

Federations

What's new in federalism worldwide

Vol. 5, No. 1 / November 2005

THE END of Europe's federalist dream?



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The Forum of Federations is an independent organization that was initiated in Canada and is supported by many countries and governments.

The Forum is concerned with the contribution federalism makes and can make to the maintenance and construction of democratic societies and governments. It pursues this goal by

- **building international networks fostering the exchange of experience on federal governance,**
- **enhancing mutual learning and understanding among practitioners of federalism and**
- **disseminating knowledge and technical advice of interest to existing federations and of benefit to countries seeking to introduce federal elements into their governance structures and constitutions.**

The Forum of Federations

The name implies a meeting place for federal countries, where they can share and exchange ideas on matters of common interest. And the Forum does play that role. But it plays that role as an international non-governmental organization, which gives it the flexibility to work all over the world in a great variety of ways.

The Forum works with partners on the worldwide Global Dialogue project, a multi-year enterprise that is producing a series of unparalleled resources on comparative federalism, covering themes such as constitutional origins, division of powers and fiscal federalism. The Global Dialogue brings together scholars, researchers and seasoned practitioners. It has a worldwide range of activities, building from country workshops to global conferences.

The Forum also works intensively in a select group of countries, in collaboration with local partner organizations. Currently, these countries are India, Nigeria, Mexico and Brazil. The Forum has a vast international network of experts and practitioners. In these country programs and others, the Forum brings this international expertise to bear on the challenges each country confronts.

In countries where federalism could be part of a solution to conflicts between ethnic, religious and tribal groups, the Forum also offers its expertise and services. It has significant resources for programs in Sudan and Iraq. It also has been active in Sri Lanka and the Philippines.

The Forum also works with young practitioners and young academics in federal countries and elsewhere to help them create a worldwide network to exchange information and ideas on federal systems, and, in co-operation with other agencies and governments, to offer to youth opportunities for advancement in learning about federal practices and federal countries.

And the Forum produces a number of high-quality publications and multimedia products, all directed at busy practitioners and others, to make expertise and knowledge accessible and useful to a broad public worldwide.

Canada provided the impetus to get an organization such as the Forum off the ground. The Forum's inaugural world conference was held in Canada, at Mont Tremblant, Quebec, in 1999. That first conference led to the founding of the Forum as an ongoing institution, based in Ottawa. It also led to the International Conference of 2002, held in St. Gallen, Switzerland with participants from even more countries. The International Conference on Federalism 2005 took place in Brussels, Belgium, and the next conference will be hosted by India in New Delhi in 2007.

After the 2005 Conference, the Forum became even more international. Eight governments have now signed agreements with the Forum and they sit on the Forum's Strategic Council, supporting Forum activities and providing expertise. The governments of countries that have signed to support the Forum are Austria, Australia, Canada, India, Nigeria, Switzerland, Mexico and Ethiopia.

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Forum missions: Learning from each other in Iraq, Sudan and Europe

Before this issue of *Federations* went to press, Iraqi voters approved a new constitution. While 78 per cent of those who voted supported the new constitution, the majority of the Sunni community did not. The pre-referendum agreement to a further round of constitutional talks offers an important opportunity to engage the Sunni community and to address some of the deficiencies in the existing text. At the same time, Sudan was attempting to build a new federal government, bringing the rebels in the south and the government in the north into a new federal structure. And across Europe, the morning after the defeat of the European constitution in referendums in the Netherlands and in France has caused a sea change for the European Union.

Since the last issue of *Federations*, the Forum has been to Iraq to provide information and expertise on federal constitutions and on federal governance. In July 2005 Forum experts on federalism were invited to Baghdad to provide information on federalism and federal constitutions to the Iraqi parliamentarians and judges. For the first mission in early July, the Forum sent Rajeev Davan, an academic and lawyer practising at the Supreme Court of India, Spanish constitutional expert Violeta Almendral and Professor David Cameron of the University of Toronto to provide information on federal constitutions to the constitutional committee of the Transitional Iraqi National Assembly. In the second mission later that month, Forum President George Anderson and former Ontario Premier Bob Rae joined Swiss ambassador Tim Guldemann to provide information on many aspects of federal systems and federal governance to members of the Iraqi National Assembly.

To explain federal systems to those who are building them, a special issue of *Federations* on federalism and the politics of change has been published in Arabic and in English. This issue will go to people in all walks of life in Iraq and Sudan, where elected leaders and civil servants are at work trying to set up new federal governments.

In October, in Sudan, Forum President George Anderson and Peter Meekison (both former Canadian deputy ministers), accompanied by Forum consultant Tag Elkhazin (see the article he wrote with Paul Morton on page 3), gave

workshops on federalism, fiscal federalism, resource sharing and constitutional processes in Khartoum and Juba.

One of the largest projects in multi-level governance in modern times – the European Union – is now at a crossroads. After the “No” side won referendums on the European constitution in several countries, the European Union is pondering how to reshape its structure. You can read about the causes and the effects of this change in this issue's cover article by Philip Stephens, associate editor for the *Financial Times* (London).

There is much more in this issue, including three articles on federalism in the Philippines, all from different perspectives – a practitioner's page by the Speaker of the House, José de Venecia Jr, one by Sheila Coronel, the head of the Philippine Center for Investigative Journalism, and one by Abe Margallo, a Philippine lawyer and writer. There are articles on the intergovernmental failure in the US to respond to Hurricane Katrina, an article on how federal countries choose their governments, and one on how federal countries select High Court judges. There is an article on the different ways of organizing federal capitals – some have become provinces, states or *Länder* in and of themselves; some are part of another unit and others are federal districts.

In this issue, we bid a fond farewell to Karl Nerenberg, the former Director of Public Information at the Forum and the founding editor of *Federations* magazine. After five years at the Forum, Karl has left us to take on a director's position at another organization.

We encourage you to make use of Forum's online library. There are more than 800 useful documents relating to federalism that you can download free of charge. Just go to Forum's website: www.forumfed.org.

If you have any difficulty using this resource, please let us know by writing:

stieren@forumfed.org

We also welcome your comments or suggestions about anything in these pages, at the email address above or the co-ordinates below. ⑥

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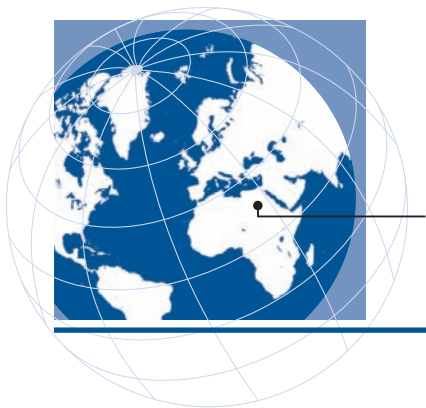
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Sudan's new peace: will a federal union work?

BY PAUL MORTON AND TAG ELKHAZIN

After over 20 years of civil war, peace is coming to Sudan, the largest country in Africa. The peace agreement of January 2005 was followed in August by an opening of parliament with deputies from both the government and the southern rebels. And Sudan now has a form of federal government that grants significant autonomy to the South. The agreement formally ended Africa's longest-running civil war, one which took up to two million lives.

The civil war between the mainly Muslim government in Khartoum in the North, and the largely Christian and Animist South has ended and a national unity government sworn in. Lam Akol, a member of the Southern rebel group, has been named foreign minister. However, the peace between the Sudan People's Liberation Movement (SPLM) and the North does not cover the conflict in Darfur in the west of Sudan, where 180,000 people have lost their lives over the past two years. A peace agreement that was signed by the government and two Darfur rebel groups in April has not held, and fighting there continues. The crisis in Darfur remains the single largest threat to stability in Sudan.

The power-sharing agreement between the government of Sudan and the main rebel group survived the tragic death of former SPLM leader John Garang in a helicopter crash in July. Since the signing of the agreement, a number of difficult issues — including the crisis in Darfur — have tempered the optimism of those early days. The death of Garang, who had just been appointed first vice president, created an added element of uncertainty to Sudan's already uncertain near future.

The long-sought agreement

Implementation of the agreement has progressed, if slowly, since its signing in January. A constitution to govern the six-year interim period was recently drafted, and then approved by the Parliament. Its provisions codify the various protocols agreed to throughout the nine-year peace negotiations. The negotiations were organized by a group of East African countries who formed a group called the Intergovernmental Authority on Development or IGAD. The group, which includes Djibouti, Eritrea, Ethiopia, Kenya, Somalia, Sudan and

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Tag Elkhazin is an advisor to the Forum of Federations on issues in the Horn of Africa.



SPLM's Selva Kiir (l.) and the late John Garang



Sudan's President Omar al-Bashir

Uganda, has also been sponsoring peace negotiations and a parliament-in-exile for Somalia.

The constitution agreed to by both sides has combined an asymmetrical federal structure granting significant autonomy to the new regional government of South Sudan, with power shared at the centre between the ruling National Congress Party and the South Sudan People's Liberation Movement or SPLM. Underlying all of these arrangements is a referendum on Southern independence in six years.

The peace agreement, which includes the multiple protocols of the peace process, is quite detailed in its account of wealth sharing, power sharing, security arrangements and a number of disputed areas.

On the political side:

- representation within national institutions is divided between the National Congress Party and the SPLM;
- seats in parliament have been allocated: 52 per cent for the National Congress Party, 28 per cent for the SPLM, 6 per cent for other Southern parties, and 14 per cent for those in the North;
- a Council of States will be created as a new upper house;
- several commissions on the implementation of the agreement have been created.

On the economic side:

- a single national currency will be created, with two central banks for the North and the South;
- oil revenues will be shared equally, with a small percentage allocated to producing areas.

Security protocols lay out in even greater detail arrangements exclusively between the National Congress Party and the SPLM.

Progress in the implementation of the peace agreement faces several major challenges. One that was carried over from the peace negotiations themselves is the serious lack

of broad-based participation in the peace process. Neither the National Congress Party nor the SPLM represents all concerned parties in North or South Sudan. Neither the peace agreement nor the new constitution allows for much outside influence beyond the two signatories. Since January, there has been no sign that either party is keen to change this. The National Constitutional Review Commission either failed to include most opposition groups in the drafting of the constitution, or included them very late in the process.

The government of Sudan and one of the opposition groups, the National Democratic Alliance, struggled for several months and finally reached an agreement on participation of the Alliance in the upcoming national unity government and the Interim National Assembly. The negotiations reached a breakthrough on November 4, 2005. The main force within the Alliance, the Democratic Unionist Party, had previously signed a unilateral agreement with the government of Sudan; thus leaving the rest of the Alliance coalition parties out in the cold. The rebel groups of east Sudan, who are based in and supported by Eritrea, are in an on-and-off process of negotiations with the government of Sudan. The usual prerequisites for negotiating in good faith and giving a negotiated agreement a good chance, such as cease fire, de-escalation of cessation of hostilities, have not been agreed upon. Several supporters of the rebels are still detained by the government of Sudan.

