or breakdown of the state. This view is so popular because there is seemingly compelling evidence to support it.

Critics of multinational federalism like to point, in particular, to the experience of post-communist Eastern Europe. While all of communist Eastern Europe’s unitary states stayed together after 1989, all three of its multinational federations (the Soviet Union, Yugoslavia, and Czechoslovakia) fell apart. The federations also experienced more violent transitions than the unitary states.

Before this, multinational federations that were formed in the wake of decolonization had a similarly abysmal track record. They fell apart in the Caribbean (the Federation of the West Indies); in east Africa (the East African Federation and

Ethiopia); southern Africa (Northern and Southern Rhodesia and Nyasaland); and in Asia (Pakistan; the Union of Malaya). The Nigerian federation managed to stay together, but only after a brutal civil war and decades of military dictatorship.

It would be difficult to argue, in the light of this evidence, that federalism is a panacea for ethnically and nationally diverse states. It also seems clear that giving national groups their own federal units provides them with resources that they can use to launch secessionist movements, should they choose to.

But does the evidence also indicate, as some critics suggest, that multinational federalism will not work in any circumstances?

Plainly, the answer is no.

Critics point to evidence of failure, but there are also important success stories.

Two of the world’s oldest federal states, Canada and Switzerland, effectively give self-government to their principal ethnic, linguistic or national communities. More recently, Belgium has reorganized itself as an ethnic federation, and Spain has also assumed several multi-ethnic federal traits. Most notably, India, the post-colonial

world’s most successful democracy, and the world’s largest, is also an “ethnofederal” state.

Not genuinely federal, economically weak and undemocratic

Astonishingly, critics of multinational federalism usually fail to note that the major federal failures, including the Soviet Union, Czechoslovakia, Yugoslavia and Nigeria, were, in practice, sham or pseudo-federations. In several cases, they were forced together. They were often in practice tightly centralized states. They lacked democracy. This last fact alone meant that their governments were unrepresentative of their populations, and that there was no possibility of dialogue or co-operation among their different national communities. It is hardly surprising that their minorities broke free when the opportunity arose.

All of the communist and post-colonial federations that broke apart were economically weak. Because of corruption

... the major federal failures, including the Soviet Union, Czechoslovakia, Yugoslavia and Nigeria, were, in practice, sham or pseudo-federations.

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or the shortcomings of central economic planning, they could not provide a reasonable or growing standard of living for their populations. Relatively enterprising regions of these states, such as Slovenia or the Baltic republics, found this particularly difficult to deal with.

Critics of multi-ethnic federalism would be on stronger ground if they could show that any of the federal failures could have been democratically governed as unitary states or as American-type federations. However, there is little evidence to support such a view. Even Lenin, who was strongly opposed to multiethnic federalism, understood that accepting it was the only way to hold the Soviet Union together. Tito was similarly forced to adopt federalism in Yugoslavia against his first preferences.

While only federations broke apart in communist Eastern Europe, this glosses over the more basic fact that these were also by far the most nationally diverse states. This explains, after all, why they were federations in the first place. It makes at least as much sense to argue that the instability of these federations resulted from their diversity as their ethno-federal institutional structures.

One major group?

To put it differently, the failed federations all lacked a dominant ethnic community that comprised an overwhelming majority of the federation's population and that would have been capable of holding the federation together in a crisis.

The fact that the United States was constructed around a dominant group of White Anglo-Saxon Protestants explains why it is more stable than Nigeria, which lacks a clearly dominant people. The same comparison helps explain why the Russian federation is more stable and secession-proof than the Soviet Union. Russians have a majority of 81.5 per cent in the Russian federation; they had only 51 per cent in the USSR.

Together these qualifications show that multinational federalism is not bound to fail. But there are some conditions that would make success more likely.

For instance, a federation is more likely to succeed if it has a dominant ethnic community. This is because such a majority has the strength to resist secessionism. It may also feel secure enough to make concessions to other

Switzerland: Each canton is different

Arnold Koller, interviewed by Forum staff

Without a federal system, Switzerland would not exist. The Swiss people have been up to now convinced that in such a small country with four languages, with four cultures, we couldn't live together peacefully and successfully as we do without being a federal country. So it means leaving quite a lot of autonomy to different national groups that make up our nation.

The national groups in Switzerland are four: the German-speaking, the French-speaking, the Italian-speaking and the very small group of Romansch-speaking. We have a mainly German-speaking part of Switzerland and we have a French part. Of course in the border regions we have quite a lot of mixing up. We have three cantons that are bilingual, one canton that is trilingual and we have cities like Biel/Bienne where everybody speaks French and German.

The Swiss constitution basically leaves as much autonomy as possible to those different groups. And this autonomy is really respected by everybody, by the confederation, by the cantons, by each Swiss citizen. And I am always saying federalism is not only a constitutional structure but also a deep-rooted culture. We have to learn federalism as a basic attitude respecting one another, living diversity and unity. I think that's really what we are doing in my country.

You might say federalism is complicated because it's unique – a very centralized state is easier to manage, but I wouldn't agree that federalism is costly – on the contrary, federalism brings politics much nearer to the people. The necessities of a rural canton such as mine – Appenzell – are very different from a very urban canton like Geneva. And I think a centralized state always has a tendency to treat them all in a very equal way while federalism gives us the possibility of finding solutions really adapted to each canton. Appenzell, the place where I live, is the smallest canton in Switzerland with only 15,000 people. It's still very rural. There are a lot of farms, and tourism is the background of our economy, but it's a very old canton with a very long tradition.

Our first federal constitution dates from 1848. Switzerland – after the U.S. – is the oldest federation in the world and we have had about 140 partial revisions to our constitution. One person called it “an overstuffed cupboard”. And now we have updated it and I think we made some quite important innovations to give some rules to our confederal behaviour.

When our federation was founded we had only 22 cantons, now we have 23 with the new canton of Jura. [ed. note: if you count the half-cantons, the total is 26] The canton of Jura was at first a French-speaking section within the German-speaking canton of Bern. To form a new canton, first the municipalities had to vote on the issue. Then those cantons – the new canton of Jura and the canton of Bern – had to vote. And finally Switzerland had to vote and we had a majority of the Swiss people in favour, as well as in the canton. I think it was a good example of tolerance. And I think tolerance is a basic principle of each federal state.

Arnold Koller is a former president of Switzerland. He is also a member of the board of the Forum of Federations.

groups. Multinational federations without one strong group are more likely to be unstable because other peoples are more likely to think they can prevail. This means that we cannot extrapolate Russia's future from the experience of the Soviet Union, because Russians are far more dominant within the former than they were within the latter.

Power sharing at the centre

Another key condition for success: a federation is more likely to endure if all groups are represented within the federal government. Supporters of multi-ethnic federalism usually defend it as a method for giving autonomy to distinct peoples.

Sometimes, it is argued that a virtue of federalism is that it allows groups that are excluded from the center to console themselves with regional power. Such reasoning ignores the fact that federalism is about "shared rule" as well as "self-rule", and that all federations entrust important powers to their federal governments. A group that finds itself outside the federal government will have less stake in the federation and more incentive to secede. There is evidence from all the successful federations that power-sharing practices at the federal level are crucial, and there is evidence from the failed federations that power-sharing was absent.

Democracy, rule of law and free choice

Authentically democratic federations are more likely to succeed than sham or pseudo-federations. An authentic democratic federation allows the representatives of its national communities to engage in dialogue and bargaining about their interests, grievances, and aspirations. Such dialogue is a prerequisite for the development of co-operative practices.

An authentic democratic federation is also based on the rule of law, that is, the constitutional division of powers and the rights of minorities are respected. The federations that failed were, at best, in the process of democratizing. In no case were they established democracies. This does not mean that democratic federations will always succeed. It suggests, however, that we should not automatically assume that Canada, Belgium, India and Switzerland will automatically go the way of the failed federations.

Federations that are established voluntarily are likely to last longer than those that are forced together. Voluntary federations, established as a result of negotiation between leaders of the various groups are more likely to be considered legitimate by their citizens than those that are imposed. They are also more likely to foster traditions of accommodation.

The successful multinational federations, including Canada and Belgium, arose from voluntary agreements. Most of the failed federations, on the other hand, began without the consent of all their communities. This condition does not

Two of the world's oldest federal states, Canada and Switzerland, effectively give self-government to their principal ethnic, linguistic or national communities.

augur well for Bosnia-Herzegovina, which owes its origins to the internationally-imposed Dayton Accords.

Prosperous multinational federations are more likely to have a bright future than those that are in difficult economic situations. We should not exaggerate the importance of economic factors when matters of identity are at stake, but the plight of the failed communist and post-colonial federations was plainly exacerbated by their inability to provide materially for their citizens.

