

Federations

What's new in federalism worldwide

Vol. 5 No. A-1 / Autumn 2005 / Special Edition

Federalism and the politics of change

Plus:

- Grassroots power in India
- A federal Philippines?
- Federalism and ethnic diversity
- Why Yugoslavia failed

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An overseas Iraqi voter casts her ballot in Toronto, Canada.



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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Federations

What's new in federalism worldwide

Federalism and the politics of change

There are roughly 25 federal countries in the world today, which together represent 40 per cent of the world's population. They include some of the largest and most complex democracies – India, the US, Brazil, Germany and Mexico. Their system of government, while it can be complex, has made many federations amongst the most prosperous countries in the world with high standards of government services.

Historically, most federations were the result of previously separate entities – the American 13 colonies, the Swiss cantons – coming together to form a federal government. The entities would keep some powers to themselves but others were pooled with the central government of the new country. More recently, previously unitary countries – such as Spain, Belgium and South Africa – have adopted federal structures as a way to maintain common central government for some purposes while empowering regional governments for other purposes. In many very diverse societies, a federal system of government permits a recognition both of this diversity and of common interests and identity at the same time.

Today, Iraq and Sudan are two countries working amidst great difficulty, danger and even violence to build democratic governments and to adapt some form of federal governance that will be authentic to their countries. Because every country is unique, no single federal system in existence today could meet the needs of either Sudan or Iraq. But among the federal countries of the world, we can share knowledge and find many different approaches to particular challenges. From both the successes and the failures of these approaches, there is much that can be learned to make future federal governments succeed.

To those of us who live in federal countries, such as Canada, having both a central government and a provincial government is as natural as the trees and the

What's inside

- Principles of federalism
- A federal Philippines?
- Ethiopia's return to federalism
- How India manages diversity
- Federalism and diversity
- Why Yugoslavia failed

birds. Canada is a federal country, and the Forum of Federations office is in Ottawa, Canada. Some of my colleagues live across the Ottawa River in the province of Quebec and others live in the province of Ontario. My driver's license and my health insurance card are issued by the province of Ontario, while

those of other colleagues are issued by Quebec. We all pay the same income taxes to the Canadian federal (central) government, but we also pay separate, and different, income taxes to our provincial governments. Both Quebec and Ontario have their own provincial police forces, but larger cities also have municipal police. There is also a federal police force, the Royal Canadian Mounted Police – no, they're not on horseback any more except in the famous Musical Ride. And all of these units know their responsibilities and work together. The military are strictly a federal responsibility. The provinces are responsible for education. When we vote in elections, we hold our governments accountable for what they have done in their area of responsibility.

This is the first edition of *Federations* to appear in Arabic as well as English. It is designed to provide a selection of articles that might interest Arabic readers, with a special focus on emerging federal countries. Some of these articles appeared in past issues of *Federations* and others have never before appeared in this journal.

As always, we invite you to share your comments, complaints, arguments and criticisms with us. Let us know what you found useful.

You can do this by email to stieren@forumfed.org or at the co-ordinates on the next page. 6

– The Editor



Federations

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Vol. 5 No. A-1 / Autumn 2005 / Special Issue

In this issue

Federalism: its principles, flexibility and limitations 3

By Céline Auclair

What makes a political system federal and how does it accommodate diversity?

How India does it..... 6

By Ash Narain Roy

How India has made their system work for more than five decades.

Ethiopia's return to federalism 9

By Tom Pätz

How Ethiopia incorporates 82 different ethnic groups in its federal system.

Swiss, Belgian and Canadian models of federalism 8, 10, 14

Excerpts from interviews with experts from three federal countries

Practitioner's page: a Philippines politician charts a new course 12

By José de Venecia Jr.

The Speaker of the Philippines' House of Representatives sees federalism as the wave of the global future.

Can federalism help to manage ethnic and national diversity?..... 15

By John McGarry

What federations do when they have more than one language or ethnic group.

Why Yugoslavia failed 18

By Dejan Guzina

Why did a once-prosperous federation fail to survive to the Year 2000?

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Spanish – *Federaciones: Lo nuevo del federalismo en el mundo*



Federalism: its principles, flexibility and limitations

BY CÉLINE AUCLAIR

People often contrast “federal systems” with “unitary political systems” – systems with only one source of central authority. Some see little difference between “federalism and decentralization”, or “federalism and devolution”, or “federalism and subsidiarity”. There are similarities among these concepts, but they should not be confused with one another.