In South Sudan, the SPLM has made very little progress in negotiations with government-aligned militias such as the South Sudan Defence Forces, though the intentions from both sides and the level of trust have improved since the death of Dr. Garang.

This marginalization is also at the root of the crisis in Darfur, and in the emerging conflict in Eastern Sudan. In both cases, rebel groups seek a voice in determining their future, not independence. To address these concerns satisfactorily, the political process in Sudan must move beyond the two-party system currently in place.

The only sure way to include Darfur and the East in the national political process would be to create political space for the rebels in those regions. While the rebels are demanding a far-reaching devolution of power for their regions and an equitable share of power and wealth federally, the government of Sudan thinks otherwise. The government offers on the table are falling far short of the rebels' minimum expectations. The expectations of rebel groups for their participation (or as some have called it, payback for armed struggle) were set at high levels by IGAD-sponsored talks between the North and South and the resultant protocols and Implementation Agreement.

The rebels of Darfur have realized the need for political institutionalization and are working to fill that role. Their aim is to become a national political party. For any political party active in Sudan now to become truly national, a paradigm shift needs to take place — a shift

away from secularism, political Islam, regionalism and tribalism. The old alliances of West Sudan with the Umma Party and East Sudan with the National Democratic Alliance and its Democratic Unionist Party are not adequate and might no longer hold now that the people in these two regions have taken up arms to protest against social and political injustice.

Once the rebel groups outside the agreement are brought into it, the next challenge is how to provide the means necessary to carry out the agreement. Securing a deal between the government and the SPLM did not come easily. As a result, the terms of the agreement created a complex governance structure, with South Sudan acting as a federation within the national framework, which was also federal in nature. Relations among these three tiers of government (the national government, the government of South Sudan and the state governments) will require a great deal of coordination and negotiation. Perhaps more daunting than the implementation of the terms of the agreement is the resolution of issues on which the agreement is silent. Many issues remain unresolved in every area of the agreement, with little clarity on how conflicts or disputes can be addressed effectively.

A bumpy beginning

The death of recently sworn-in first vice president John Garang on July 30, 2005, shook the country to its core. While the SPLM moved quickly to name a successor, the violence in a number of cities following news of the helicopter crash demonstrated just how unprepared the government was for such an eventuality.

The removal of John Garang from the post-agreement phase led to fears of the process being derailed. Salva Kiir, his successor, is a life-long soldier, and does not carry nearly the political or diplomatic clout of Dr. Garang. Garang had carried the hopes of the South Sudanese for a generation, and had played a pivotal role in reaching an agreement to end the war. His ability to keep the SPLM together while convincing both the North and the South of the need for a new, united Sudan also made him seemingly indispensable in giving the interim period a chance for success.

Initial indications suggest, however, that the change in SPLM leadership may not spell disaster. Salva Kiir is widely seen as more democratic than Garang, and may have some success in addressing grievances and divisions within the SPLM and the South more generally. Beyond the challenges within the organization, Garang's death opened the door for a period of uncertainty that could be exploited. Salva Kiir's quick action in calling an emergency meeting to name a successor and emphasizing renewed commitment to the agreement was an important step in minimizing this risk. Significant challenges remain in the months ahead, but there is also the opportunity for the SPLM to make quicker progress in its transition from a guerilla army to a broader-based political party. ☺



How federal countries appoint high court judges

Federal countries come to terms with geography and politics in naming judges

BY ANNE TWOMEY

By the end of the year, four new judges will be sworn in to serve on the highest courts of Australia, United States and Canada to replace justices Michael McHugh, William Rehnquist, Sandra Day O'Connor and John Major. All three countries are federal countries with a common legal heritage. In each case the appointed judge will adjudicate upon constitutional disputes between the federal government and those of the states or provinces. To what extent do federal interests affect the appointment of these new judges?

Australia – the least “federal” appointment system

A woman from Victoria who was a justice of the Federal Court of Australia was recently chosen as the new justice of the High Court. On September 20, Australia's attorney general, Philip Ruddock, announced the appointment of Susan Crennan, 60, effective on November 1.

In Australia the Constitution requires the Governor-General in Council to appoint justices of the High Court on the advice of the federal attorney general, who puts forward the recommendation of the federal cabinet. The power to choose a justice of the High Court is therefore, in practice, vested in the federal government. The states have no constitutional role in the appointment of High Court justices.

Federal governments, when recommending appointees, have tended to favour judges who support an expansive interpretation of federal legislative and executive power under the Constitution. Unlike the United States, there is no formal confirmation process at which such views can be elicited and it is considered bad form for a federal attorney general to ask a potential judge about his or her views on legal or constitutional matters. In 1913, the prime minister sent a telegram to prospective High Court judge A.B. Piddington, asking his views on Commonwealth versus state rights. Piddington replied by telegram that he was “in sympathy with supremacy of Commonwealth powers”. He was subsequently appointed to the High Court, but resigned shortly afterwards due to the public controversy concerning his reply and the suggestion that he had compromised his independence.

Nonetheless, it is relatively easy for the federal government to identify judges who, through their academic writing or judgments, show that they are sympathetic to the federal government's views. The states, however, have had no power to influence appointments in the other direction. In

1973 and in 1985, there were proposals to give the state governments power in the appointment of High Court justices. Both suggestions were rejected.

The only concession made in favour of state interests in High Court appointments occurred in 1979 with the enactment of section 6 of the *High Court of Australia Act*. It requires the federal attorney general to consult with the attorneys general of the states prior to recommending an appointment to the High Court. From all reports the consultation is haphazard and varies in its nature according to the inclination of the federal attorney general. Even if the consultation process does influence the recommendation of the federal attorney general, his or her recommendation can be, and has been in the past, overturned by the cabinet.

Unlike Canada, there is no custom of appointments being reserved for candidates from particular states. On the current High Court, five of the seven justices come from New South Wales; of the remaining two judges, one is from Victoria, the other from Queensland. This domination of the High Court by New South Wales lawyers is not unusual. In the history of the High Court, twenty-four justices have been appointed from New South Wales, twelve from Victoria, six from Queensland, two from Western Australia; none has ever been appointed from South Australia, Tasmania or the Territories. This is largely a reflection of the fact that High Court justices are drawn from the ranks of existing judges or barristers, and that the Sydney bar is the biggest and most competitive in the country. Apart from any bias in the way the federal government makes its appointments, barristers from Sydney would always be more likely to have a centralist focus than would barristers from the more far-flung states.

United States – A Senate role

In July 2005, President George W. Bush nominated John Roberts to replace Sandra Day O'Connor on the US Supreme Court. But when Chief Justice William Rehnquist died on September 3, Bush withdrew his nomination of Roberts as O'Connor's successor and re-introduced him as the nominee for Chief Justice. The US Senate confirmed Roberts' appointment on September 29, 2005. Senators voted 78 to 22 to appoint Roberts, with only 22 Democrats opposed. But early in October, when Bush then nominated his White House counsel, Harriet Miers, to replace Sandra Day O'Connor, many Republicans opposed her nomination (she had never been a judge) while many Democrats supported her (her politics were seen as moderate).

Because the US president appoints Supreme Court justices with the advice and consent of the Senate and because the Senate can interview nominees, the process can sometimes become highly politicized. The Senate, composed of two

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senators from each state, is a federally influenced body. The process of confirmation hearings before the Senate's judiciary committee makes it possible to question judicial nominees about their views on federal versus state rights. However, in reality, the process is more politically partisan than federal in nature, and in recent years the focus has been on attitudes to human rights rather than states' rights. The geographic balance — or lack of it — among members of the Supreme Court does not appear to have had a great impact on the Supreme Court's interpretation of federal issues.

Canada – the federalism of geography

The Canadian approach to the appointment of Supreme Court justices has a much stronger sense of federalism, at least in its geographic sense. As in Australia, the Governor-General, on the advice of ministers, appoints justices. Section 6 of the *Supreme Court Act*, however, requires that at least three of the nine justices appointed be judges or advocates from Quebec. In Quebec, civil law has been regulated by the *Code Civil* — not English common law — since 1774. The Criminal Code of Canada provides a uniform criminal law across all provinces. However, civil law in Quebec is regulated by Quebec's *Code Civil* rather than by the English common law that prevails in the other provinces. The major reason for requiring three Quebec justices in the Supreme Court is to cope with appeals from Quebec in its civil law cases, which to justices outside Quebec will be unfamiliar. By convention rather than law, three justices come from Ontario, two from the Western provinces and one from the Atlantic provinces. Accordingly, when a vacancy arises, convention or law requires that the justice who fills the position come from the geographic area or province of the vacating justice.

This geographic requirement influences the consultation process prior to appointment, with the federal attorney general consulting with the attorney(s) general of the relevant region as well as the chief justices of its courts and representatives of advocates in that region.

Does this appointment of justices from a wider geographic range influence whether they support a strong federal government and Parliament, or whether they support provincial rights? While perhaps judges from provinces more distant from the heart of federal government may be more inclined to see the value of provincial rights, this will not always be the case.

The provinces would be in a much stronger position if they could control the nomination list from which judicial candidates were drawn. Such a proposal formed part of two failed constitutional amendments — the Meech Lake and Charlottetown accords — both of which would have required the federal government to make appointments from lists submitted by the relevant provincial governments.

In 2004 the Bloc Québécois proposed to the House Standing Committee on Justice and Human Rights that the relevant provincial government draws up the initial list of candidates. This short list would be presented to an advisory committee, which would then select the final nominee from among the candidates. This suggestion was rejected by the federal government, which supported the idea of an advisory committee to reduce an initial

Appointment of justices in other federal systems

Federal involvement in the appointment of judges of constitutional courts is most obvious in Germany, where the *Bundesrat* appoints half the judges to the Federal Constitutional Court — the *Bundesverfassungsgericht* — and the *Bundestag* appoints the other half. The *Bundesrat* is supported by an advisory commission, composed of the ministers for justice of the *Länder*, which provides a short list of candidates. The members of the advisory commission also agree informally on a form of geographic distribution of appointments.

In Austria, the federal president appoints most members of the Constitutional Court (the president, vice president, six members and three substitutes) on the recommendation of the federal government, as well as three members and two substitutes from the nominations made by the popularly elected house, the *Nationalrat*. The inclusion of a federal element comes through the appointment of three members and one substitute from the nominations made by the *Bundesrat*. It also arises through the requirement that three members of the Court and two substitute members have their domicile out of Vienna.