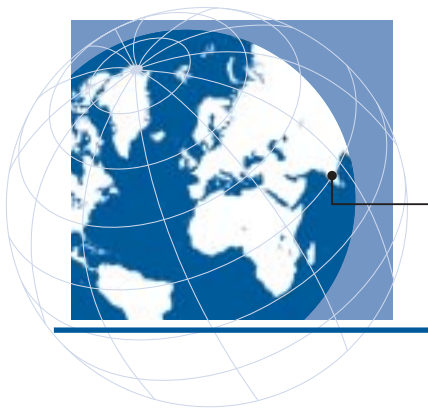
Lessons for Iraq et al.

What might this mean for Iraq, where there is currently an intense debate over the value of multinational federalism?

Iraq has in its favour the promise of prosperity from its vast oil resources. It is always easier to share wealth than to share poverty. But this wealth will have to be well-managed and carefully distributed, unlike Nigeria's. This could happen with a fair and equitable regional equalization program for the provinces of Iraq.

A federal Iraq is likely to be stable if Arabs, around 80 per cent of its population, come to comprise a cohesive national majority. If, as appears more likely, Arabs fragment along intra-Shia and Shia-Sunni lines, an Iraqi federation may still work if it develops strong power-sharing practices among Kurds and Arab groups within the federal government, including the judiciary, bureaucracy, army and police services. The prospects for success will be enhanced if the federation emerges internally from a bargain worked out by the leaders of all the groups.

It will help if those who negotiate the new constitution and who come to dominate the new institutions are authentically representative of their followers. This suggests that the constitution-making process should be as democratic as possible, and that no outside force should pick delegates, directly or indirectly. ⑥



How India does it

India's federal system has coped with many challenges for over 50 years.

BY *ASH NARAIN ROY*

Indian federalism is far from perfect. In fact, no federalism is. Flashpoints like caste and communal riots, demolitions of houses of worship, targeted ethnic killings and the recent campaigns in Assam and Maharashtra against Hindi-speaking Biharis show major problems not yet solved by India's federal system.

India is a nation where people are proud of their multiple identities. Within the formal collectivity of national citizenship, there exist other collective identities based on caste, religion, language, ethnicity and region. Problems begin where the "politics of the vote" sharpens these identities.

Still, the Indian experience suggests that federalism provides a stable and lasting way to accommodate multiple identities and loyalties within a single unified country. It provides a framework in which to express the aspirations of diverse groups and to resolve conflicts and tensions within a diverse society.

High marks for democracy – and for federalism?

Independent India's most remarkable achievement has been the entrenchment of democracy. As the British writer Bernard Levin says, India has kept "the flame of democracy alight despite the darkness in the surrounding world". Levin goes as far as to suggest that "if the democracy of India falls, the end of democracy itself will be in sight". Perhaps such flattering observations can't be made about Indian federalism. The federal system in India has been described variously as "quasi-federal", "federation without federalism" and a "Union of unequal states". Nevertheless, India has kept the banner of federalism aloft at a time when two federations (perhaps pseudo ones) – the Soviet Union and Yugoslavia – disintegrated. Indian federalism has proved wrong the numerous prophets of doom who contemptuously dismissed India as a land of a "million mutinies".

To begin with, India was a highly centralized federation. But the rise of the regional parties and the success of federal



A man in Mumbai receives a Hindu blessing called Puja. Conflict between religions still remains a problem for Indian federalism.

coalition governments have given Indian federalism not only a new meaning but also a new measure of strength and vitality.

India has made a success of its democratic and federal system largely thanks to its enviable democratic record, institutional strengths, strong civil society and vibrant political culture. The federal principle has helped India to live peacefully with its marked differences. Years ago John Kenneth Galbraith described Indian democracy as a "functioning anarchy". In a similar vein, Indian federalism can be described as an amiable chaos.

When peoples in different parts of the globe are looking for an exemplary model of managing bewildering diversities – religious, linguistic, cultural – they would do well to look at India.

Communal violence: the exception, not the rule

This is not to say that India does not have its share of trouble. In fact the demolition of the Babri Mosque in Ayodhya in 1992 and the tragic massacres in Gujarat in 2002 are still fresh in people's minds in India. The pogrom against Muslims in Gujarat in that year is a blot on Indian secularism.

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What Gujarat witnessed was not merely communal riots of a barbaric kind, but a systematic effort to target the Muslims and their source of livelihood. Not only did the government of Chief Minister Narendra Modi in Gujarat provide no timely relief to the riot victims, it also sought to derail the trials. Recently the Supreme Court of India stopped the proceedings in ten of the main riot cases, transferring the trials outside Gujarat.

The Supreme Court responded to a petition filed by the National Human Rights Commission which argued that a fair trial was not possible in the state. Some Hindu fundamentalists are trying to recast Indian politics in a dangerous “communal” mould. They have had some success in Gujarat.

From all appearances they have failed to replicate the Gujarat experiment elsewhere. Secularism is very much intact in India. The state institutions, the judiciary, the press and the civil society remain secular to the core. Secularism seems to be India’s manifest destiny.

There are, of course, still many cases of ethnic strife.

The North-Eastern region is one such case. Different sections of the population feel that they have been left out in the cold by the process of development and have declared their loss of faith in the Indian state through militant movements. Problems in the North-East, and in other regions such as Jammu and Kashmir, were left to fester too long. What was essentially a revolt against age-old bondage, unimaginative politics and a disillusionment with the non-performing development model has been compounded by government fumbling and intervention by external forces.

The conflict in Kashmir between India and Pakistan can be viewed as not so much one of territory but of diametrically opposed models of government: theocracy versus secularism. The elections in Kashmir in 2002, acknowledged by foreign observers as free and fair, have gone a long way to restoring people’s faith in the political system. But it would be naïve to imagine that elections alone would resolve the Kashmir conundrum.

Language harmony

India’s experience in resolving its language problem is more positive, and could be

Belgium: An evolution to federalism

Johanne Poirier, interviewed by Forum staff

Belgium did not have a blueprint for federalism at the beginning. It is not as if one day politicians decided that they should transform Belgium into a federation. It happened gradually over more or less a 30-year period.

When you transform a unitary state into a federation, some people are bound to lose a certain amount of power and prestige because federalism is about sharing power. For that reason there was some resistance. There was fear that the transformation from a unitary state into a federal state would lead to chaos or to secession.

Belgium is a small country with a population of a little over 10 million. About 60 per cent of the population live in the Dutch-speaking or Flemish part. And about 30 per cent live in the south. Brussels is more complicated – an enclave in Flanders with many linguistic groups. The majority of the population in Brussels now speak French, although it’s a very multicultural society.

This is a very complex society, a country that was under foreign domination for most of its history and became independent in 1830. At that time, the majority of the population spoke a variety of Flemish dialects, similar to Dutch, but the elite spoke French and the institutions followed more or less a French design and were very centralized. The government was in the hands of an elite that spoke French regardless of where it came from. The majority of the population happened to speak Flemish, but this was not reflected in the institutions of the country. Gradually there were pressures to recognize institutions in Flemish and pressures for central institutions to reflect the diversity of the country.

This led to some accommodation within the unitary state. There was a recognition of certain institutions in Flemish, and gradually this was understood not to be sufficient. This led to a restructuring of the country into a more federal structure, meaning sharing powers between different levels of government, which are responsible for different tasks. Representatives at these levels were directly elected and given a democratic base, a democratic legitimacy.

The major point of federalism for citizens in Belgium is to bring some decisions closer to them in a complex society. That means that if the Flemish and the French use different languages, have different interests in culture, and want to promote their own educational system, they can do it.

For citizens, that has meant to a certain degree bringing power closer to them, and allowing for instance, the small German community in Belgium to have its own parliament to make decisions in terms of culture and education. There is also a parliament for the Flemish community and a parliament for the French.

By now the concept of federalism has percolated down to every citizen. They understand that they live in a system where power is divided, where they have a Flemish community government, a French community government, and a federal government.

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instructive. The language issue in the 1950s and 1960s threatened to tear apart the national fabric. India appeared on the verge of a civil war over language. The first clearly secessionist movement emerged in Tamil Nadu in reaction to the perceived imposition of Hindi. The Indian state, however, recognized the importance of regional languages and showed sensitivity towards linguistic nationalisms. When states were reorganized on linguistic basis, some feared that it would lead to India's disintegration. Such fears were unfounded. Today language is not, in general, a burning issue.

Indian federalism is of course still on trial. But it is no longer a trial by fire.

Experience suggests that federalism in India is not quite as shallow as was once considered. The era of single-party hegemony or the so-called "Congress system" is over. The Congress party, which dominated the Indian political scene like a colossus and which was responsible for centralizing power has now lost much of its power base and appeal. Its loss in four of the five states which held state Assembly elections in November 2003 – Mizoram, Delhi, Rajasthan, Madhya Pradesh and Chhattisgarh – has dashed hopes of India's grand old party, the Congress Party, capturing power in the 2004 federal Parliamentary elections on its own.

The transformation of India from a dominant-party system to a multi-party system has strengthened federalism. Government by coalition has now come to stay. The National Democratic Alliance, led by the Hindu nationalist *Bharatiya Janata Party* (BJP), has swept the Assembly elections thanks largely to its ability to forge a grand coalition of 20-odd disparate parties.