Under the umbrella term “federal political system” there are several possible configurations, the most familiar of which are federations and confederations. When we speak of a federation, we are referring to a political system in which there is power-sharing. The government consists of at least two orders: a central or federal government and the governments of constituent units. Each order of government receives an allocation of financial resources tailored to its specific requirements. Sometimes the municipal level may also constitute a distinct order of government. In all federal countries both the federal or central government and a second order of government are constitutionally recognized and exercise their own powers.

For instance, in addition to a federal government, Canada has provinces; Switzerland has cantons; Germany has *Länder*; the United States has different states; Yugoslavia Serbia and Montenegro, republics; and Spain, autonomous regions. Whatever the name, these are all entities that, like the federal government, have their own exclusive jurisdictions. These jurisdictions are defined by a constitution, not by another level of government. As a result, neither the federal government nor the governments of the various constituent regions are constitutionally subordinate to one another. The people directly elect each order of government.

Professor Ronald Watts of Queen’s University, Canada, has drawn up a list of structural characteristics distinctive to federations:

1. Two orders of government, each in direct contact with its citizens;
2. An official, constitutional sharing of legislative and executive powers, and a sharing of revenue sources between the two orders of government, to ensure that each has certain sectors of true autonomy;

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3. Designated representation of distinct regional opinions within federal decision-making institutions, usually guaranteed by the specific structure of the federal Second Chamber;
4. A supreme written constitution that is not unilaterally modifiable but requires the consent of a large proportion of federation members;
5. An arbitration mechanism (in the form of courts or a referendum) to resolve intergovernmental disputes;
6. Procedures and institutions designed to facilitate intergovernmental collaboration in cases of shared domains or inevitable overlapping of responsibilities. (Watts, 2002, p.8)

Distribution of powers

There is no a priori formula to determine which powers should be devolved to the federal authority and which to the regional authorities. In Australia, a constitutional committee study (1985) concluded that certain jurisdictions such as defense, international policy, fiscal policy and some taxation areas, require strong federal management. Other jurisdictions can be and are conferred differently depending more on the distinct features of each country: the structure of its population, the strength of the regions, etc.

Despite this variation, there appear to be three general trends in the distribution of powers:

- to grant a list of exclusive powers to the federal government, leaving the residual powers to the constituent states or provinces (Pakistan).
- to identify a list of powers pertaining to the federal and constituent states or provinces respectively, with an added clause according residual powers accorded to the federal government (Canada, Belgium).
- to draw up two lists: federal jurisdictions and concurrent jurisdictions. All residual powers are left to the states or provinces (the United States, Switzerland, Australia, Germany, Austria).

Residual powers confer legal authority on one of the two orders of government for all matters that do not appear among the items listed in the constitution. The primary goal of residual powers is to identify an authority in charge of new affairs for which a jurisdiction has not been determined. When a federation has arisen out of an association of formerly independent communities, a list of residual powers also provides a mechanism to support regional government autonomy. By granting residual powers to constituent units, the new areas of jurisdiction are not seen as a means by which the government can centralize its power and thus threaten autonomy.

**(Sub-national)
jurisdictions are
defined by a
constitution, not by
another level of
government.**

In practice, when areas of jurisdiction are not defined by the constitution, they are assigned to the most appropriate government. This is determined by legal judgment, normally handed down by a Supreme or a Constitutional Court.

Although each order of government usually has its own areas of jurisdiction, nothing prevents two orders of government from mutually exercising a given power. This is known as concurrent or shared jurisdictions. In fact, almost all federal countries make provisions for concurrent jurisdictions, particularly in legislative affairs. This is not surprising, given that cooperation and interdependence between orders of government are essential to any form of federal governance. In cases of conflicting legislation, the constitution determines which order of government will prevail.

Concurrent jurisdictions offer several advantages in federal structures. They introduce a degree of flexibility and innovation in the distribution of powers. For instance, the federal government may delay exercising its powers in an area that might eventually call for a strong federal coordination. Concurrent jurisdiction allows state or provincial governments to develop their own policies in the interim. The federal government might also decide to establish national standards in certain areas, leaving the states or provinces to develop services in the manner that best responds to the unique identity of each region. Concurrent jurisdictions also allow a federal government to temporarily occupy a state or provincial jurisdiction when that state or province is unable to deliver a particular service. (Watts 2002)

Legislating and administering

In parliamentary systems, both legislative and executive powers are usually conferred on the same order of government. This form of government offers the advantage, from an executive viewpoint, of being both responsible and accountable for the implementation of its own legislation. In presidential systems, legislative and executive powers are traditionally given to different orders of government.