In other countries, such as South Africa, the federal element appears through representation of the provinces or states in a judicial services commission that advises on appointments or prepares short lists from which appointments must be made. Even the United Kingdom — by no means a federal country — has in its proposal for a Supreme Court included representation from England and Wales, Scotland and Northern Ireland in its proposed Judicial Appointments Commission.

candidate list to a short list of three, but wanted to ensure that the federal attorney general had control over the initial list and could make the final choice from the short list. The federal government proposed that provincial involvement be secured by consultation with the provincial attorney(s) general over the initial list and representation of the provinces on the advisory committee. The Standing Committee expressed its disappointment with the proposed system in April. The proposed system, with some modifications including the ability of private citizens to make input, was announced by Justice Minister Irving Cotler on August 8, 2005. There is to be an advisory committee that will evaluate the list of candidates proposed by the minister of justice after consultation with provincial justice ministers. That committee will be composed of one member of Parliament from each political party in parliament, a retired judge and, from the region where the Supreme Court vacancy arises, a nominee of the provincial attorney(s) general, a nominee of the law societies and two prominent Canadians who are neither lawyers nor judges. ⑥



Europe's rude awakening from a federalist dream

The EU after its Constitution's defeat in France and the Netherlands

BY PHILIP STEPHENS

The rejection of the European Union's new constitutional treaty by the voters of France and the Netherlands has cast a cloud over Europe. There has been a profound shift in the geopolitical realities of the continent — a rude awakening from a federalist dream born half a century ago in the Sicilian town of Messina, where the European Union got its start. The roots of the rejection lie in the new face of the European Union, with 25 — soon to be 27 — member states whose electorates no longer automatically agree with the leaders in Paris and Berlin.

Ratification of the treaty has been suspended; few believe that it can be revived despite its endorsement by Germany and several other European Union states. The absence of strong political leadership in France and Germany and justified doubts over Britain's commitment to the process of integration have deepened the political uncertainties about the future direction of the Union.

Yet the treaty that French and Dutch voters rejected was by no means a blueprint for a federal European state. Former French president Valéry Giscard D'Estaing, who chaired the convention that drew up the document, liked to compare its proceedings with those held in drafting the American Constitution in Philadelphia, Pennsylvania, in 1787. But the very title of the European document, "A Treaty establishing a Constitution for Europe", speaks to the ambiguity of its ambitions. Though some would certainly like to have seen it become another pillar in the construction of a United States of Europe, it was much more an agreement between sovereign states. It was designed to consolidate existing treaties and to streamline its voting procedures and administrative operations following the admission in 2004 of 10 new members, mostly in central and Eastern Europe.

One union ... divisible?

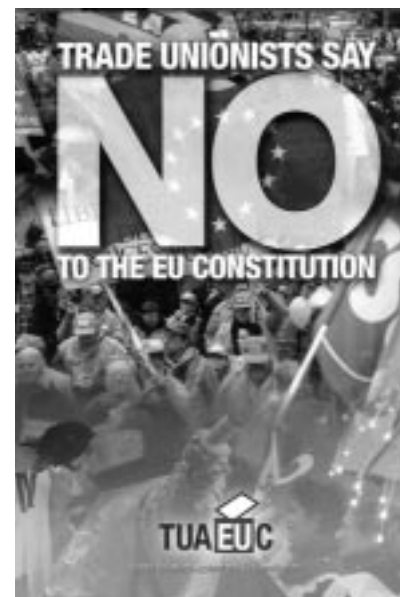
John (Lord) Kerr, the former British diplomat who served as secretary to the convention, was more realistic than his French political colleague about the treaty's purpose. The Philadelphia Constitution, he pointed out, came into effect when Rhode Island became the ninth of the former 13 colonies to accept it. Once created, the new American Republic was indissoluble. In comparison, the European Union's treaty could enter into force only if and when it was ratified by all 25 member states. It also confirmed and

codified the absolute right of each of the signatories to withdraw at any point.

Federalists could point to elements in the treaty that seemed to enhance the authority of the Union vis-à-vis its members. The new post of a European president was designed to give shape and impetus to the deliberations of the European Council. A

European foreign minister — also part of the treaty — might likewise have injected greater coherence into the Union's common foreign and security policies. The treaty also proposed a modest extension of qualified majority voting, stating that a measure could pass with a majority of member states representing three-fifths of the population of the EU.

For all that, the treaty would have confirmed and entrenched the essentially hybrid nature of the Union. It also would have reflected a shift in power towards the member states through an enhanced role for the European Council — the assembly of the heads of state or government of EU members. More fundamentally, the treaty defined the Union not through its institutions but with reference to its purposes and powers. The limits on its authority are thus carefully delineated. In this, the European Commission — the Brussels executive, which during the 1980s under the presidency of Jacques Delors had been the motor of greater integration and the extension of the Union's laws — was the big loser. The Commission, lacking strong political leadership, its proceedings made more cumbersome by enlargement, has become more a creature of governments. It is no longer a driver towards the ever closer union of the peoples of Europe envisaged by Jean Monnet and the other founding fathers. The European parliament likewise has failed to garner among electorates the political authority that might have given it a pivotal role in a federal system.



Philip Stephens is associate editor of the *Financial Times* and senior commentator. He is the author of *Politics and the Pound* and *Tony Blair, a biography of the British prime minister*. He is based in London.

An Anglo-Saxon plot?

This lack of integrationist ambition in the document was cited by many of the French socialists who opposed the treaty, and it undoubtedly played a part in the treaty's rejection in France's referendum. Leaders of the No vote on the left cast the proposals as an Anglo-Saxon plot, designed at once to import into continental Europe the free-market capitalism of the US and Britain and thus weaken the European model of a social market economy. According to this line of reasoning, Britain's Tony Blair had won the argument against greater harmonisation of economic and tax policies, which would have entrenched the European social market economy.

The No votes in France and the Netherlands, however, also spoke to a deeper political malaise. In part this represented the desire of voters to voice discontent unconnected with the direction of the Union. In France, in particular, the referendum provided an opportunity to protest national economic policies, which have seen unemployment stuck at above 10 per cent for more than a decade. Voters took the chance to punish Jacques Chirac's administration. But it was clear also that the electorates in both countries had fallen out of love with the Union.

The issue that united opponents of the treaty in the two countries was enlargement. In the Netherlands, opposition to the proposed opening of entry negotiations with Turkey mounted due to fears that the advance of a more militant Islam would threaten Dutch liberal traditions. In France, the actual and prospective expansion of the Union translated into a realization that Europe was no longer a French creation. For most of the 50 years since Messina, the prevailing assumption in France had been that Europe was an extension of the nation's domestic interests. More Europe meant more France. That proposition had been challenged by a tilt in the balance of power between Paris and Berlin following German reunification. It was overturned by the admission of 10 new member states to the Union in 2004.

In this respect, the voters in France and the Netherlands sensed what their political leaders knew but had refused to admit publicly: that the fall in the Berlin Wall and the expansion of the Union to the east had fundamentally changed the political geometry of Europe. The Europe built by the founding fathers had defined itself in opposition to the Soviet-led communist bloc. Even after the Union's successive enlargements to nine, twelve and fifteen, the Franco — German alliance provided a consistent federalist impulse. The new Europe emerging during the 1990s demanded a fresh vision embracing the unification of the continent. But even as they embraced the entry of new members, the Union's leaders largely ignored the strategic consequences.

Was Maastricht the high-water mark?

In retrospect, the 1991 Maastricht Treaty can be seen as the high-water mark of federalist ambition. The deal between Germany's Helmut Kohl and France's François Mitterrand to create a single currency marked a major step towards European unity. But it was lopsided. Economic union was never followed by the promised political union. The

"pillared" structure created by the treaty reserved sensitive policy areas, such as foreign affairs and immigration, for governments while maintaining the requirement for unanimity in decisions over taxation. By the time the subsequent treaties of Amsterdam and Nice were agreed, this "intergovernmentalism" had been entrenched and the impetus towards a more explicitly federal structure had been lost to the uncertain consequences of enlargement. Crucially, it had also become apparent that the Franco—German alliance, the motor of integration for more than three decades, was no longer powerful enough in itself to set Europe's direction.

The euro, finally created in 1999, might have provided new momentum. Many believed that the creation of the single currency would reinvigorate sluggish European economies and act as a driver for reform. Thus far the experience has been otherwise. The continent's largest economies have been mired in sluggish growth, unemployment has remained high and budget deficits have widened. The eurozone's Stability and Growth Pact, which enshrines the budgetary constraints thought vital to allow the new European central bank to pursue an expansionary monetary policy, has all but disintegrated. Some Italian politicians have raised questions about that country's future as a member in the pact. Britain has postponed indefinitely any decision to join.

"Old Europe" vs "New Europe"

The fracturing of political cohesion foreshadowed by enlargement was apparent in the approach to the 2003 Iraq war. Britain led a coalition of central Eastern European states (and Italy, which broke with France and Germany) to back the US decision to remove Saddam Hussein. Donald Rumsfeld's rhetorical division of the continent into "Old" and "New" started life as a throwaway remark. But over time it has become an enduring description of Europe's present disarray. Nothing has been found to replace the Franco—German motor as a driver of integration. Old rivalries and more recent disagreements between the French and British governments have thwarted efforts to create an alternative engine of co-operation among the Union's three biggest nations. Political weakness in Paris and Berlin has compounded the sense of drift.

It is too early to say when the Union will emerge from this fractious limbo; or to predict with any certainty its future political dynamic. September's elections in Germany may change things. But thus far the vacuum left by the treaty's demise has been filled by acrimony and recrimination. For the foreseeable future, the Union will operate under the voting and procedural arrangements of the Nice Treaty, a recipe for increasingly cumbersome decision-making. Among the six founding members, there are some who believe that this may be the moment to revive Monnet's dream by creating a "core" Europe with essentially federalist structures within the looser framework of the Union. There are precious few signs, though, of political leadership equal to such a task, or of any appetite among electorates for such a project. More likely, the Union will, for the time being, muddle along, stranded still between the nation state and the federal ambitions of its founders. ⑥

Iraqi voters approve new Constitution

On October 15, 2005, the majority of Iraqis voted to adopt a constitution – and a federal government structure. An impressive 63 per cent of Iraq's 9.8 million voters participated in the country's referendum, which received 78 per cent approval, with only 21 per cent of the population against the proposal.

Results of the vote clearly fell along ethnic lines: those who approved the constitution were largely Shia and Kurds; those opposed were mainly Sunni Arabs. Sunnis voted against the constitution in large numbers in two provinces, Salahuddin (82 per cent) and Anbar (97 per cent). However, in order to block the constitution, a two-thirds vote against the constitution was required in three provinces. The majority yes vote came largely from provinces with Shia and Kurd populations, with a staggering majority (99 per cent in one Kurdish province) in favour of a federal structure. In an effort to address Sunni concerns and gain support for the referendum, the Iraqi Parliament on October 11 approved a mechanism that will allow revisions to be made to the Constitution in 2006.