The Congress party lost heavily due to its vacillating stance on coalition government and its proclivity to go it alone. India, a continent-size country, is itself a coalition. Coalition governments better reflect India's multi-layered diversities and its diverse aspirations.

Over the years, India has experienced a silent, and perhaps not so silent, revolution. The so-called low castes, once called "untouchables", the intermediary castes, the peasantry and the regional parties have become the new stakeholders. All these groups now share the national cake. The *Dalits* (referred to in India's constitution as Scheduled Castes) and the marginalized groups have emerged as a powerful, independent factor in Indian politics. This, according to former Prime Minister V.P. Singh, "represents a change in the very grammar of Indian politics".

A new breed of political party

The new clout of the regional parties has transformed Indian federalism beyond recognition. Once scorned as the forces of disintegration or as an aberration, the regional parties have assumed a new role in the Indian system of governance. The last three Parliamentary elections – 1996, 1998 and 1999 – have changed the perception about the regional parties as they have become major players in the formation of rainbow coalition governments in New Delhi.

The United Front federal government (1996-1998) set the tone for a radical shift in power relationships between the federation and the States. It called for an alternative system of governance based on federalism, decentralization, accountability, equality and social justice. It set the stage for greater devolution of autonomy and power to the states.

The National Democratic Alliance coalition in New Delhi may not have taken the federalist agenda forward but its success has prompted analysts and practitioners of federalism to speak of "strong states, soft centre structure", "real federalism", "fiscal federalism", "cooperative federalism". These and similar terms have gained currency in the national political discourse.

A strong federal government still exists but its clout is waning, and its authority is shrinking. It has to negotiate where it would once have bullied its way through. Some state capitals like Bangalore, Hyderabad and Mumbai have emerged as virtual parallel power centres. World leaders visiting India can't afford to exclude these capitals from their itinerary. Leaders such as Chief Minister Chandrababu Naidu of Andhra Pradesh are permanent fixtures at the World Economic Forum at Davos.

Power for the grassroots

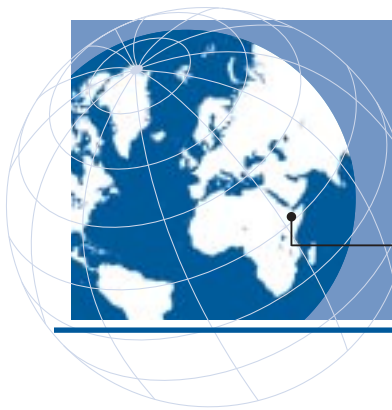
The most significant recent development in the Indian practice of federalism has been the emergence of a third tier of government, the local *panchayats*. This relatively new institution has dramatically widened and broadened the democratic base.

Today, over three million Indians are elected every five years to *panchayat* seats, of which one million are constitutionally reserved for women. A large number of heretofore excluded groups and communities now form part of the decision-making bodies. Each state has, in a way, become a federal unit that includes within it three distinct orders – district, block and village.

The local bodies at the village, block and district levels are far from becoming institutions of self-government but they have changed the chemistry of Indian politics. Their biggest impact is on governance. With the advent of the *Panchayati Raj*, (Hindi for "the rule of local governments") governance has passed out of the sole control of central and state governments. In fact, governance has moved beyond governments. Governance in India today is deeper, more extensive and more interconnected than ever before. Consequently, the Indian federal system is now more accountable, with more and more people connecting to it, operating it, administering it and improving it.

This transformation was invisible at first, then the source of visible cracks and finally quite suddenly the cause of collapse. The *panchayats* have begun to reverse some, if not all, the effects of the top-down control which powerful Indian states traditionally represented.

A federal democratic structure, as the Indian case shows, has the wherewithal to withstand the stresses and strains arising out of diverse and often competing demands. India could not be what it is without being federal. ☺



Ethiopia's return to federalism

A renewed *House of the Federation* could bolster minority rights and languages.

BY TOM PÄTZ

The next general elections in Ethiopia are scheduled for May 2005. Observers are hoping for a real competition this time. During the last elections, in May 2000, the government candidate ran unopposed in 50 per cent of the electoral districts for the lower house. But since then, Prime Minister Meles Zenawi has already appeared on television in a debate with two opposition leaders. Other opposition parties boycotted the debate.

Ethiopia has had a federal, democratic constitution, on paper, since 1994. But until quite recently, the reality more closely resembled an autocratic centralized regime, with power concentrated in the Prime Minister's Office.

The 1994 constitution emerged out of a national negotiation that followed more than a quarter century of brutal, bloody civil war and dictatorship. That negotiation had engaged all of Ethiopia's many ethnic groups and regions in an open and inclusive process. What emerged demonstrated a sincere effort to fully integrate Ethiopia's 82 different ethnic groups in the country into the sinew and bone of the constitution.

The constitution provided for strong regional governments and a two-house federal legislature in which the upper house, the House of the Federation, would be the voice of the regions at the centre. (See box: *The House of the Federation*) It also included, quite unusually, the constitutional right for states to secede, after a two-thirds majority vote of the council of the respective state and a simple majority in a referendum organized by the federal government.

Although it did so before the Ethiopian constitution of 1994 was adopted, Eritrea actually followed much the same process when it seceded in 1993.

But between the best intentions of the constitution and actual practice there was a great gulf. The Tigray People's Liberation Front, the leading party in the Ethiopian Peoples' Democratic Front coalition, had established something close to a one-party rule.



Prime Minister Meles Zenawi (r.) of Ethiopia signs the peace treaty between Ethiopia and Eritrea on December 12, 2000 in Algiers.

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The House of the Federation

Because there is no constitutional court, the power to interpret the constitution was given to the House of the Federation. Furthermore, the House decides on issues relating to the "rights of nations, nationalities and peoples to self-determination", and has the responsibility to "promote and consolidate their unity based on their mutual consent". The House of the Federation is also charged with finding solutions to disputes or misunderstandings that may arise between states. It decides on division of revenues derived from joint federal and state tax sources and sets the subsidies that the federal government provides to the states. Finally, it has the power to order federal intervention "if any state, in violation of this constitution, endangers the constitutional order."

The composition of the House of the Federation is quite open. The election of members can be direct or indirect – the decision is left to the state councils, accepting local habits in nominating and electing ethnic representatives. Thus, state councils can decide whether they elect the members themselves or whether elections will be held. Additionally, each "nation or nationality" gets one member for each one million of its population. At present there are 112 members. Of this number, 71 are appointed by the states, and the other 41 seats are apportioned according to population.

A split and a policy change

In 2001, there was a split within the ruling party. Prime Minister Zenawi described it in an interview with the BBC:

"The divisions had to do with ... whether we have done enough in terms of institutionalizing democratic government in this country or not; as to whether we have done enough to promote economic growth and reform in this country or not ..."

Those divisions also extended to foreign relations and to relations with Eritrea.

As a result of the power struggle in the ruling party, the rulers gave greater powers to Ethiopia's second chamber, the House of the Federation. They downsized the power of the Prime Minister's Office, equipped the government with more technocrats and fewer former combatants, allowed frequent internal party debate, and gave the states more space to protect their own interests.

A more genuine practice of federal governance made it possible to resolve conflicts among the states and between the states and the federal government. Self-confidence and self-assurance of the states resulted in open debates on intergovernmental conflicts such as disputes over constitutional jurisdictions and revenue sharing. There were

Ethiopia - a recent history

- 1935 – Italians invade Ethiopia
- 1941 – Emperor Haile Selassie restored to throne
- 1952 – UN federates Eritrea and Ethiopia
- 1962 – Haile Selassie annexes Eritrea
- 1974 – Haile Selassie overthrown by Marxist revolutionaries
- 1991 – Ethiopian Peoples' Revolutionary Democratic Front takes power
- 1993 – Eritreans win independence
- 1994 – New constitution drafted for federal Ethiopian state
- 1999 – War with Eritrea
- 2000 – Peace agreement with Eritrea
- 2002 – Agreement on boundary with Eritrea
- 2003 – Italians agree to return 2,000-year-old Axum obelisk

also debates on regional development policies, debates over cultural, linguistic and religious differences, and resolution of conflicts arising due to lack of intergovernmental consultation. Members of the House of the Federation set up special committees, workgroups, and coordination mechanisms to manage "unity in diversity".

Because of the self-confidence and new demands of the states, the House of the Federation gained considerable influence. The government gave the House of the Federation adequate financial resources and legal provisions through a special proclamation in July 2001. The House is on its way to making itself into a core institution in Ethiopia's nation-building process.

A state copies the national initiative

The federal government's new-found commitment to federalism found echoes at the state level. One of the nine states, the "Southern Nations, Nationalities and Peoples' Regional State" has created its own version of the House of the Federation. The state added the provision for a "Council of Nationalities" to its constitution in November 2001. This council is made up of at least one representative from each nation, nationality and people in the state. The council was given the power to "interpret the state constitution, organize the council of constitutional inquiry, and decide on (certain) issues relating to nations, nationalities or peoples". The council was also mandated to "strive to find solutions to disputes or misunderstandings". Other states with more than one ethnic group are actively considering this innovative and unique institutional arrangement.