In most federal systems, constituent units are considered to be equal and have the same legislative powers. However, the constitutions of certain federations provide for an asymmetric division of powers in order to reflect the differences among their constituent units. These differences can be territorial, demographic, linguistic, cultural or religious.

Regardless of any asymmetric approach to federalism, the constitution is the supreme legal instrument in any federation. It cannot be amended unilaterally. An amendment would require the assent of a significant number of the federation's component regions and, in certain cases, a majority of the population.

As previously mentioned, the constitutions of federal countries determine the division of legislative and executive powers, as well as the distribution of financial resources, to ensure that the various levels of government have real autonomy.

Normally, the constitution also provides for a supreme arbitration body empowered to resolve disputes and rule on litigious cases involving governments' constitutional powers.

Since most federations have concurrent jurisdictions, they also usually have institutions and mechanisms in place to coordinate relations among the different orders of government.

When one level legislates and another administers

Certain federations, however, have enshrined in their constitutions provisions separating executive and administrative responsibilities in certain fields of jurisdiction. This does not make these countries any less federal. In Germany, for instance, the constitution makes provisions for the federal government to assume most legislative powers, while the *Länder* are in charge of implementing and administering legislation. Thus, from a legislative perspective, Germany can be considered very centralized, while it is decentralized in administrative terms. It should, however, be noted that the *Länder* are also involved in developing legislation through the *Bundesrat*, the Chamber of the Regions.

Two types of asymmetric federalism

There are two main forms of asymmetric federalism. One approach consists of increasing the federal government's authority in regions where the state's or province's capacity to exercise legislative authority is less advanced or is temporarily undermined. In such cases, the federal government may take over until the state or province is in a position to exercise its authority. Such was the case in India where, for the first six years of the Union, the federal government assisted certain less developed states until they were able to exercise their own legislative power.

A more common approach to asymmetric federalism involves giving one or several states or provinces more autonomy. The Malaysian system best illustrates this approach. Although it has a highly centralized system of government, Malaysia has given the states of Sabah and Sarawak powers that normally fall under federal jurisdiction. The aim of this approach is to protect the distinctive characteristics of the two states and their interests.

Federalism and accommodating national diversity

The vast majority of conflicts raging in the world today are domestic and involve national groups demanding better representation or greater autonomy in their respective states. Several of the world's 25 federations are multinational countries within which national groups are demanding greater recognition and autonomy. Although federalism as a system of government has sometimes been successful in easing tensions and maintaining state unity in a country, it has not always been able to meet the demands of national groups. To offer a true political space, federations need to be flexible.

As mentioned above, some federations have opted for the asymmetric form of federalism, thereby granting certain national groups true autonomy. The asymmetry varies from country to country with the division of powers being based on the realities of each federation.

Other federations have also adopted approaches based on the challenges they face. One such approach consists of redrawing state or provincial borders so as to better respect the ethnic make-up of each one. This was the case in Nigeria, which gradually grew from 3 to 36 states. The Swiss adopted a similar approach with the creation of the canton of Jura. The

"Federalism should not be seen only as a static pattern or design, characterized by a particular and precisely fixed division of powers between government levels. Federalism is also and perhaps primarily the process ... of adopting joint policies and making joint decisions on joint problems."

- Carl J. Friedrich, *Trends of Federalism in Theory and Practice*. New York: Praeger, 1968.

Republic of India has also created 3 new states carved out of the existing territory.

Sometimes, it isn't really a question of meeting the demands of one or more national groups, but rather it is a question of ensuring that the rights of all national minorities are protected.

In Bosnia-Herzegovina, for example, the Bosnian Serbs have the Republic of Srpska, and the Bosniaks and Croats have cantons in which either Bosnians and Croats constitute the majority, although some cantons remain mixed. However, authorities will still not declare territories or municipalities to be "ethnically pure". The federal government has therefore been given the responsibility of creating an Office of the Ombudsperson that is answerable to the federal parliament to ensure that the rights of national minorities are respected. The Office, which works closely with the Human Rights Chamber, is responsible for ensuring that the rights of Bosnian minorities are respected, regardless of where they live.