The constitution grants a high level of autonomy to the provinces, giving them exclusive access to future oil fields (current oil production is shared among all provinces), many of which are located in Shia and Kurd regions. Under

the constitution, provinces are allowed to join together to develop regional security forces. Sunnis fear that the constitution will divide Iraq into a Kurdish north and Shia south, thus excluding centralized Sunnis from Iraq's lucrative oil production; they also worry that the Shia area in the south will come under the influence of Iran.

Sunni voter turnout: a step toward democracy?

Despite strong Sunni rejection of the constitution, some observers view the referendum optimistically. In January 2005, Sunni Iraqis boycotted the transitional assembly elections, so their participation in this vote is seen as a step towards democracy in Iraq.

Hope that Sunnis will be drawn into the political process (and away from violent protest) is strengthened by the news that three Sunni parties have formed a coalition in anticipation of the upcoming December election in which Iraqis will choose the country's first full-term parliament. In forming this alliance, the Iraqi Peoples Gathering, the Iraqi Islamic Party and the Iraqi National Dialogue aim to increase Sunni representation in the new National Assembly, representation that is currently lacking in the transitional government due to the previous election boycott by Sunnis. 6

Canadian province says no to sharia law

Would sharia law contradict Charter of Rights and Freedoms?

Dalton McGuinty, premier of the Canadian province of Ontario, has rejected suggestions that Islamic *sharia* law should be used as a legal mediation process for family disputes in the province. He expressed concern that religious family courts could "threaten our common ground."

According to *sharia* law, spousal support for divorced women ceases after three months while men receive most of the couple's assets and custody of any children.

Faith-based tribunals have been acting in Ontario since 1991, when the provincial Arbitration Act gave religious leaders the authority to mediate civil issues, such as divorce, inheritance, property disputes and child custody.

In 2003, however, the Canadian Society of Muslims called for a formalized tribunal wherein legally binding decisions could be made based on the law of the Islamic faith. This drew attention from critics who feel that *sharia* law

contravenes Canada's charter of rights and freedoms, and from those who worried how the law would be interpreted in Canada.

Proponents of a legalized family court operating under *sharia* law stress that participation in religious arbitration is voluntary and that both men and women are able to appeal decisions in civil court.

Former attorney-general Marion Boyd was commissioned by the Ontario government to review the Arbitration Act. She found no evidence of discrimination against women in faith-based arbitration. However, in response to accusations of discrimination, McGuinty vowed to ban any form of religious arbitration; as a result, existing Catholic and Jewish-based courts will no longer be allowed in the province.

If the proposition had been accepted, Ontario would have been the first Western government to recognize *sharia* law. 6

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How did intergovernmental relations fail in the USA after Hurricane Katrina?

BY DEIL S. WRIGHT

On August 29, 2005, Louisiana Governor Kathleen Blanco and Michael Brown, head of the Federal Emergency Management Agency (FEMA), stood side-by-side at a press conference shortly after Hurricane Katrina made landfall on the Gulf Coast of Louisiana and Mississippi. They praised and complimented each other for intergovernmental co-operation in responding to the massive storm.

Twenty-four hours later, most of New Orleans was flooded with three to four metres of water and 80 per cent of the city's population had evacuated. There were 100,000 people without transportation left in the city, and thousands — nearly all African-Americans — were in the city's Convention Center and Superdome, and looting and violence had started.

From harmony to discord

New Orleans Mayor Ray Nagin and Governor Blanco were now criticizing, even cursing, not only FEMA but the Department of Homeland Security and President Bush. They blasted the delays and disorganization of FEMA, Homeland Security and others for failure to aid beleaguered citizens and state/local personnel in New Orleans and the Gulf Coast.

What explains this sudden reversal in intergovernmental relations? Why the dramatic turnabout from commendations to condemnations in the span of one day? The exploding scope of the disaster pushed citizens' and officials' frayed nerves beyond limits. But a host of other factors — political, social, racial, economic, administrative and especially intergovernmental — sent intergovernmental relations on the Gulf Coast into a downward spiral of recriminations and helped turn a disaster into a catastrophe.

The scale of the catastrophe

To the one million displaced and dispersed Gulf Coast residents, as well as to millions of others aiding recovery efforts, Hurricane Katrina was a catastrophe. Catastrophes reveal the worst and best of human nature. Some people loot while others lend support, and both of these took place in New Orleans. Some lean toward despair fostering anarchy while others respond to challenges with creativity. In the midst of this, the mayor's core group of 15 people had to relocate to a Hyatt Hotel and scavenge makeshift

communications systems after their land lines, cell phones, and police radios all failed. Hurricane Katrina unleashed a catastrophe of unprecedented proportions.

How did local, state and national officials respond? In the nation's capital, on Thursday, September 1, 2005, FEMA Director Brown claimed to be unaware of TV broadcasts showing thousands massed in the Convention Center. While Houston, Texas, took half of the evacuees, cities and states all across the nation offered to host evacuees. More than 500 miles northward, Iowa, for example, set up a shelter for 1,000 persons. The response from different levels of government was mixed. Their responses (and non-responses) turned a manageable disaster into a catastrophe.

Intergovernmental relations in the USA

It is premature to pass final judgment on the leaders of local, state and national agencies. A search for "guilty" officials is itself a highly contentious issue. We cannot capture the full array of events, actions and communications that occurred — or lapsed — among officials in positions of authority before, during and after Katrina. We gain a better understanding, however, of the Gulf Shore's catastrophe by stating a fundamental proposition of how intergovernmental relations work in America. These relations produce complexities and autonomy that tilt the American system of governance toward devolution, deference and delay. In emergencies, local officials are first responders and state actors are secondary, while national agencies provide "last resort" resources. Public officials favour caution over action. Politicians and career administrators live with risk and uncertainly rather than actively searching for certainty.

There are more than 87,000 units of local governments in the USA plus 50 state governments and the national government. Virtually all have significant powers to tax and spend almost as they wish. More importantly, there are nearly 500,000 popularly elected local and state officials possessing authority to advocate on behalf of "their citizens". Is it any wonder that the American intergovernmental relations are often described as operating under "mild chaos"? The tragedy of the Katrina catastrophe is that political will and managerial skill failed to overcome the bias that intergovernmental relations have toward chaos.



Buses left unused during New Orleans evacuations, after miscommunication between State Government and FEMA.

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FEMA was intended to be a disaster-response arrangement that would bypass the “mild chaos” tendency of American intergovernmental relations. But that did not happen. Disaster-response arrangements require unified authority or tight co-ordination. Such tight co-ordination can provide energetic, focussed, timely action, and a marshalling of all available resources for the job at hand. This was not the response that was made to Katrina. Was it a flaw in the structures or failure of individual politicians and civil servants that caused this breakdown?

With important exceptions, elected officials at all levels let their “public human nature” run its course of belated and modest responses. But a federal system poses an extra risk. In a book on homeland security and American politics, Donald Kettl observes that “the richly textured system of federalism contains powerful incentives for fragmentation and in the absence of an overpowering force to bridge the cracks in the intergovernmental system those cracks . . . [could] undermine the nation’s emergency preparedness.” The breaks in the levies around New Orleans were literal as well as figurative “cracks” in intergovernmental relations.

Breakdowns on the path to catastrophe

Why did the virtual cracks in American intergovernmental relations go unrepaired in the spiral from a clear hurricane threat to the impending disaster and resulting catastrophe? The fundamental features and numerous nuances of relations among governments in the USA are only the necessary conditions, not the sufficient causes of the Gulf Coast chaos.

Most of the time, governments co-operate haltingly but effectively in the provision of public goods and services to nearly 300 million American “customers”. Why the faulty and fatal breakdown with Katrina?

In the absence of an official report similar to the *9/11 Commission Report*, definitive causes are tentative and speculative. And like the 9/11 Commission itself, creating an investigative entity is controversial. It is possible, however, to draw on the 9/11 Commission’s analysis to identify the leading factors contributing to the Gulf Coast chaos and catastrophe. The Commission identified these as

1. lack of imagination
2. misplaced policy priorities
3. inadequate capacity
4. ineffective management

A PhD thesis could be written about each of these topics. We are restricted to one or two explanatory sentences.

Imagination involves the likelihood and the gravity of the threat in terms of security. Prior intense hurricanes and floods had occurred and, despite the Katrina warning, too many officials in too many formal positions paid too little attention to imagining that chaos and catastrophe could ensue.

Policy can be represented by one example — FEMA. FEMA was absorbed in the Department of Homeland Security and downgraded in status and resources; it operated in the policy shadows of an anti-terrorism policy emphasis. Its leader lacked any semblance of disaster management experience, and has recently resigned. Were there also, as most African-Americans and a number of other critics believe, misguided policy priorities because of racial and economic factors? Did the fact that most of the remaining residents trapped in the

city were poor and African-American contribute to the slow evacuation and rescue efforts?

Capacity, in a few words, reflects the ability to fulfill a mission. The 9/11 Commission’s assertions about capacity apply equally well to Katrina and its consequences. “Government agencies . . . are too often passive, accepting what are viewed as givens, including efforts to identify and fix glaring vulnerabilities and dangerous threats that would be too costly, too controversial, and too disruptive.” Organizational capacity was woefully short among most if not all of the 75 to 100 local, state, and national agencies tasked with responding to Katrina along the gulf Coast.

Management covers a wide swath that includes but transcends effective communication within and across governmental jurisdictions. Agencies operating in the American intergovernmental system are much like medical specialists, each doing diagnoses, ordering tests and issuing prescriptions. Conspicuously absent from the myriad of specialists is the attending physician, whose primary task is to see that the specialists work as a team to assure the health of the patient. Effective intergovernmental relations in the USA depend on the presence of many “attending physicians”. In the case of the Katrina catastrophe, they were in short or non-existent supply.

Hindsight and foresight

The Katrina catastrophe generated economic costs in the billions of dollars. Already a target figure of \$200 billion has been set as the national

reconstruction contribution alone, plus billions of additional state and local funds. A realistic account has to add to that the loss of between 1,000 and 2,000 lives, rising consumer gas and oil costs and reduced economic growth of between one-half to one per cent. Not even a comprehensive national commission study is likely to compute accurately the full costs and consequences of Katrina’s Gulf Coast visit.