Canada: Two official languages protect minorities

Gil Rémillard, interviewed by Forum staff

Canada is a huge country, a vast territory with a small population and two national minorities: francophones, who are the majority in Quebec, but in the minority everywhere else in Canada, and anglophones, who are the minority here in Quebec, but the majority in all other Canadian provinces. This is the current situation and so it was in 1867 when Canada's founders - the "Fathers of Confederation" - decided to create this country. The challenge was to create a country that was decentralized enough to accommodate both the various interests from the different local communities and the rights of minorities, allowing them not only to survive, but to flourish in a new federation.

In 1867 we included certain measures to protect minority rights. In that year, the word minority more or less meant linguistic minority, which also meant religious minority. The Catholics were mostly francophones, since the Irish came to Canada after 1867, and the Protestants were Anglophones. In the Constitution of 1867 there were clauses dealing with minorities which gave rights to francophones in Quebec as well as to francophones outside of Quebec.

The Constitution of 1982 finally completed the Constitution of 1867 and included rights for minorities. With the Constitution of 1982, we recognized that Canada was made up of two national minorities – francophones and anglophones – when we recognized that Canada has two official languages – English and French. From then on we established rights in the Constitution of 1982, such as minority rights – to have public servants and federal authorities across Canada who are fluent in a citizen's own language when there is sufficient need. Most significantly, the 1982 Constitution gave the right to francophones to receive primary and secondary education in their own language throughout Canada, when the numbers are large enough to justify such schools.

Quebec has a population of seven million. Approximately 80 per cent of these seven million have French as their first language and then there are the anglophones, as well as many ethnic communities that speak different languages. There is a very large Italian community, and the Arabic community is also very well represented.

In Quebec, where the majority language is French, there is a law which we call the French Language Charter and which establishes the French as the official language of Quebec. As a result, if you walk the streets of Montreal now you will see the French presence everywhere. Montreal has a French look to it. Montreal also has an internationally renowned character, but still maintains its francophone presence. I would say that this is one of the major success stories of the last 30 years.

At some point in history of the federation all the other provinces had to share when they were in a better situation than the others. But, sometimes, for economic or social reasons – language, history, culture – a province or state might be tempted to say that this autonomy is not sufficient. Some might say "We must become a

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The institutional, legal, technical, and logistic challenges associated with this rapid transformation process are myriad. Borders between states are still not demarcated. Violent conflicts between ethnic groups of different states are common, even though each state has set up a Border Affairs Office to settle conflicts. In sharp contrast to the past, conflicts based on religion are rising. Aggressive campaigns mainly by Protestants and *Wahhabis* – a fundamentalist Muslim group – have led to violent clashes. All attempts to further develop Ethiopia's political system are affected by the level of poverty and the enormous death-toll rate of the HIV/AIDS epidemic. Apart from keeping the nation together, there is still a lot ahead.

Filling the democratic deficit and the food reserves

Will the powers given to the second chamber and the democratization so far be enough to bring real democracy? If so, will that democracy be able to cope with poor harvests, drought and the threat of a famine such as that of 1984 and 1985?

In January, journalist Michael Buerk, who covered the 1984 famine, told a BBC interviewer why the repeat of such a famine was less likely today.

"First of all the civil wars that cut these people off in 1984 and 1985 and made it so difficult to actually get food to them are over.

"Secondly, there's a very elaborate early warning system that's been put in place, so they're monitoring the price of food and so on and what's happening in the villages, so it's an early warning system too.

"And thirdly ... they've got a more benign government, at least, than existed in 1984."

That's the good news. But there is also the bad news. As Buerk continues:

"... the underlying situation is deteriorating - the population is rising, the ability of the land to feed them is falling - and that deteriorating situation is creating from year to year a really difficult situation and it could happen that the food doesn't get there in time."

In 2004, Ethiopia has a real federal government and a way of representing its 82 different ethnic groups. As the BBC's Buerk says, at the very least, its government is "benign", compared to the past. Democratic, multinational federalism may be a necessary prerequisite to development and equitable distribution of resources. But democratic federalism alone can't guarantee that there will be food on the table for everyone during the next drought or crop failure. ⑥

Ethiopia: food vs. famine

- 1984 – Famine from drought kills nearly 1 million
- 1985 – LiveAid concerts by Bob Geldof raise US \$60 million for famine relief
- 1999 – First of three years of bumper harvest
- 2000 – Coffee exports reach US \$250 million
- 2001 – UNPAN reports GDP growth from 1992 to 2001 was 6 per cent a year
- 2002 – Gross National Income is US \$100 per capita; GDP per capita is US \$700
- 2003 – Ethiopia's own aid concert, "A birr for a compatriot", raises US \$1 million
- 2004 – Forecast good for harvest, but falling coffee prices cause hardship
- 2004 – GDP growth for 2003 expected to come in at zero to 1.5 per cent

Canada: Two official languages protect minorities

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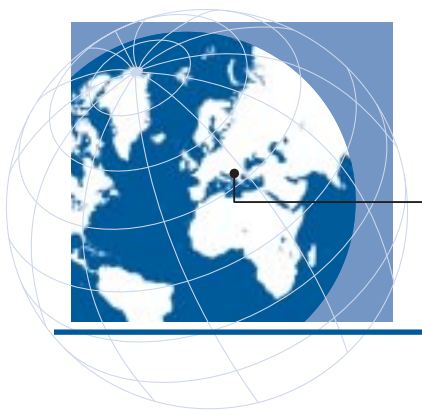
sovereign state now." And this is something that we need to understand, particularly in Canada.

Those who believe in the federal system need to show people who want to separate and those who want to express themselves within their federation that federalism is flexible enough because it is a compromise and because it is also strong enough to create a central government. But we also want to show them that with time they can benefit not only socially, but economically and that they will be better off as part of a federation rather than deciding to create their own new country and the international implications of that decision.

It is not easy to respect the equilibrium, this balance. We, as Canadians, know that it is not easy. For decades we experimented with this balancing act, this equilibrium. Of course, we lived through the Quebec referendums on Quebec separation (1980 and 1995), but we also saw significant economic crises in 1975 and 1976 during the Alberta oil crisis when Alberta nonetheless had to put its own provincial interests aside to make things better for the whole of the federation.

What is cultural diversity? It's respecting cultures, it's respecting what we should respect, as part of a whole, without needing to assimilate with the whole, but integrating oneself. And the difference between assimilation and integration is so important when we are talking about federalism. That's what makes all the difference. Federalism integrates. There is a major problem if it assimilates.

Gil Rémillard, a professor at the École nationale d'administration publique Montreal was the Quebec minister responsible for intergovernmental affairs and also Quebec's minister of justice. He is a member of the board of the Forum of Federations.



Why Yugoslavia failed

BY DEJAN GUZINA

Could Yugoslavia have been kept from breaking up by a different form of federal system? We will never know, but the structure it had under Tito's Yugoslav Constitution of 1974 laid the groundwork for conflict and separation. Tito tried to institutionalize his policy of "brotherhood and unity." But after his death the constitutional foundations of the Yugoslav state fostered the exact opposite: the separation of the Yugoslav population into ethnic groups.

Why didn't the Yugoslav federal system work? The basic defect was its inability to solve the paradoxical relationship between ethnicity and socialism, the two opposing principles of governing the multinational socialist state. Yugoslavia's 1974 Constitution is a perfect example of this paradox. It was prompted by yet another attempt of the communist old guard, led by Tito and his most trusted ideological ally, Edvard Kardelj, to solve the twin problems of the early 1970s:

- the re-emergence of nationalism in the country, and
- the mounting pressures for political reforms.

The second problem, the pressure for reforms, was brought about by rapid modernization and the rising expectations of the budding urban middle class in postwar Yugoslavia.

Two moves that failed

Tito's response to the burgeoning crisis at the time consisted of two moves: a series of purges and the decentralization of the economy with workers' self-management at the factory level. Both would have disastrous consequences.

The purges were bad enough. Tito's first move was a series of political purges of party reformists throughout the country. It started with crushing of the so-called Croatian Spring in 1971 and continued a year later with the ousting of Serbian

Communist Party leader Marko Nikezić, and his followers who were known for their support of liberalization of the economy and the state. Although less has been said in the West about this second purge, one of the most astute writers on former Yugoslav affairs, Croatian journalist Jelena Lovrić, maintains that it was perhaps even more detrimental for the future of Yugoslavia than the removal of Croatian "national liberals."

In Serbia, after 1972, more than 6,000 people lost their jobs in politics, the economy, the media and the cultural institutions.

Their places were quickly filled with party *apparatchiks* loyal to old-fashioned communist values: the revolutionary role of the party, egalitarianism, cohesion, conformity, the rhetoric of brotherhood and unity and so on. What had started as a genuine modernization towards "socialism with human face" ended up as a Serbian version of the Chinese Cultural Revolution, and eventually prepared the stage for the development of a strong anti-liberal, populist option in Serbia in the 1980s.