Another approach is to enshrine a corpus of fundamental civil rights enforceable by the courts in the Constitution. Such was the case when Canada introduced a Charter of Rights and Freedoms in 1992 at the same time that Canada transferred the power to approve amendments to its constitution from the UK Parliament to Canada.

How to manage conflicts

Today it seems that the idea of assimilating national groups has finally been abandoned. History has shown that a sense of membership in a national group is often stronger than affiliation to the country. As a result, the nation state that so many have striven to build over the past few centuries is giving way to the multinational state.

Governments of such multinational states are increasingly recognizing the merits of demands related to linguistic, religious or cultural protection. They are also realizing that, far from threatening the stability of the country, the conferring of distinct powers on some national groups may actually lead to greater social peace. Conflicts and negotiations are not about to disappear entirely; however, rather than taking place under tense conditions, they will be tackled by constitutionally recognized partners.

Several observers point out that federal structures have not entirely succeeded in crushing separatist movements and they probably never will. Representatives of separatist movements jockey for position on the political stage during elections. Some entities, such as Puerto Rico, Quebec and St. Kitts & Nevis, have held elections or referenda on the issue of separation. However, we should not forget that countries such as Canada, Belgium and Spain would probably not exist in their current form if they had not devised ways of sharing powers with their national groups.

Power-sharing or increased territorial autonomy give national groups more confidence. This confidence would be even greater if they were to become constitutional partners, thereby gaining legal guarantees and further autonomy on issues related to preserving their distinctiveness.

Far from leading to secession, federalism, if applied in a truly democratic fashion, can offer the political space needed to guarantee true regional autonomy.

An ongoing process

Federalism is much more than a system of government. It is also a process of ongoing negotiations, an art of resolving conflicts, an approach based on compromise and cooperation.

Nothing is ever established once and for all, since solutions to problems must be negotiated among constitutional partners and not imposed by a single central authority. That flexibility is one of the greatest advantages of federalism.

What about the ideal model? To satisfy all parties, the federal structure must first and foremost be flexible and reflect the particularities of its constituent groups or regions. There are no patterns to follow. None of the 25 countries that have opted for a federal constitution has won the trophy for "best federation". From them, however, we can learn tremendously. Learn from their successes – learn from their mistakes. ☺

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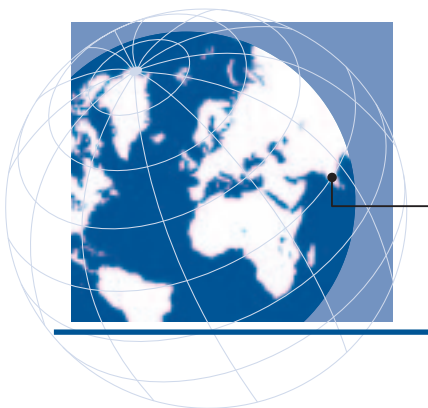
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How India does it

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

BY **ASH NARAIN ROY**

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

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

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

High marks for democracy – and for federalism?

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

To begin with, India was a highly centralized federation. But the rise of the regional parties and the success of federal coalition governments have given Indian federalism not only a new meaning but also a new measure of strength and vitality.

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

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

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

Communal violence: the exception, not the rule

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

What Gujarat witnessed was not merely communal riots of a barbaric kind, but a systematic effort to target the Muslims and their source of livelihood. Not only did the government of Chief Minister Narendra Modi in Gujarat provide no timely relief to the riot victims, it also sought to

derail the trials. Recently the Supreme Court of India stopped the proceedings in 10 of the main riot cases, transferring the trials outside Gujarat.

The Supreme Court responded to a petition filed by the National Human Rights Commission which argued that a fair trial was not possible in the state. Some Hindu fundamentalists are trying to recast Indian politics in a dangerous “communal” mould. They have had some success in Gujarat. From all appearances they have failed to replicate the Gujarat experiment elsewhere. Secularism is very much intact in India. The state institutions, the judiciary, the press and the civil society remain secular to the core. Secularism seems to be India’s manifest destiny.