One fact does seem clear, however. The Katrina drama was played out on a stage defined by the complexities and mild chaos of intergovernmental relations. Preventing another Katrina-like natural or terrorist catastrophe will require public leaders with political wills and experienced administrators with management skills — and the structures and the organization to translate this will and these skills into action. . Those qualities are required to span the jurisdictional boundaries confronting every official operating in American intergovernmental relations. Imaginative and collaborative leadership is crucial in preventing or mitigating future national emergencies. (6)

For Further Reading

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How do federal countries choose their governments?

The variety is almost infinite, but patterns can be seen

BY LOUIS MASSICOTTE

Governments of federal countries could not be more different. Consider, for example, two days in four federal capitals. In Washington, D.C., on February 2, 2005, US President George W. Bush gave his annual state of the union address to a joint session of both houses of Congress. On that day in Ottawa, Canadian Prime Minister Paul Martin and his cabinet ministers were responding to barbed questions from opposition MPs during question period. In Delhi on February 25, 2005, the Indian parliament faced pressure to pass a bill that would guarantee 33 per cent female representatives in the lower house, or Lok Sabha. That same day in the Bundestag in Berlin, federal Justice Minister Brigitte Zypries was defending her department's internet services for citizens against criticism by opposition members who claimed that Austria under a conservative coalition had much more of its justice department online.

The fact that a country has a federal government does not make it any easier to predict what type of political system it is likely to have — or what changes it is likely to make in that system. But a few clear patterns can be seen. Federal countries include those with presidential systems like that of the United States, as well as Westminster-style parliamentary systems like those of Canada, Australia and India, plus parliamentary systems that usually govern through coalitions, as in Germany and Austria. Switzerland provides us with one of the very few examples of a system in which the legislature elects the federal cabinet.

While some federations are old and stable democracies, others oscillate between democracy and authoritarianism. The family of federations includes republics (Germany), parliamentary monarchies (Belgium), monarchies in which the sovereign is represented by a governor general (Australia), and even more or less absolute monarchies (the United Arab Emirates). No electoral system has gained the upper hand among federations, which provide us with examples of practically every type of electoral system. And while the existence of a second chamber in parliament is often cited as an essential feature of federations, Micronesia, Venezuela and St. Kitts & Nevis do not have one.

The first major choice that every federal country has to make is whether to have a presidential system — with

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The Bundestag, Berlin.

separation of executive and legislative powers — or a parliamentary system, where the prime minister and cabinet members must first win seats in parliament.

The office of a president

Federal countries with a presidential system keep their legislative and executive powers separate. The executive power

rests in the hands of a single person, the president, who is elected by the population as a whole. The United States has been keen to ensure that the way in which the president is chosen reflects the country's federal character. Technically speaking, this ruler is elected by an electoral college composed of delegates chosen by popular vote in each state, which votes as a whole at the electoral college level. The number of delegates from each state is equal to the number of seats it has in the House of Representatives (which varies in accordance with its population), plus two more, to reflect the number of senators. As a result, the relative weight of smaller states represented in the electoral college exceeds their demographic weight.

Currently, the 33 least-populated states plus the District of Columbia together have 198 votes. The four largest states (California, Texas, New York and Florida), with a total population roughly equivalent to the 34 smallest units, have only 147 votes. A candidate who is trailing nationally in the popular ballot can nonetheless win an election if he or she systematically garners the votes of the smallest states — which explains the election of George Bush in 2000, even though his competitor, Al Gore, won the popular vote. As another indication that the founding fathers wanted to favour the small states is the fact that if no presidential candidate obtains an absolute majority of electoral college votes, the House of Representatives elects the president from among the three top candidates; but each state has only one vote, regardless of the size of its population.

In Switzerland, every four years both houses of the Federal Assembly hold a joint session and elect the seven members of the Federal Council, the country's cabinet. Here again, a slight adjustment favours the smaller constituent units, the Swiss cantons. While the distribution of the 200 seats in the National Council reflects the population, each canton has two seats in the 46-seat Council of the States (each of six "half-cantons" is allotted one seat). However, Swiss deputies vote along party lines, not according to which canton they come from.

The United States is now the only federation making use of an electoral college to elect a president. In Argentina, Brazil,



Mexican President Vicente Fox greets Canadian Prime Minister Paul Martin.

Mexico, Venezuela and Nigeria, as in Russia (a semi-presidential system) and Austria (a parliamentary system), the president is elected by direct universal suffrage, and the winner is determined solely on the basis of the total

number of votes he or she gets nationwide, regardless of their geographic distribution.

The practice of using two ballots — a first round and then a run-off — to elect the president is used in every presidential federal country except Mexico and the United States. Mexico still uses the first-past-the-post system. In the United States, the system allows a candidate to win by obtaining the most votes in each state, but an absolute majority is required at the electoral college level.

In parliamentary systems, executive power resides with the cabinet, or council of ministers, the members of which are chosen from among elected deputies.

When parliament rules

The second major choice for every federal country is how to elect its legislature. Federations that were once under British or American colonial administrations often have single-seat constituencies where the first-past-the-post system (Canada, India, Malaysia, St. Kitts & Nevis) or the alternative-vote system (Australia) prevails. Party-list proportional representation is used in South Africa, Belgium and Austria. Germany has a mixed system of both single-seat constituencies and proportional representation by party list, which both Venezuela and Mexico have chosen to imitate. Until quite recently, the Russian Federation had a superficially similar mixed system, but single-member constituencies are scheduled to disappear in 2007. All deputies will then be elected under a system of proportional representation within a single national constituency, with the proviso that each party must secure at least 7 per cent of the vote.

By opting for national constituency, Russia has differentiated itself from other federations, in which the deputies are elected within smaller territorial entities, whether these be single-seat constituencies inside provincial or state boundaries (Canada, Australia) or much larger multi-member districts spanning the borders of the constituent units (Brazil, Argentina). There is a tendency to protect the smaller units. In Canada, for example, no province can have fewer seats in the House of Commons than it has in the Senate. This enables the tiny province of Prince Edward Island — with a population of 187,000 — to occupy four of the 308 seats in the House of Commons, instead of just one.

Nobody's perfect

No electoral system is free from controversy. A number of Canadian observers maintain that the plurality system has artificially widened disparities among the regions because

the minority parties in each region are underrepresented in the House of Commons. In 1980, for example, the Liberal Party had the support of some 20 per cent of voters in Western Canada, but won only two of the 78 seats in the region, while the Conservatives obtained only one of the 75 seats in Quebec, where they garnered 12 per cent of the votes. The Canadian tradition, which includes at least one representative from each province in the federal cabinet, becomes hard to apply when the governing party wins no seat in several provinces. To offset this problem, several senators from these provinces have been appointed to the cabinet. But because Canadian senators are appointed by the government and not elected, they carry very little political clout. Different ways of choosing the executive in parliamentary and presidential systems in individual countries are shown in the book and booklet to be published in the Forum's Global Dialogue on Federalism series, *Legislative and Executive Governance in Federal Democracies*. 6

Electoral Systems

The first-past-the-post system: The candidate with the most votes wins the election. When legislatures are elected this way, there are usually single-member constituencies. There have been instances of candidates winning with only 25 per cent or even 21 per cent of the popular vote.

The majority-vote system: In one version of this system, a candidate needs to win more than 50 per cent of the votes to win on the first ballot. If no candidate meets this requirement, a second or run-off vote is held a week or two later between the top two candidates. The Australians dispense with the second ballot by asking voters to rank the candidates by order of preference on the ballot paper (preferential voting). A candidate is elected if he or she obtains over 50 per cent of the first-choice votes cast. If not, the weakest candidate is eliminated and all second-choice candidates are transferred to the candidates still in the race. This cycle is repeated until one of the remaining candidates obtains an absolute majority.

Proportional representation: Each party gets about the same percentage of seats in the legislature that it won in the popular vote. Unlike the first-past-the-post and the majority vote systems, proportional representation always has multi-member constituencies. Winners are usually chosen from lists of candidates on the ballot from each political party.

Mixed systems: These combine the principle of plurality or majority voting with that of proportional representation. The most compelling experiment of mixed systems is found in Germany, where 299 of the 598 members of the Bundestag are elected by plurality voting in single-member constituencies — a system that guarantees local territorial representation. The 299 other seats are distributed on a party-list basis within each Land, so that the total number of deputies from each party is proportional to the number of votes it obtained.



The federalist dream in the Philippines

BY SHEILA CORONEL

The dream of federalism is as old as the Philippine republic itself. Historian Resil Mojares, who is based in the pro-federal city of Cebu, writes that in 1898, even before the revolutionary government of Emilio Aguinaldo had established its presence in the Visayas islands, leaders in the city of Iloilo had already formed a Federal State of the Visayas.

In 1899, when the Americans were establishing their rule throughout the archipelago, Mojares said that a group of Filipinos also submitted to the Philippine Commission a draft constitution for a Federal Republic of the Philippines, which would have divided the country into 11 states. The following year, Ilocano intellectual Isabelo de los Reyes proposed a federal constitution with seven states. These proposals were not heeded by Aguinaldo or the United States, but federalism is a dream that refuses to die.

The “Republic of Mindanao”

Calls for a Republic of Mindanao began in the 1970s. They were the martial-law versions of this dream — the strong centralized authoritarian rule of Marcos naturally whetted federalist aspirations. In Cebu, as Mojares writes, the federalist call became more intense after the rapid economic growth in Cebu in the late 1980s and the realization by local leaders that they had a thriving economic base that was weighed down by its links to the centre. For sure, there is a popular yearning for federalism, a yearning that through the years has also been exploited, domesticated and thwarted by politicians of every stripe.

Today, President Arroyo is resurrecting the federalist dream as part of a package of constitutional changes designed to save her embattled presidency. The leaders of the House are also endorsing it, although they, especially Speaker Jose de Venecia, are really more interested in a parliamentary system that gives their kind — politicians with a patronage and electoral base in the districts — both executive and legislative powers.

In fact, the draft constitutional amendments proposed earlier this year by the Speaker’s allies in the House committee for constitutional amendments hardly mentions



Speaking out for federalism is Senator Aquiline Pimentel (centre).

federalism, except to say that a federal form of government would be installed within 10 years after the approval of the amended constitution. Not surprisingly, it gives the new parliament the power to divide the country “into as many ‘independent states’” as it deems fit, and to define the powers of those states, while reserving for the federal government powers on national defence, monetary policies and “such other powers as it may deem imperative”.

No proportional representation?

The proposed constitutional amendments in the House spell out de Venecia’s dream: an all-powerful unicameral parliament or National Assembly, which will elect a powerful prime minister, who will choose his cabinet mainly from the elected representatives. All members of the parliament will be elected by single-member districts; there is no mention of party lists or proportional representation. There will also no longer be any limits on the number terms for each parliamentarian, who will be elected every four years rather than the current three. The president, elected from among the members of the National Assembly, will have only ceremonial functions.