Then came the economic changes. Tito's second move was to create a new federal economic structure for Yugoslavia. The idea was that a reformed self-management system could sustain high rates of growth, while decentralization would satisfy

increasing demands for both genuine liberalization of the system and a greater regional say in decision-making. This program proved disastrous. The party failed completely to prepare the economy for a qualitatively new stage of modernization in the 1980s. Ethnic nationalism continued to gain ground while the only "success" proved to be a very effective prevention of the rise of democratic social movements that might cut across regional borders.

Why Tito's reforms failed

How did this happen? In theory, the new Constitution was founded on the dual sovereignty of the working people – the working class – and that of the nations and nationalities. The word "nationalities" was a reference to the substantial national minorities such as Hungarians and Albanians living in the Serbian provinces of Vojvodina and Kosovo. But the channels through which working people were supposed to enjoy their



Tito's image dominates a 1950 festival in Petrovec, 65 km northwest of Belgrade.

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rights operated within republican and provincial structures. The result was that the authority of these structures nearly doubled at the expense of increasingly residual federal institutions. Tying self-management directly to the community of nations and nationalities – the republics and the provinces – nearly destroyed its role in asserting the rights of the working people.

This constitutional arrangement gave Yugoslav republican elites both the form and the substance of national existence and political power. The resulting changes in the opportunity structure in Yugoslavia radically undermined links between the republics and the federation. Lacking a multi-party system and the integrative forces of a market economy, regional leaders had no reason to look for advancement in the central government apparatus. Instead, they created new opportunities in their republics and provinces, within their respective ethnic contexts. At the same time, federal appointments came to be increasingly understood as “foreign” posts, the role of which was to further the “diplomatic” interests of the respective republics and provinces.

The economy crashes in the 1980s

Both the authority of Tito and Yugoslavia’s international standing in a world divided by the Cold War served as brakes on the growing centrifugal forces in all Yugoslav republics. But Tito’s death in 1980, followed by a severe economic crisis and fiscal collapse the next year, finally unleashed the disintegrative tendencies of the Yugoslav constitutional system. The effect of the politics of failed modernization can hardly be overestimated. The high standard of living in the 1970s came to an abrupt end in 1981 when Yugoslavs finally learned the truth about their economy.

Between 1974 and 1980, Yugoslavia borrowed 16,433 million US dollars from the IMF, western governments and a great number of western commercial banks. Inflation reached an annual rate of 45 per cent and unemployment rose to 800,000. Beyond the unemployment figures, nearly two million people became so-called “technological surplus”. By 1984, the standard of living had fallen back to the level of the 1960s. Under such conditions, the republican leaderships started blaming each other for the failures of Yugoslav economic and social policies. In doing so, they could only target the federal (by now really confederal) constitutional frame, since in practical matters their individual veto rights allowed them to pursue their own interests against those of other republics and provinces without fear of any repercussions.

Not surprisingly, the right of veto soon became understood as a basic right by each federal unit, no matter what kind of question was at issue. This had detrimental consequences for the legitimacy of the Federal Executive Council – the Yugoslav cabinet – because its decision-taking powers became dependent upon the decision-making processes at the republican level. In the late 1980s, this territorial arrangement

The right of veto soon became understood as a basic right by each federal unit, no matter what kind of question was at issue.

deprived the last pro-Yugoslav federal government of Ante Marković the capacity to act in any legitimate fashion. Even though enjoying a great popularity at the time in Bosnia-Herzegovina, Serbia and Croatia, Marković’s government soon fell prey to the orchestrated campaign of the republican elites of Serbia, Croatia and Slovenia to topple the government’s program of economic and political reforms. This was the last orchestrated campaign in which Serbia could find itself on the same side with Croatia and Slovenia. Significantly, their joint dismissal of the Yugoslav government was carried out using the powers granted by the Constitution itself. One can argue that Yugoslavia was not murdered, but that it in fact committed suicide.

Enter ethnic nationalism

At the beginning of the 1990s, the country was already completely fragmented territorially, economically and ethnically. Powerful republican media outlets, especially local TV stations and dailies, “prepared” Yugoslav citizens to accept graffiti-like political slogans that were challenging the legitimacy of Yugoslavia: “Kosovo-Republic”, “Slovenia, my country,” “Bosnian spirit,” “All Serbs in a Serbian Land,” “Thousand years of the Croatian state,” and “Vojvodinian identity.”

Soon, these slogans led to three full-fledged competing models for the solution of the constitutional crisis in the country. In reality, they already represented disguised projects for creation of independent and sovereign nation-states. The models for Yugoslavia were:

- a confederation – proposed by Slovenia and Croatia;
- a federation – proposed by Serbia and Montenegro; and
- something in-between – proposed by Macedonia and Bosnia and Herzegovina.

Slovenian representatives were the first to articulate their vision of confederal Yugoslavia. Their proposal of “asymmetric federation” became known as a “confederal” model in the second half of 1990 when Croats decided to support it. It rejected majority voting because of the Serbs’ demographic dominance in Yugoslavia. Instead, the proposal adamantly defended the principle of consensus and the rights to self-determination established in the 1974 Constitution. The peculiar feature of the document was the presence of many references to Europe and the European Community with the absence of any references to Yugoslavia.

The Serbian and Montenegrin position was based on the idea that any notion of a confederal Yugoslavia would lead to full disintegration of the country, and reduce more than two million Serbs living in Croatia and in Bosnia and Herzegovina to the uncertain position of a national minority. So their proposal for a federal Yugoslavia emphasized principles of majority voting and citizens’ rather than minority rights. Despite its apparent democratic phraseology, the Serbian and Montenegrin proposal did not take into account the cultural complexities and historic differences of the Yugoslav republics

and peoples. Its prime aim was to keep a state in which all Serbs would remain living together, but its majoritarian thrust made it anathema to non-Serbs. As in the case of the Croatian and Slovenian proposal, it promoted the particular interests of one nation over the interests of the others.

The “third way” fails to appeal to all

The Bosnian and Macedonian presidents, Alija Izetbegović and Kiro Gligorov, offered their proposals to the “Yugoslav public” on the eve of the wars in Slovenia and Croatia in June 1991. In this extremely tense situation, it is not surprising that they presented their program as a “third way” between the federal and confederal concepts of Yugoslavia already on offer. Accordingly, their “Platform on the Future of the Yugoslav Community” was based on the concept of dual sovereignty – those of republics and that of a federal centre which would have similar functions to those defined in the 1974 constitution. These principles were ensuring a single market, guaranteeing human and minority rights across the whole of Yugoslavia, and maintaining a common foreign and defense policy. In reality, their proposal was closer to the Slovenian and Croatian model in that it explicitly limited the right to national self-determination to those peoples who were already organized within existing Yugoslav federal units. Those living across republican borders (in effect, mainly Serbs in Croatia and Bosnian Serbs and Croats – or within republics such as Macedonian Albanians) would become national minorities, as in the joint Slovenian/Croatian confederal model.

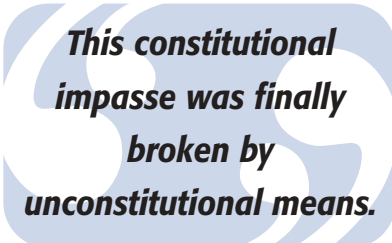
So, at the end of 1990 and in 1991, it was obvious that Yugoslavia had reached a constitutional impasse. While the “third option” and the “confederal” model appeared to Serbian representatives as a road towards secession, “federal” Yugoslavia looked equally unacceptable to everybody else because of its potential centralist threats. This constitutional impasse was finally broken by unconstitutional means. Unfortunately, a relatively painless transition to democracy and a peaceful dissolution of a multinational federation were possible only where national and republican self-determination coincided.

In the case of former Yugoslavia, this condition was present only in Slovenia as the most ethnically homogenous republic in the country. In other cases, the dissolution of the one-party-state would not only fail to open the door to democratic transformation, but would also bring a bloody end to Yugoslavia itself. Its geographic space would be divided among small nation states basing their identity on a narrow ethnic understanding of nationalism that perceived citizenship rights not as rights extended to each individual member of society, but as the collective rights of a particular ethnic group.

Lessons for the future

What lessons might be learned from the Yugoslav experience? The solution to the destruction of Yugoslavia’s federation and the war in Bosnia-Herzegovina was the creation of yet another federation, that of Bosnia-Herzegovina, and the international

imposition of certain power-sharing forms of government on Macedonia and Kosovo. To many Yugoslavs, this looked like trying to extinguish a fire by throwing oil on it! But there may still be time to save something from the fire. The international community has finally recognized that the problem of Yugoslavia was not its federal character or ethnic diversity but rather its authoritarian political structures and non-democratic traditions. Thus, the solution to former Yugoslavia’s maladies has always been at hand – liberalizing and democratizing the federal political system. For former Yugoslavia it is too late, but one can hope that there is still a chance for Bosnia-Herzegovina and for Macedonia.