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

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

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

Language harmony

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

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

Experience suggests that federalism in India is not quite as shallow as was once considered. The era of single-party hegemony or the so-called “Congress system” is over. The Congress party, which dominated the Indian political scene like a colossus and which was responsible for centralizing power, has now lost much of its power base and appeal. Its loss in four of the five states that held state Assembly elections in November 2003 – Mizoram, Delhi, Rajasthan,

Madhya Pradesh and Chhattisgarh – has dashed hopes of India’s grand old party, the Congress Party, capturing power in the 2004 federal Parliamentary elections on its own. The transformation of India from a dominant-party system to a multi-party system has strengthened federalism. Government by coalition has now come to stay. The National Democratic Alliance, led by the Hindu nationalist *Bharatiya Janata Party* (BJP), has swept the Assembly elections thanks largely to its ability to forge a grand coalition of 20-odd disparate parties.

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

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

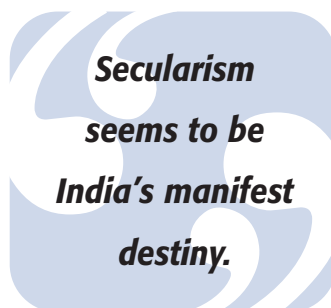
A new breed of political party

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

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

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

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




Power for the grassroots

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

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

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

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

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

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Switzerland: each canton is different

Arnold Koller, interviewed by Forum staff

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

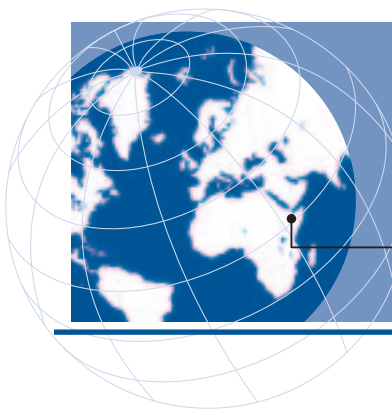
The national groups in Switzerland are four: the German-speaking, the French-speaking, the Italian-speaking and the very small group of Romansch-speaking. We have a mainly German-speaking part of Switzerland and we have a French part. Of course in the border regions we have quite a lot of mixing up.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

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

You might say federalism is complicated because it's unique – a very centralized state is easier to manage, but I wouldn't agree that federalism is costly – on the contrary, federalism brings politics much nearer to the people. The necessities of a rural canton such as mine – Appenzell – are very different from a very urban canton like Geneva. And I think a centralized state always has a tendency to treat them all in a very equal way while federalism gives us the possibility of finding solutions really adapted to each canton. Appenzell, the place where I live, is the smallest canton in Switzerland with only 15,000 people. It's still very rural. There are a lot of farms, and tourism is the background of our economy, but it's a very old canton with a very long tradition. Our first federal constitution dates from 1848. Switzerland – after the US – is the oldest federation in the world and we have had about 140 partial revisions to our constitution. One person called it “an overstuffed cupboard”. And now we have updated it and I think we made some quite important innovations to give some rules to our confederal behaviour.

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

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



Ethiopia's return to federalism

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

BY TOM PÄTZ

General elections in Ethiopia took place in May 2005. The Carter Center reported after the elections that “the first time in history the majority of Ethiopian voters were presented with choices when they went to the polls”. However, they also reported problems or irregularities in a number of constituencies they investigated. After the elections, the ruling party held 263 seats – 11 short of a majority. In late July, Prime Minister Meles Zenawi met with opposition leaders for the first time since the elections. The opposition was demanding new elections in nearly 300 constituencies. During the previous elections, in May 2000, the government candidate ran unopposed in 50 per cent of the electoral districts for the lower house.

The May 2005 elections took Ethiopia one step further on the road to implementing its constitution. Ethiopia has had a federal, democratic constitution, on paper, since 1994. But until quite recently, the reality more closely resembled an autocratic centralized regime, with power concentrated in the Prime Minister's Office.

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

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

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

Tom Pätz worked in Ethiopia as a project manager for Gesellschaft für Technische Zusammenarbeit (in English, Society for Technical Co-operation), an international development agency of the German government.

The House of the Federation

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

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

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



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

Ethiopia – a recent history

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

A split and a policy change

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

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

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

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

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

Belgium: an evolution to federalism

Johanne Poirier, interviewed by Forum staff

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

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

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

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

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

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

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

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

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resolution of conflicts arising due to lack of intergovernmental consultation. Members of the House of the Federation set up special committees, workgroups and coordination mechanisms to manage “unity in diversity”.