Only recently, in a press conference held by some Lakas congressmen with federalism advocate, the respected academic Jose V. Abueva, did the Speaker’s allies give more details of their vision of a Federal Philippines. In launching the Movement for a Federal Philippines, the congressmen said there will be 12 states which would have taxation, lawmaking and executive powers, with the federal government being limited to defence, police, foreign relations, monetary policy and communications.

Sheila S. Coronel is the executive director and one of the founders of the Philippine Center for Investigative Journalism. She is also editor of *I Report*, the Center’s quarterly publication. She has also edited and co-authored several books, including *The Rulemakers: How the Wealthy and Well-Born Dominate Congress*.

Abueva has been chosen by the president to be a member of a Consultative Constitutional Commission for Charter Change, composed of eminent citizens who will consult with people around the country and submit their inputs to Congress. A long-time advocate of constitutional reforms, Abueva has proposed a federal parliamentary system that is more detailed than others have given.

Abueva's alternative model

Abueva's federal parliamentary system would have 11 states, a president as the symbolic head of state, a powerful prime minister who is head of the government and a bicameral parliament.

The House of the People would have 300 members, most of them elected at the district level, although 60 to 80 members would be selected by proportional representation. The Senate would be elected from members of the state assemblies, meaning that they will be representatives of their states or regions. The members of parliament would sit for four years and would elect the prime minister from among themselves.

Abueva's proposals for federalism, unlike the Jaraula resolution, are more defined and articulated. They also include measures for electoral and political party reform.

How fast is the cha-cha?

In the Philippines, constitutional reform is known as "charter change" and has for years been shortened by headline writers to "cha-cha". Those headline writers have been busy this year. But as the talk of cha-cha snowballs, the reality is that without Senate approval, the proposal to convene Congress into a constituent assembly to draft a new constitution is dead in the water. But the congressmen's persistence, and the mobilization of popular support, especially for federalism, might yet succeed in creating enough political noise to keep the issue in the media and in the national consciousness in the coming weeks.

Meanwhile, the public focus will also be on the impeachment, and the energies of the opposition and a whole range of political movements will be aimed not so much at charter change but at holding the president accountable. ☺

Federalism in the Philippines

A constitutional response to secession?

BY ABE N. MARGALLO

The last time the Philippines' Constitution underwent an overhaul was in 1986 after the Marcos regime ended following a dramatic wave of people's power led by Cory Aquino.

The Mindanao conflict has generated a recent rumbling to amend the charter with a number of senators proposing the adoption of a federal system of government as a constitutional option to solve the Mindanao problem. This issue deserves a full debate.

It is particularly relevant to take note that this proposal to adopt federalism appears to follow the historical trend towards fuller autonomy for local governments. All that the 1935 Charter provided on the subject of local autonomy was to limit the executive authority to the exercise of "general supervision" over local governments, thereby denying the executive the more pervasive power of "control". On the other hand, the 1973 Constitution declared as one of its fundamental principles, "The State shall guarantee and promote the autonomy of local government units, especially the barrio, to ensure their fullest development as self-reliant communities." That was not all.

The 1973 Constitution in fact devoted an entire article (Article XI) to local government mandating therein the enactment of a local government code. The present Constitution further expanded the 1973 provisions likewise in a separate article dedicated to local government while creating in addition "the autonomous regions in Muslim Mindanao and in the Cordilleras consisting of provinces, cities, municipalities, and geographical areas sharing common and distinctive historical and cultural heritage, economic and social structures." Consistent however with the "unitary" form of government, the present Constitution provides that "(a)ll powers, functions, and responsibilities not granted by this Constitution or by law to the autonomous regions shall be vested in the national government."

In certain federal forms of government such as that of the United States, powers not granted by the constitution to the national government are deemed reserved to the states. One of the fundamental principles of federalism that could have a mollifying effect on the secessionist movement in Mindanao is the concept of shared or dual sovereignty. ☺

Abe N. Margallo is a Philippine lawyer and teacher. The above section is an extract from his book, *Build or Perish* (UST Publishing, 2005).



the **Practitioner's** *page*

José de Venecia Jr. of the Philippines A Philippines politician charts a new course: federalism as the wave of the global future

The Hon. José de Venecia Jr. *the Speaker of the House of Representatives of the Republic of the Philippines, is the president of the Lakas CMD Party in the Philippines and the representative from Pangasinan, 4th District. This article is the speech he gave to the International Conference on Federalism 2005 in Brussels, Belgium, in March 2005.*

We in the Philippines are even now considering constitutional change — from the presidential to the unicameral parliamentary system — and from the unitary to the federal state.

Obviously, we don't want to undergo such a basic change without thinking through all its potential consequences for national society. So I came to the International Conference on Federalism in Brussels not really to debate, but to learn from your collective wisdom and your accumulation of experience, as leaders of well-established federal states.

The Philippines is an archipelago of some 7,000 islands, scattered off the coast of East Asia, between China and Indonesia. We Filipinos nowadays number some 85 million. Our 160-odd languages and dialects reflect our ethnic, religious and cultural diversities.

Administratively, our archipelago is divided into 79 provinces — 117 cities, 1,501 municipalities and over 41,900 villages.

Because these public institutions are run — nationally — by a president, a Congress of two houses, and an independent judiciary and — locally — by governors, town and city mayors, and village captains, plus their own legislative boards and councils, you can imagine how complex administering the unitary Philippine State could become.

Creating a sense of nationality from diversity

Both geography and history have combined to make the sense of nationality difficult to instill among our people. On the broad and fertile deltas of mainland Southeast Asia and Java, great empires arose during Asia's classical period. But — on our archipelago's short river-systems and narrow coastal areas — only decentralized principalities ruled by chieftains of roughly equal power could establish themselves.

Many of these small-scale autocracies survived our 374 years of colonialism.

Until now, they make up the building blocks — and the motive power — of our political parties. And these local factions — in pursuing their narrow interests — generate centrifugal forces that work in opposition to the centralizing efforts of the national government in Manila.

Federalism as a safeguard against separatism

Over this past generation, local frustrations and grievances against an "imperial" Manila — both for its efforts to micro-manage local affairs and for its neglect of the regions — have flared up in separatist rebellions.

Already these rebellions have forced Manila to concede the creation of two autonomous regions — one for the indigenous peoples of the North Luzon mountains, and another for the Muslim communities of the Sulu archipelago and Central Mindanao in the south, although the first one failed in the plebiscite.

Some among us, of course, fear federalism would merely embitter these separatist tendencies until they tear our country apart. But I myself believe that — to the contrary — federalism would be a safeguard against separatism — because it will protect the identities of our diverse communities and empower them to take their future into their own hands.

In the course of my series of back-channel negotiations with our separatist Muslim guerrillas, their leaders repeatedly assured me that federalism would satisfy their demands for a state of their own — one where they would be able to apply aspects of Koranic law.

Why limited autonomy did not work

In 1989, our Congress also passed a Local Government Code, which devolved many functions of the Cabinet departments — particularly in agriculture, education and health care — to local government units. Even limited autonomy has enabled some cities and provinces to "grow" their own skilled, self-confident and self-sufficient leaders.

But since Manila continues to control the financial strings, autonomy has merely starved “devolved” Cabinet department functions of funds Manila continues to administer.

Indeed, Manila’s control over public finances has bred a culture of dependency in our local governments. And these mendicant attitudes I believe only federalism could break.

How would federalism work in the Philippine setting?

Philippine federalism would be “holding together” federalism — of the type that works so well here in Belgium, but failed so bloodily in Yugoslavia. To make our union of diverse communities work more efficiently, the unitary state would yield some of its powers to local governments. Under the most elaborate framework proposal already made, the 14 administrative regions into which the country is divided (for purposes of economic planning and Cabinet outreach) would be consolidated into 10 “proto-states” during a transition period of 10 years.

Each of these “proto-states” would make up — as far as possible — a social and economic whole. Each would have its own charter — its own capital-city — and enough powers of taxation, fund-raising and borrowing to make decentralization meaningful.

What would a federal Philippines look like?

Few of us harbour any illusions that federalism will work flawlessly in our country.

Among the many practical problems I foresee, there are two that are intractable.

The first is that most of our “proto-states” will still have to be shared by people who speak different mother-tongues. Our ethnic and language groupings are so many that it will be impossible to give each one the full measure of political autonomy it would want.

The other basic problem is that uneven development is exceptionally severe among the Philippine regions. In the year 2000, for instance, individual incomes in our richest administrative region were almost five times higher than they were in the poorest region. One can easily foresee a Philippine federal authority as having great difficulty ensuring a sufficient measure of distributive justice within and among its sub-units.

Associated with this problem of uneven development is the fact of still fairly widespread Filipino poverty — which has impeded the development of the civic culture necessary for any flowering of representative democracy.

Yet civic culture must be a requisite of the federal state, whose citizens must owe political obligations to two — and not just to one — public authority.

Having said all these, I still believe only federalism will answer our need to develop a strong national identity while preserving our cultural diversity. Only federalism will give local feelings a voice — to which officials at the centre must listen. Only federalism will enable our local communities to decide for themselves how their society should be ordered: for what purposes and for whose benefit. Only federalism can provide economies of scale in the consolidation of small provinces, cities and townships.

In practical ways, federalism will give local peoples more control — not only over their own resources but also over their livelihoods, their police and their children’s schools.

In a word, only federalism will ensure that the central government becomes the partner — and not the master — of local governments. That federalism should also stimulate competition among local governments is a side-benefit we might also expect to enjoy.

We must congratulate the United States, Canada, Belgium, Germany, Switzerland, Spain and Malaysia and many others that are successful models of federal government.

An East Asian “federation of nations”

In a wider sense, federalism at home will prepare Filipinos to function in the “federation of nations” that East Asia is likely to become — as the 10 Southeast Asian states already unified in ASEAN (the Association of Southeast Asian Nations) combine with China, Japan and Korea — in an “East Asian Economic Grouping”.

The initial phase of this grand union — a free trade area between the Asean-10 and China — started last year, and should be completed by 2010. Just as “coming together” federalism is doing in the European Union, so will this East Asian community reinforce our global competitiveness by enlarging our internal market and maximizing our economies of scale.

Politically — just as the EU has embedded Germany irrevocably into a European community — so would an East Asian federation contain and channel the energies of the vigorous peoples of China, Japan and Korea. A federated East Asia would also become the third leg in the tripod of global interdependence — the other two, of course, being the EU and NAFTA (the North American Free Trade Agreement) — that will ensure the 21st century sees a new dawn of peace and prosperity.

Not a cure-all

I do not expect federalism to be a cure-all for our complex problems of governance and economic development in the Philippines. But I believe it will help us deal with those problems more efficiently — and in ways that local people will support, because they would have a part in making the decisions taken to resolve them. And I am optimistic about our federalist future — because we Filipinos have always been a resilient people. We Filipinos have always accepted change as part of the national life.