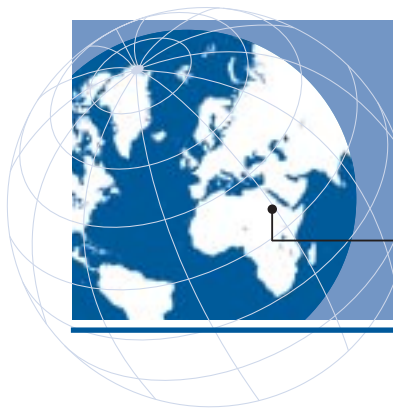
***This constitutional
impasse was finally
broken by
unconstitutional means.***

Even though federalism has been used as an instrument of ethnic conflict management in multinational states, it is not certain to what extent multinational federations and other forms of territorial and political decentralization can be implemented in the region. Despite the current international support for Bosnia-Herzegovina and Macedonia on the principles of federalism and compromise between ethnic communities, federalism may still not have a

future in the region. One of the most unfortunate consequences of the war in former Yugoslavia has been the outright rejection by most people in former Yugoslavia not only of the liberal model of federalism but also of much less radical forms of territorial and political decentralization. Recent elections in Croatia, Bosnia-Herzegovina and Serbia seem to corroborate this claim. Nationalist parties are still attracting a substantive percentage of the population and thus remain a strong alternative to democratic parties in the region.

Will the new federal proposals succeed?

There is also another question related to this issue. That question is, “To what extent do the institutions offered in Bosnia-Herzegovina and elsewhere in the region truly differ from the ones already practiced in former Yugoslavia?” The federal structure of Bosnia as defined in the Dayton, Ohio, Peace Agreement of November 21, 1995, is perilously close to the one of former Yugoslavia with only one discernible difference – the rhetorical emphasis on the formal institutions of liberal democracy rather than principles of socialism. If this remains so, then the latest experiment in territorial arrangements in Bosnia-Herzegovina simply will not work. Such federal experiments also may not work in other ethnically diverse states such as Macedonia, Afghanistan and Iraq. Current decentralization in Bosnia-Herzegovina doesn’t go beyond the regional level, thus allowing ethnicity to remain the single most important attribute of a citizen’s identity in the state. Without a thorough decentralization of these regions and simultaneous emphasis on local forms of self-government and the development of civil society, the outcome is likely to be the opposite of the one desired. The unintended outcome could be the further encroachment of ethnicity over supposedly democratic institutions of newly democratizing multinational states. Once this happens, the reputation of federalism as a right and just tool for managing diversity in multinational states would be irretrievably lost for the people of these countries. ⑥



Sudan lurches toward peace

Will a peace treaty in 2004 include genuine arrangements for power sharing?

BY PAUL MORTON

The year 2004 could see an end to Africa's longest-running civil war, the civil war in Sudan. That twenty-year war, between the government and the rebel forces in the south, has claimed more than two million lives. Whatever the details of an eventual agreement, it will set out multiple levels of government designed to share power both between different orders of government and within institutions. The two main sides in that war, the Government of Sudan and the Sudan People's Liberation Movement/Army (SPLM/A), have been meeting and have already signed some preliminary agreements.

The wealth sharing agreement reached in early January sets out some new governance mechanisms. There will be a roughly equal division of revenues. The central bank will have two arms, one applying Islamic banking laws in the North the other applying a western system in the South. Two currencies will be maintained until they are merged into a single national one. The development of these structures will require a great deal of political will on the part of the Sudanese. There will be a great need for capacity building across the country. The Sudanese will need to maintain the commitment needed to bring these negotiations together throughout the implementation period.

Key to peace in Sudan are two new factors: oil and the Machakos Protocol. Oil had been discovered earlier, but was first pumped from Port Sudan through a pipeline in 1999. An agreement by both sides to share the wealth makes oil a key negotiating point. The Machakos Protocol, named for the town in Kenya where it was signed in July 2002, gives Southern Sudanese their own self-government and acknowledges their right to self-determination. While the Sudanese government is backtracking on recent documents tabled in late 2003, hopes are high for a comprehensive agreement in 2004.

The international community will also have to maintain its support long after the agreement is signed. Providing security through an international monitoring force is only

one element of the support required from the international community. They will also need to provide assistance in making the new governance structure as effective and transparent as possible: if the mechanisms agreed upon to achieve peace are not effective, then peace will certainly not be sustainable.

Breakthrough with Machakos Protocol

But the prospects are encouraging. The parties are closer to peace now than at any other point since the insurgents took up arms against the government in 1983. Under the umbrella of the landmark 2002 Machakos Protocol, agreements were made in November and December 2003 in the two highly contentious areas of security arrangements and wealth sharing. This new momentum, as a result of the recent direct involvement of the most senior representatives of the government and the SPLM/A, and the increasing international pressure, have prompted hopes of a comprehensive agreement early in 2004.



A Red Cross orthopaedic centre for war amputees in Lokichokio, Lopiding, Sudan.

Alongside these reports of progress in the negotiations are disturbing

accounts of ongoing violence in the Western Darfur region, and increased tensions in the East. These reports of violence alongside progress being made in the negotiations may appear contradictory. But the persistent tensions point both to the fact that there are still important hurdles to overcome, and that sustainable peace will require far more than a signed peace agreement between the two predominant players. Other key issues on the negotiating table are power sharing and decisions on the status of Abyei, Southern Blue Nile and the Nuba Mountains. But significant progress also needs to be made in addressing deep factional fault lines within both the North and South for an eventual peace deal to be sustainable.

Two decades of war ending?

Several attempts have been made to end this latest phase of the conflict, with little or no success until 2002. The current negotiations fall under the auspices of the Inter-Governmental Authority on Development (IGAD), initiated by the Kenyan government in 1993, although both parties did not formally accept its principles until 1997. Designed as an instrument of regional cooperation in the Horn of Africa

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on regional initiatives on trade, development and security, IGAD also oversees the peace process in Somalia. Little progress was achieved throughout the 90s, as regional players became increasingly focused on other matters, notably the wars between Ethiopia and Eritrea, and in the Democratic Republic of Congo. The fortunes of the IGAD process were reversed in July of 2002 with the signing of the Machakos Protocol, outlining a framework within which further negotiations could take place. Several factors have acted together in accelerating the peace process in the last eighteen months. These factors include fallout from the September 2001 terror attacks in the United States; the proactive involvement of the chief mediator, Kenyan General Lazaro Sumbeiywo; increased international pressure; and mounting pressure from a war-weary population throughout the country.

The Machakos Protocol laid out the underlying principles upon which a future interim government would be based. The Protocol states that the Southern Sudanese “have the right to control and govern affairs in their region and participate equitably in the National Government,” and “have a right to self-determination, *inter alia*, through a referendum to determine their future status.” In essence, the Protocol commits the parties, throughout the interim period, to a system of regional autonomy and power sharing within a united Sudan. This principled acceptance of diversity, and the corresponding need for sufficient autonomy and resources to accommodate it, are key elements in finding a permanent solution to the conflict. In this regard, the Machakos Protocol represented a fundamental breakthrough, and paved the way for current progress in the negotiations.

The first year of talks following the Machakos Protocol brought a steady stream of agreements on specific issues, although little or no progress was made on the difficult issues of power and wealth sharing, security arrangements, and the status of the three disputed areas. In the latter half of 2003, the process had been characterized by a number of dramatic swings, beginning with the presentation in July of what became known as the Nakuru document. The document represented a major shift in the mediation strategy, from incremental agreements on individual issues, to a holistic approach encompassing all the remaining issues. While the SPLM/A accepted it as a starting point, the government flatly rejected its terms, saying it contravened the principles of Machakos. The controversy surrounding the Nakuru document created an immediate crisis, and the strong language from both parties raised fears of a collapse.

The stalled talks did at least lay the ground for face-to-face discussions between Sudanese Vice-President Taha and SPLM/A leader Garang – a significant achievement, and a dramatic shift in favour of direct discussions between the two parties. The result, eventually, was an agreement in Naivasha on the difficult issue of security arrangements, including on the use of integrated forces in key areas. Discussions continued through the autumn, with increasing optimism in December for an imminent final deal. At this point, an agreement has been reached on wealth sharing, while power sharing and the status of the three disputed areas remain to be addressed. Although the status of the three regions may present the greatest challenge, appearances would suggest that the momentum is now

Sudan: a timeline

1955	Rebellion by South Sudanese
1956	Unified Sudan becomes independent
1963	Rebels in south unite under <i>Anya Nya</i>
1972	Addis Ababa peace agreement grants autonomy to the South
1983	Addis Ababa peace agreement effectively dissolved
1983	Second civil war begins, this time between SPLM/A and the Government
1989	National Islamic Front takes power by coup under the leadership of Omar Hassan al-Bashir
1999	Sudanese oil is first pumped to Port Sudan via pipeline
2002	Machakos Protocol signed July 20 by the two sides in Machakos, Kenya
2003	December - Government and SPLM/A agree to share country's oil wealth.
2004	January - Government and SPLM/A agree to share non-oil revenues.