I envision federalism as becoming the wave of the future — as newly-emancipated peoples struggle to preserve their autonomy against the demands of the modern state and their uniqueness against the homogenizing influences of the international pop culture being spread by the new communications technology.

Two hundred and fifty years ago, the French political philosopher Montesquieu asked memorably: “What is that form of government which will grant to people the greatest of personal liberties?” In the global system evolving before our eyes, it may be in federations, and in their constituent states — which an American president calls “laboratories of democracy” — that this age-old question will find a lasting answer. ☺



How do you govern a federal capital?

BY CAROLINE VAN WYNSBERGHE

The capital of a federal country can be an exciting place — the cities of Berlin, Vienna, Buenos Aires and New Delhi are alive with culture, history and ambience that go back centuries.

But each federal capital faces at least two problems no ordinary metropolis has:

- how to fit in the legislature, the ministries, the security and diplomatic needs, and
- how to avoid the appearance of favouring one particular state or province.

Federal capitals, like those of unitary states, must ensure the security of state institutions as well as that of foreign embassies and delegations. Yet a federal capital must also be a place where all the inhabitants of a country can come together and feel at home. If the country is either big or multicultural — such as Russia, Canada, the United States, Brazil, Belgium and Switzerland — that's another difficult problem. And a federal capital must also generate a certain amount of national pride. No one constituent unit must be favoured over any other, nor must any part feel that it is being neglected so that another part can thrive or gain. Diplomacy, even-handedness and neutrality are essential characteristics.

Every federation is the ultimate guarantor of its capital's neutrality, which explains why federations can claim the right to have a say in the administration of their capitals. The city council of a capital may find itself limited by federal initiatives. This problem — how to balance local and federal interests — is the key to governing every federal capital.

No perfect models

There are no ideal models or definitions of a perfect federal capital, so each federation must come up with its own solution. There are, however, these key characteristics of any federal capital:

- the capital's position within the federal structure,
- its autonomy and powers,
- its financial independence and budget management,

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Ottawa: the Canadian parliament.

- its representation in the federal parliament and
- its geographic location.

Politically, the three types of federal capitals are

1. a city-state
2. a capital within a state or province
3. a federal district

Capitals that are city-states and capitals within a constituent unit are found, for the most part, in Europe.

Berlin, Brussels, Moscow and Vienna are city-states — that is, cities that also enjoy the status of constituent units of the federation. Although it bears the title of a “federal city”, Berne is not only a federal capital but it is also a city in the canton of the same name — and the capital of that canton! Ottawa, the Canadian capital is unique in North America. It is the only federal capital that is a city within one constituent unit. The situation is a bit complicated since Canadian federal ministries are located in both Ottawa (in the province of Ontario) and in Gatineau (in the province of Quebec). Nevertheless, the city of Ottawa receives its charter from the province of Ontario.

Federal districts, on the other hand, enjoy an autonomy that is often limited in comparison to that of the country's other constituent units. Washington, the American capital, is an historical example of this. The design of Washington — in the District of Columbia, which was carved out of parts of the states of Maryland and Virginia — has served as an inspiration for the creators of other federal districts like Brasilia, Canberra and Abuja (the new Nigerian capital). Mexico City, Buenos Aires, Caracas and Kuala Lumpur, Islamabad and New Delhi also bear the title of federal district.

Who wields power in federal capitals?

The powers of federal capitals are significantly different for federal districts, city-states and cities within a federated entity. Federal districts often have fewer powers than those enjoyed by the other provinces or states of the federation to which they belong. Unlike the other states of Brazil, Brasilia has no legal jurisdiction and the federal authorities also look after the capital's police force and fire-fighting services. Yet Brasilia possesses some local powers that the other states of the union do not have, and the situation is pretty much the same in Buenos Aires. Washington, D.C., achieved “home rule” only in 1973. In most federal districts, an agency answering to the federal government is responsible for urban planning.

This is also the case with Ottawa, which is not the capital of a constituent unit. But this is a situation unknown in Berne or in any of the other federal capitals of Europe. Berne is first and foremost a city whereas the others, as city-states, hold municipal powers concurrently with those enjoyed by a *Land* (Vienna or Berlin) or a region (Brussels).

The specific missions of federal capitals, such as providing security for state institutions and maintaining first place among the other cities in the country, are quite costly. Some capitals receive transfer payments to defray costs associated with their special status, while others do not. A capital's sources of funding can say a lot about the extent of its independence. Thus, if the federal government plays a part in setting or managing the city's budget, it can, in return, demand a say in how resources are allocated. If, on the other hand, the federal government gives no money to the capital, the city has to cover all its expenses by itself; but the federal government cannot then have any veto power over the capital's budget. Thus the question of financial independence has two sides: does the capital receive federal transfer payments to defray its costs, and is it free to draw up its own budget?

As a general rule, city-states and capitals of constituent units are not entitled to compensatory transfer payments as such. While these capitals may benefit from varying degrees of federal participation, this is usually restricted to cultural matters and security issues. The European capitals are financially independent, a situation found less often among federal districts. Two examples will illustrate our point. During the 1990s, Washington's finances were placed under the control of a committee appointed by the federal authorities, and Congress still has a say in how the American capital's budget is managed. Mexico City's budget must pass muster before the federal parliament, after being submitted by the Mexican president in response to a request from the head of the district government.

Who represents the citizens?

Another question pertains to how capitals are represented at the federal level. Federal parliaments are generally made up of two assemblies, one representing the people (the lower house) and the other representing the federated states (the upper house).

Capitals located in constituent units are not federal subjects and thus would have a difficult time getting representation at federal levels. City-states and to federal districts, however, can make a stronger case for representation federally. City-states are in every respect constituent units, a situation that leads to representation identical to that of entities at the same level, such as the *Länder* in Germany and Austria and the regions in Belgium. On the other hand, the rules for federal districts vary.

While Abuja, Brasilia, Buenos Aires, Canberra and Mexico City have, to varying degrees, deputies in both Houses, Washington does not have any senators and is limited to one non-voting delegate in the House of Representatives. This has given rise to protest movements by people demanding equitable representation. Their main argument has been that the inhabitants of the District of Columbia

pay taxes just like other Americans and that, by virtue of this fact, they are entitled to have their concerns heard by Congress; in other words, they should at least have representation in the House proportional to the population of the capital. Representation in the Senate would probably be harder to achieve, since some might take this to mean recognizing Washington as an American state.

Intentional vs. traditional capitals

Finally, federal capitals differ in one other crucial respect. Were they planned or did they exist before they became the capital? Those that were planned, from the ground up, to be the home of the main federal institutions have a very different look and feel to cities that existed before becoming capital cities, or else have always been capitals.

City-states and capitals situated in constituent units are always historical. The federal districts, on the other hand, are for the most part new cities. At issue here is the neutrality required for the development of federal capitals. This is why governments have often preferred to build capitals in previously uninhabited areas, although other factors such as climate, accessibility, geographic centrality and security do come into play. Brasilia, Abuja and Canberra are based on the Washington model, while New Delhi was built as an extension of the "old" Delhi. Islamabad, for its part, was built because Karachi, which was already the capital of its province, could no longer play both roles. Mexico City and Kuala Lumpur are two historical federal districts.

Federal capitals therefore have many points in common, but these characteristics can change with time. Since the late 19th century there has been a tendency toward giving federal districts greater autonomy. Sometimes this took the form of general powers or financial autonomy, and sometimes it took the form of local representatives who would be, for the most part, elected — as opposed to appointed by the president of the federation. Historically, capitals of constituent units and city-states have always been more independent.

Thus the issue of balancing local and federal interests has not led to the same solution everywhere. There is no magic model that will work everywhere. One can foresee, however, than in democratic countries the ideal balance would be one that had a successful mechanism for resolving conflicting claims or demands for reform from either citizens or federal or local authorities — a mechanism that was satisfactory to both federal and local actors. 6

Further reading:

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Briefs & Updates

Canadian MP first to visit new Somali government

Canadian Liberal MP Borys Wrzesnewschyj became the first foreign parliamentarian to visit Somalia's transitional federal government when he travelled to Jowhar, Somalia, on a fact-finding mission in August 2005. During his three-day, self-financed trip, Wrzesnewschyj met with President Abdullahi Yusuf, Prime Minister Ali Mohamed Ghedi and the cabinet to discuss challenges facing the war-torn nation.

Somalia has struggled to set up a stable and effective government since President Siad Barre was overthrown in 1991 by opposing clans. The current administration, established in 2004, is the result of successful efforts by neighbouring African countries to bring all sides together to agree on a federal government.

During Wrzesnewschyj's trip, he came face-to-face with reality Somali leaders deal with in governing their country. "More than 140 cabinet ministers and parliamentarians live in an unused school, eight or nine to a room," he said. None of the men had been paid in months, though many left lucrative careers in the developed world.

Wrzesnewschyj presented a report of his findings to Canadian Foreign Minister Pierre Pettigrew. He urged the international community, and particularly Canada, with its large Somali diaspora, to support the transitional government. "It is my great hope that Canada can be part of a historic resolution on the path towards peace and reconciliation in Somalia," he said.

New Bulgarian PM promises reforms

Newly elected Bulgarian prime minister Sergey Stanishev has promised to tackle key reforms to keep the country on-track for joining the European Union on January 1, 2007. Bulgaria was approved for inclusion in the union in April 2005; however, the EU executive warned that entry could be delayed for up to one year if measures are not taken to reduce corruption, counterfeiting and fraud.

Bulgarian elections, held in June 2005, were inconclusive, putting reforms on hold for over a month. The new government was finally created when the Bulgarian Socialist Party (formerly the Bulgarian Social Democratic Party, and the successor to the Communist Party), headed by Stanishev, formed a coalition with former prime minister Simeon Saxe-Coburg's National Movement.



Somali Prime Minister Ali Mohamed Ghedi (l.), Somali President Abdullahi Yusuf Ahmed and Canadian MP Borys Wrzesnewschyj at the temporary offices of Somalia's new parliament.

Swiss extend customs and workforce union to 10 new EU members

The Swiss have given thumbs up to free trade and free movement of labour with the 10 new member countries of the EU. The September 2005 referendum in Switzerland produced a 56 per cent majority vote in favour of the expansion, which has further opened the country up to the European Union. The agreement negotiated by the Swiss government sparked the second national vote on Swiss—EU relations this year,

Referendums are a common occurrence in Switzerland, where people are asked to vote several times a year. A referendum can be held contesting parliamentary approval of a bill or treaty if 50,000 signatures are collected within 100 days of public decree. These votes give Swiss people the final approval on parliamentary decisions; the results are binding and must be followed by the government.

This latest decision comes on the heels of a June 2005 referendum in which 55 per cent voted yes to joining the EU's Schengen and Dublin agreements, which call for greater cooperation between Switzerland and the EU on security and asylum issues. As a result, Switzerland will be part of Europe's passport-free zone, foregoing border checks with its neighbours by 2007. It will also allow Switzerland to share information regarding crimes and give the country access to Eurodac, a database aimed at stopping asylum-seekers from applying to multiple countries.

The Swiss government favours closer ties with the EU. Fully 60 per cent of Swiss exports go to EU members, making the EU Switzerland's most important trading partner.

German coalition makes Merkel chancellor, gives eight ministries to Social Democrats

A grand coalition between the Christian Democratic Union and the Social Democratic Party has put an end to three weeks of post-election deadlock in Germany. Under the new deal, Christian Democratic Union's Angela Merkel will become both the first female chancellor in Germany and the first chancellor from eastern Germany.

The country's political future had been uncertain since the inconclusive results of the September 18th election. The Christian Democratic Union gained four more seats than the reigning Social Democratic Party, led by former chancellor Gerhard Schröder, and yet neither party gained enough seats to govern with a majority, even in coalitions with the Greens or the Free Democrats. The only remaining option seemed to be to form a grand coalition — something that had not been done in Germany since 1960 — between the two major parties.

According to the coalition agreement, the Social Democrats will take eight ministries, including the key, yet troublesome finance, labour and health ministries, while the Christian Democrats will assume six ministerial posts.

Opposition party members arrested in Ethiopia

Just days ahead of a massive rally scheduled for Sunday, October 2, 2005, Ethiopian police arrested 43 opposition members for allegedly plotting against the government. "The demonstration that opposition political parties are contemplating is part of a serious crime," stated Prime Minister Meles Zenawi.

When Meles met with opposition leaders in July, it had appeared as though tensions between the ruling and opposition parties were diminishing. But opposition parties, who planned the October 2nd rally to protest results of the election, maintain that massive fraud was committed in the May 2005 election.

Days of violence followed the election, resulting in 36 deaths as police fired on protestors. After re-runs in over 30 seats, the election board confirmed in August a victory for Meles' party, the Ethiopian People's Revolutionary Democratic Front, with 360 seats to the opposition's 175.

Croatia's EU bid stalled by search for accused war criminal

Negotiations for Croatia's inclusion in the European Union, scheduled to begin in March 2005, remain on hold. Croatia's cooperation with the International Criminal Tribunal for the Former Yugoslavia in the Hague has been questioned as the search continues for suspected war criminals.

Of particular interest to the tribunal is Ante Gotovina. The former general is wanted for killing at least 150 ethnic Serbs at the end of Croatia's four-year war of independence from

the former Yugoslavia. He is considered by many in Croatia to be a national hero.

Croatian officials in the region deny charges that some officials, including those in Zagreb, Belgrade and Bosnia, are helping Gotovina evade authorities. Carla del Ponte, chief prosecutor for war crimes in the former Yugoslavia, recently accused the Vatican of harbouring Gotovina in a monastery in Croatia. The Vatican has countered with a request for more information on where Gotovina is thought to be hiding.

Sri Lankans to vote for president November 17

The Sri Lankan presidential election has been set for November 17, 2005, foiling current President Chandrika Kumaratunga's bid for an extra year in office.

Kumaratunga, who had called the previous election in 1999, one year ahead of the end of her first six-year term, had claimed that she could carry over her current term by one more year as a result. However, the Supreme Court ruled that the election must be held by the end of the year.

The Sri Lankan Constitution allows the president to serve no more than two six-year terms, so Kumaratunga is not eligible to run again. The ruling party has chosen instead current Prime Minister Mahinda Rajapakse to oppose United National Party leader Ranil Wickramasinghe in the upcoming election.

EU starts negotiating to admit Turkey

On October 4 in Luxembourg, the European Union began negotiations with Turkey on joining the EU. The Turkey-EU negotiating framework said that Turkey's progress in preparing for accession to the EU will be measured by, among other things, the Cyprus question, in particular:

"Turkey's continued support for efforts to achieve a comprehensive settlement of the Cyprus problem within the UN framework ... and progress in the normalisation of bilateral relations between Turkey and all EU Member States, including the Republic of Cyprus."

Turkey's refusal to recognize the Republic of Cyprus, while 35,000 Turkish troops remain in the north of the island since the 1974 invasion, had in the past held back Turkey's bid to join the European Union.

ERRATUM

The article "India: Delhi, the states and local councils compete for power" by Ash Narain Roy in Volume 4, No. 4 of *Federations* magazine read should have read:

"It was the advent to power of the first non-Congress Party government, the United Front government in 1996 that marked the beginning of what that coalition's Common Minimum Programme called 'an alternative model of governance' ..."

The article erroneously said that the United Front government was led by the BJP. Neither the BJP nor Congress Party were members of the government, though Congress supported the government for some time.

Upcoming Forum Events

Nov. 14, 2005

Luncheon address on the Council of the Federation — Ottawa, Canada. The Forum of Federations is hosting this luncheon event featuring Quebec Minister of Intergovernmental Affairs Benoît Pelletier at the office of the Forum of Federations.

December 2005 or January 2006

Intergovernmental Relations Meetings — Spain, Madrid. The first working meeting for this project, which aims to provide international resources on intergovernmental relations for Spain, will feature experts from Canada, Belgium, Germany and Austria.

December 2005 or January 2006

Mexico to sign Partnership Arrangement with the Forum — Merida, Mexico. The formal signing of Mexico's Partnership Arrangement with the Forum of Federations will occur during the Second International Forum "Desde lo Local" (Seeing it from the Local Perspective), a major program of the Mexican government for the promotion of municipal development.

Dec. 12–15, 2005

Global Dialogue International Roundtable and the International Conference on Fiscal Federalism — Costa do Sauípe, Bahia, Brazil. Representatives of 13 countries will speak to approximately 200 participants at these events focused on the Global Dialogue program's fourth theme, The Practice of Fiscal Federalism: Comparative Perspectives.

Dec. 13–14, 2005

Fourth Workshop on Federalism and Regional Development in Russia and Canada — Moscow, Russia. The University of Toronto, the Canadian Department of Indian Affairs and Northern Development, Russian partners in Moscow and Novosibirsk and the Forum of Federations are holding this event, the fourth in an annual series of workshops.

Dec. 2005 – Jan. 06

Minority Rights in Sri Lanka — Ampara, Batticaloa, Trincomalee and Sri Lanka. Bob Rae, David Cameron and Rohan Edrisinha will present sessions on federalism, minority rights and non-territorial rights at this series of workshops in the eastern provinces of Sri Lanka.

Jan. 30 – Feb. 1, 2006

The Impact of Globalization on Revenue and Taxation in Transitional Economies — New Delhi, India. The National Institute of Public Finance and Policy of India are hosting this workshop in partnership with the Forum of Federations.

February 2006

Iraqi Study Tour: "Federalism: Options for Iraq" — Kingston, Ottawa, Toronto and Quebec City, Canada. The Forum of Federations in collaboration with the National Democratic Institute is coordinating a study tour for 15 Iraqis from diverse ethnic and professional backgrounds working towards peace. In addition to the tour, the Institute of Intergovernmental Relations at Queen's University, Kingston, Ontario, Canada, will be coordinating a week-long course on federalism.

Recent Forum activities: June — Oct. 2005

July – October 2005

Global Dialogue on Federalism roundtables on the Practice of Fiscal Federalism: Comparative Perspectives — 12 countries.

Aug. 11–13, 2005

Workshops on the Canadian Federal and Parliamentary Systems — Manila, Davao and Cebu, Philippines. This series of three workshops for Philippine legislators, civil servants and academics, featured Canadian experts Peter Meekison, professor emeritus of political science and former deputy minister of intergovernmental affairs for the province of Alberta, and The Hon. Rey D. Pagtekhan, former minister in the federal government.

Aug. 31 – Sept. 2, 2005

Seminar on Fiscal Competition and Regional Imbalance — Belem, Brazil

This second international seminar organized as part of the Fiscal Forum of the Brazilian States explored the experiences of Australia, Canada and Brazil in dealing with the issues of fiscal competition and regional imbalance.

Oct. 14, 2005

Cities in Multilevel Government Systems: Lessons from Abroad — Toronto, Canada.

Oct. 17–26, 2005

Sudan: Workshops on Federalism, Fiscal Federalism/Resource Sharing and Constitutional Processes — Khartoum and Juba. This series of workshops informed and engaged in discussions with civil society groups as the first part of a continuing program in Sudan. From Canada, Forum President George Anderson and Peter Meekison, former Canadian deputy minister, participated as speakers.

Oct. 19–21, 2005

Building Public Spaces that Work: A Canada-Brazil Dialogue Devoted to Enhancing the Public Realm — Glendon College, York University, Toronto, Canada. As part of a dialogue on public policy between Brazil and Canada, this conference brought together scholars, practitioners, members of the private sector and politicians to examine specific case studies.

Oct. 26–28, 2005

RIAD Meeting — Recife, Brazil. The Forum participated again as an observer at the Third Meeting of Ministers and High Level Authorities Responsible for Policies on Decentralization, Local Government and Citizen Participation (RIAD) at the Municipal Level in the Hemisphere.

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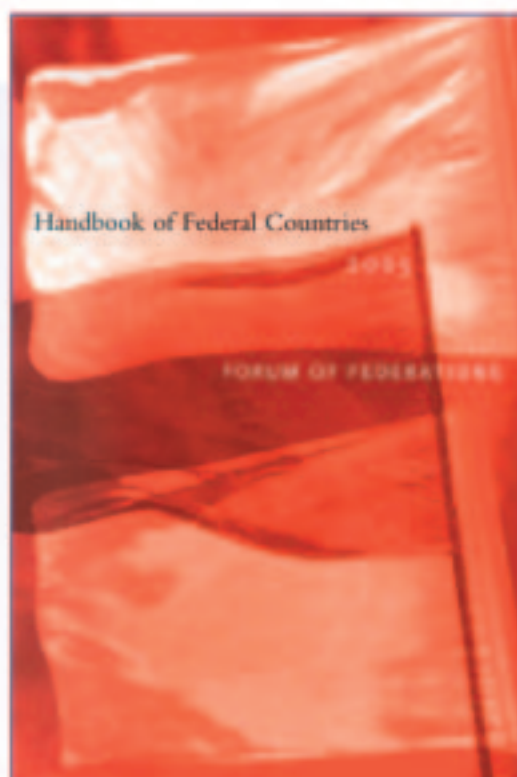
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