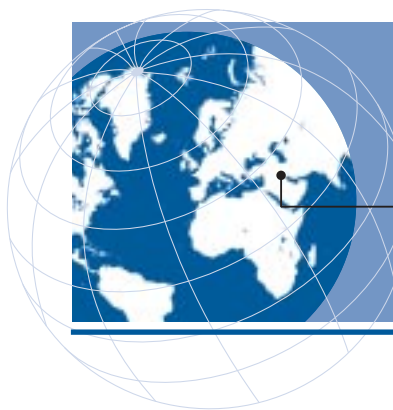
great enough that both parties will likely sign an agreement. Their ability to bring other factions on side, will ultimately determine the breadth of support for the agreement.

Long history of division

The recent civil wars in Sudan have pitted a predominantly Arab, Islamic North against an African, Christian/animist South. This North-South division stems from a centuries-old process of ‘arabization’ and ‘islamization’ in the Northern Sudan, and the resistance to these forces in the South. The joint British-Egyptian conquest of Sudan in 1899 continued to foster this division with the decision to administer the country separately; the North under active Egyptian influence, and the South administered by the British with the help of a large missionary presence. The abrupt decision to reunite the regions just prior to independence in 1956 left a deeply divided country to face the second half of the twentieth century. Violence erupted even before formal independence.

A coup in 1958, and the resulting islamization agenda, prompted further rebellion in the South, eventually leading to the formation of Sudan’s first organized rebel movement, *Anya Nya* (snake poison). This led to the first civil war from independence through to 1972. As in the subsequent conflict through the 1980s and 90s, the conflict was characterized by a large degree of external influence, in particular Cold War dynamics and the Arab-Israeli conflict, as well as regional tensions. Only in 1972 were the parties able to sign the Addis Ababa Accord, granting the South significant autonomy – the closest independent Sudan has come to stability.

The current conflict began with the creation of the Southern People’s Liberation Movement/Army in 1983, following the issuance of a Republican Order in the same year effectively dissolving the Addis Ababa Accord. The result has been one of Africa’s most intractable civil conflicts, a large-scale humanitarian crisis, and significant regional instability. ⑥



A new constitution for Iraq – how federal?

BY JIM BEAULIEU

The concept that a constitution might include power sharing and protected revenue decentralization with local decisions made by local politicians is not being actively promoted in Iraq — yet.

To fulfill its agreement with the Iraqi Governing Council, the occupying Coalition Provisional Authority promised to hand over power to Iraqis by June 30, 2004. To do so, caucuses must be convened by May 31 in Iraq's 18 provinces to elect members of a Transitional National Assembly that will prepare a new constitution to govern the nation. In January, large demonstrations held by Iraqis demanded elections instead of the caucuses. A change in policy by the US then prompted UN Secretary-General Kofi Annan to send a team of UN experts to Iraq to investigate whether elections would be possible by the end of May.

After the question of elections has been sorted out, federalism could find a home in the new Iraqi constitution. But Iraq has experienced dictatorship for over 30 years and will not make the transition to democracy and to federalism easily. While the people of Iraq seem to want and will have to accept a democratic system, it is not certain that the people of Iraq will have the exposure to ideas nor the leadership to consider which form of federalism will serve the country best and which form will best avoid the political excesses of the past.

Iraq is a country of some 25 million persons divided by language differences, religious sects, tribal loyalties, and an uneven distribution of wealth. The use of force and fear has held this diversity in check. Political, military and economic power has been concentrated in one person, Saddam Hussein, and in the Ba'ath party that served him. This concentration of power suited the needs of a dictator who wanted to control rather than serve the people of Iraq.

Diversity within the population was accepted, even exploited, but seldom rewarded. Diversity in political action was not accepted and was punished severely. Saddam Hussein prohibited the sharing of political power because this was a threat to his centralist control.

Jim Beaulieu is a former Deputy Minister of Urban Affairs in the Province of Manitoba who has worked internationally in many countries as a development specialist in governance and public administration. He recently returned from a three-month work assignment with provincial and local councils in Najaf, Iraq.

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Tight control of wealth

Aside from military power, control of the country's wealth was a strong mechanism to maintain control. In the recent past approximately 90 per cent of all public expenditures in Iraq were funded from national oil revenues. These revenues were controlled in Baghdad and distributed to the provinces (governorates) through national ministries. This was a decentralized delivery system but all decisions were made in Baghdad. These decisions reflected the priorities and influences of Baghdad participants, except for the provincial delegations that were successful in influencing these decisions.

The concentration of power in Baghdad opened the door for corruption on a national scale with no accountability to provincial leaders and none to the citizens in any province.

In looking to the future of Iraq, federalism is being encouraged by many as one democratic method of sharing power and preventing the return of any dictatorial powers or, at least, any dictatorial abuses of power. Specifically, a federal constitution with appropriate checks and balances on all those who wield power is seen to be the answer to the future democratic needs of Iraq. Power shared and protected under a constitution in a federal state will serve the people well. And no doubt a strong presidential system will be seen to be a part of the solution, similar to what is arising from the ashes of war in Afghanistan.

The presidency: checks and balances?

The option of a centralist and presidential federal system has its merits. Iraq needs a strong central government to restore law and order, to manage national oil revenues, to deliver national services like health and transportation, and to maintain a unified state. Saddam Hussein pursued all of these national goals although the best interests of the people were not his highest priority. Self-interest rather than public interest guided the dictator in his quest of these national goals.

The new Iraqi constitution will presumably build in checks and balances on the use of presidential powers similar to those found in other presidential federal systems. And the new constitution is expected to provide some constitutional role for the existing 18 provinces. Since these provinces have little or no experience with direct taxation and no system to support it, oil revenue is likely to be distributed by Baghdad as the main source of revenue for the provinces. Baghdad – not the constitution – will direct the flow of oil revenues into the provinces.

However, this system would not serve the Iraqi people well because it would maintain one of the weaknesses of the

outgoing system of governance: the centralization of power through money in Baghdad. While a presidential federal system with checks and balances will improve upon the old system, it will not make real progress unless the power of money is shared with the provinces – and through them with the municipalities – through the constitution.

An effective, fiscally decentralized federal system in Iraq might include:

- a national elected government with national responsibilities such as health, defense, oil production, transportation, etc. with various checks and balances, especially civilian control of the armed forces;
- 18 democratically elected provincial governments to replace the 18 governorates used by the Saddam dictatorship under a centrally controlled and financed system; and
- a constitution that unconditionally allocates shares of national oil revenues to the provinces.

Money and authority to the provinces

Power sharing under a federal constitution will help distribute influence among a diverse population. Local power brokers already exist in religious groups and ethnic minorities. For decades most of these minorities and the populations they represented have been alienated from the power and finances of Baghdad, which were controlled by Saddam Hussein, the military and members of the Sunni minority.

An effective, decentralized federal system requires that powers and finances flow to provinces as a matter of right under the constitution rather than as a result of negotiations with the national government in Baghdad. Provinces would not only have the right to legislate in their area of responsibility but also to spend their constitutional share of national oil revenues on provincial priorities.

Local elections in the provinces will ensure a far greater degree of accountability for the expenditure of distributed shares of the national oil revenues. Local accountability increases the likelihood that local expenditure priorities will be the major consideration in all provincial programming. But local expenditures cannot depend on the whims of Baghdad.

Constitutional revenue sharing would create 18 power centres in Iraq that, in their limited provincial jurisdiction, would be beyond the power and influence of Baghdad and the national parliament. This would undoubtedly create 18 separate political power bases that reflect the diversity of peoples in Iraq. This could act as a counterweight to the dictatorial abuses of the past and it may lessen the current fears that those excluded from the power cabal in Baghdad might not be well served by government.

Empowering ethnic and religious communities

Kurds in the north could have provincial administrations that reflect Kurdish values and be governed by Kurdish leaders. The same could be provided to Sunnis in central Iraq and the Shiites in southern Iraq. The lines of delineation among the 18 provinces are not perfect but the presence of empowered provincial governments that reflect local ethnic and religious majorities holds the promise of lessening the tensions among these groups when they must collaborate at the national level on national problems.

Currently in Iraq, contractors being funded by Coalition Provisional Authority are attempting to assist provincial councils to acquire the governance skills for effective local administration. This assistance includes training, spending funds on essential infrastructure, job creation and establishing the electoral basis for democratic local government. Such assistance is provided under direction of the Coalition Provisional Authority and without any legal or constitutional authority other than the authority of the occupying forces.

The interim Provincial Governing Councils are appointed by the Coalition Provisional Authority and have no legislative, spending or taxing authority. They are essentially advisory in nature and must plead for resources and decisions by others.

There is no democratic accountability of the actions taken by either the Coalition Provisional Authority or the councils appointed by them. That accountability is promised in the future after the conduct of elections sometime in 2005.

The experiences being gained now by these governing (advisory) bodies are more frustrating than enlightening. The governing bodies are local and so are many of the daily problems. Complaints are received about daily interruptions in water and electricity supply, or the lack of jobs. Only Baghdad has the power to fix these problems.

But local citizens are becoming more comfortable with the notion of demanding improvements.

Caught in the middle are the appointed provincial “politicians” who are local, who want to perform and are expected to perform but who lack the tools of a province to act in a federal state. One way to make these “councils-in-waiting” more effective is to promise explicitly that decentralized power and constitutional revenue sharing will accompany provincial elections in 2005.

Lack of provincial capacity and continued central control?

One of the more frightening claims surfacing in Iraq is that provinces might not have the capability to carry out their full responsibilities under a decentralized federal system and that Baghdad must retain the centralist powers of the purse to accommodate an orderly transition. But this would be raising false hope insofar as central ministries and powerbrokers are likely to use this argument repeatedly to resist effective decentralization for years.

The only hope is that the 2005 elections and the new constitution recognize the power of decentralized finance in local governance. Provinces may make mistakes but these will be local, much smaller than the national mistakes, and more easily corrected by local leaders. Any weakness in provincial capabilities can be handled by transitional provisions in the constitution and continued support from Western nations in capacity building.

It is the sharing of money as well as electoral power within a decentralized federal constitution that can help create a democratic culture, which recognizes and draws upon the diversity within Iraqi communities. It is this distribution of power and money that will lessen any prospect of future abuses under a centralized national power in Baghdad.

This option needs to be presented to members of the Transitional National Assembly and, if accepted there, to the people of Iraq. ⑥



Briefs & Updates

States win a delay on a rule change by U.S. federal environment agency

A U.S. federal appeals court has temporarily barred a proposed new Environmental Protection Agency rule that would have allowed power plants to make repairs and additions without obeying Clean Air Act regulations (See *Federations*, Vol. 3 No. 4, Nov. 2003, "USA: States sue the federal environment agency"). The new rule, a part of the agency's program called the New Source Review, would have exempted any repairs or additions that did not cost more than 20 per cent of the replacement value of the "process unit". In its December 24, 2003 ruling, a panel of three judges issued a stay against part of the new regulation to prevent it from taking effect immediately. In a partial victory for industry, the court reiterated its earlier denial of stay on another section of the program to allow similar exemptions for other industrial plants such as pulp and paper mills, letting that part of the plan go forward.

Indian Prime Minister Vajpayee's party wins three state elections

Prime Minister Atal Bihari Vajpayee's party won three of five state elections held in November 2003. The Bharatiya Janata Party or BJP won the state elections in Chhattisgarh, Madhya Pradesh and Rajasthan with the campaign slogan "*Bijli, Sadak, Pani*" (electricity, roads, water). In the state of Mizoram, a local party, the Mizo National Front, ousted a Congress government. Only in the National Capital Territory of Delhi did the Congress Party capture control of the state assembly from the BJP.

Lula shuffles cabinet in Brazil

President Luiz Inácio Lula da Silva brought a key centre party, the Brazilian Democratic Party, into his cabinet in January. The centre-left Democratic Party has 77 members in the 513-seat lower house of Congress and has a majority in the Senate. Lula also shuffled his cabinet, creating two new ministerial posts and moving one-third of the existing cabinet ministers.

Canadian provinces move towards proportional representation

In the province of Prince Edward Island, electoral reform commissioner Norman Carruthers recommended in December that the province adopt a mixed member proportional (MMP) voting system similar to that used in New Zealand, with 21 of the 31 seats as single-member constituencies and 10 seats allocated according to party lists. In British Columbia, the BC Citizens' Assembly on Electoral Reform met twice in January, beginning a 12-month process which will end with a recommendation on a voting system for that province to go to a public referendum in 2005. In Ontario, Matthew Mendelsohn became that province's first Deputy Minister for Democratic Renewal on January 19. Mendelsohn, a political science professor at Queen's University in Kingston, Ontario, wrote an article in July 2003 calling for use of a citizens' forum and referendum process to institute a new voting system for Canada.

Swiss elections change "magic formula" for government

When the right-wing Swiss Peoples' Party gained 11 seats last fall in the 200-seat lower house of the Swiss parliament, it meant an end to a 43-year-old method of building Swiss coalition governments. The so-called "magic formula" for coalitions was changed to give the Swiss People's Party two seats – a gain of one – in the cabinet that includes the Social Democratic Party, the Christian Democratic Party, the Radical Democratic Party and the Swiss People's Party.

Commission to recommend changes to German federal system

By December 2004, the 32-member Commission of the Bundestag and the Bundesrat on the Modernization of the Federal System will present its final report and recommendations. The commission, composed of equal members of both houses of the German parliament, was set up by the German government in October 2003 and began meeting in November. The commission was asked in particular to examine the division of powers between the federal government and the *Länder*, the role of the *Länder* in the approval of federal legislation and the financial relationships between the *Länder* and the federal government. The conflict between the federal government and the *Länder* came to a head in the summer of 2002, when federal immigration legislation passed by one vote in the Bundestag in a controversial voting process that opposition politicians claimed was not legal. (6)

E R R A T A

Canada's Council of the Federation includes all provinces and territories

An item in the "Briefs and Updates" section of *Federations*, Vol 3. No. 4, erroneously stated that the new Council of the Federation did not include two Canadian provinces. All 10 provinces and all 3 territories are members of the Council of the Federation, which had its first meeting in British Columbia in late February.

Gordon DiGiacomo

In *Federations*, Vol. 3 No. 4, we omitted the biography of the author of the Viewpoint article, "Who should train the Canadian labour force?" on page 9. The author, Gordon DiGiacomo, is a consultant in human resources management and labour relations in Ottawa, Ontario.

Foreigners' right to vote in Swiss cantons

Victor Giordano, a journalist in Porrentruy, Switzerland, wrote to us to suggest that the article "Swiss cantons give foreigners the right to vote" in *Federations*, Vol. 3 No. 4, should have included the following: "Foreigners must be resident for 10 years in the canton of Jura before they get the right to vote. Two years ago, the citizens of Jura refused a proposal to modify that requirement."



Coming Events

The events listed below are organized by the Forum of Federations, usually in co-operation with one or more partner organizations.

Mar. 25-26, 2004	Constructing Tomorrow's Federalism – Regina, Canada. The conference will examine ways forward in Canadian intergovernmental relations that would better accommodate differences among regions, political cultures and identities in national politics, and encourage federal-provincial co-operation, with examples from the experiences of other federal countries. The Forum's partner and the conference host is the Saskatchewan Institute of Public Policy.		experiences with intergovernmental cooperation in developing and implementing sustainable urban transportation programs.
Mar. 30-31, 2004	The Challenges of Metropolitan Management in Federations – Brazil. The Forum will organize this event in Brasilia in co-operation with the Secretariat for Federative Affairs of the Ministry for Political Coordination of Brazil; Ministry of Cities of Brazil; Institute of Applied Economic Research; and Congress Commission on Urban Development.	Aug.- Sep. 2004	Youth Summer Session on Federalism 2004. The Forum, in partnership with the Institute of Federalism in Fribourg, Switzerland, is organizing its annual two-week comparative study and travel program in Switzerland and Bosnia-Herzegovina in 2004. Sixteen young professionals and scholars from around the world will be brought together to learn about federal governance.
April 2004	Study Tour in Canada. The Forum is co-ordinating a study tour of Canadian provinces for Nigerian state finance ministers to exchange skills in subnational debt management.	August 2004	Global Dialogue: International Roundtable – Melbourne, Australia: exploring Theme 3: Legislative and Executive Governance in Federal Democracies.
April 2004	National roundtable on Sub-national Debt Management – Abuja, Nigeria: a two-day event in Abuja with finance ministers of Nigerian states.	Sep. 2004-Feb. 2005	Youth International Internship Program 2004-2005. (to be confirmed - dependant on funding) The Forum is coordinating internships for Canadian citizens and landed immigrants to go to Belgium, Brazil, Germany, India, Nigeria, Philippines, South Africa, Sri Lanka, Switzerland and the United States of America through the Forum's partner organizations in those countries.
April 2004	Healthcare Reforms and Federal Governance: a Health Workshop – Mexico.	September 2004	Global Dialogues on Democracy and Diversity – Barcelona, Spain. This one-day international conference is being organized by the Forum and five Spanish institutions as part of the Universal Forum of Cultures 2004.
Apr.-May 2004	Global Dialogue: Country Roundtables in 12 countries exploring Theme 3: Legislative and Executive Governance in Federal Democracies.	Feb. 2005	International Conference on Federalism – Brussels, Belgium.
May-June 2004	Workshop on Intergovernmental Relations and Sustainable Urban Transportation Policy – Ottawa, Canada. The Forum of Federations, in partnership with Transport Canada, is organizing a one-day learning event that will examine international		

WHO SHOULD ATTEND?

People whose daily work is directly involved with the event topic. Please note that most Forum events have limited registration. See the web site www.forumfed.org and contact the appropriate Forum staff member for more information.