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

A state copies the national initiative

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

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

Filling the democratic deficit and the food reserves

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

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

Ethiopia: food vs. famine

- 1984 – Famine from drought kills nearly 1 million
- 1985 – LiveAid concerts by Bob Geldof raise US \$60 million for famine relief
- 1999 – First of three years of bumper harvest
- 2000 – Coffee exports reach US \$250 million
- 2001 – UNPAN reports GDP growth from 1992 to 2001 was 6 per cent a year
- 2002 – Gross National Income is US \$100 per capita; GDP per capita is US \$700
- 2003 – Ethiopia’s own aid concert, “A birr for a compatriot”, raises US \$1 million
- 2004 – Forecast good for harvest, but falling coffee prices cause hardship
- 2004 – GDP growth for 2003 expected to come in at 0 to 1.5 per cent

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

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

“And thirdly ... they’ve got a more benign government, at least, than existed in 1984.”

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

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

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

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Practitioner's page

Hon. 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. 

Federal countries in the world

Although there are only 25 federal countries in the world today, the citizens of federal countries make up 40 per cent of the world's population.

Argentina
Australia
Austria
Belgium
Bosnia and Herzegovina
Brazil
Canada
Comoros
Ethiopia
Germany
India
Malaysia
Mexico
Micronesia
Nigeria
Pakistan
Russia
St. Kitts & Nevis
Serbia and Montenegro
South Africa
Spain
Switzerland
United Arab Emirates
United States of America
Venezuela

Canada: two official languages protect minorities

Gil Rémillard, interviewed by Forum staff

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

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

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

Quebec has a population of seven million. Approximately 80 per cent of these seven million have French as their first language and then there are the anglophones, as well as many ethnic communities that speak different languages. There is a very large Italian community, and the Arabic community is also very well represented. In Quebec, where the majority language is French, there is a law which we call the French Language Charter and which establishes the French as the official language of Quebec. As a result, if you walk the streets of Montreal now you will see the French presence everywhere. Montreal has a French look to it. Montreal also has an internationally renowned character, but still maintains its francophone presence. I would say that this is one of the major success stories of the last 30 years. At some point in history of the federation all the other provinces

Continued on page 16



Can federalism help to manage ethnic and national diversity?

BY JOHN MCGARRY

The answer depends on whom you ask. If you ask most citizens of India, Canada and Switzerland, they would say yes. Many people in other countries in Africa, Eastern Europe, and Asia are resistant to the idea of accommodating national and ethnic communities through federal institutions. For them, federalism is a dirty word.

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

Post-communist break-ups

The widespread opposition to multinational (or multi-ethnic) federalism is connected to the belief that it does not work. It is thought that giving self-government to distinct peoples unleashes centrifugal forces that result in the break-up or breakdown of the state. Critics of multinational federalism like to point, in particular, to the experience of post-communist Eastern Europe. While all of communist Eastern Europe's unitary states stayed together after 1989, all three of its multinational federations (the Soviet Union, Yugoslavia and Czechoslovakia) fell apart. The federations also experienced more violent transitions than the unitary states.

Before this, multinational federations that were formed in the wake of decolonization had a similarly abysmal track record. They fell apart in the Caribbean (the Federation of the West Indies); in east Africa (the East African Federation and Ethiopia); southern Africa (Northern and Southern Rhodesia and Nyasaland); and in Asia (Pakistan, the Union of Malaya). The Nigerian federation managed to stay together, but only after a brutal civil war and decades of military dictatorship.

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

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

Plainly, the answer is no.

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

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

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

Not genuinely federal, economically weak and undemocratic

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

All of the communist and post-colonial federations that broke apart were economically weak. Because of corruption or the shortcomings of central economic planning, they could not provide a reasonable or growing standard of living for their populations. Relatively enterprising regions of these states, such as Slovenia or the Baltic republics, found this particularly difficult to deal with.

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

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

Federations with one major group

Also, the failed federations all lacked a dominant ethnic community that constituted an overwhelming majority of the federation's population and that might have been capable of holding the federation together in a crisis.

The United States, the oldest federation, was constructed around a dominant group of white Anglo-Saxon Protestants. It can be argued that the Russian federation is more stable and secession-proof than the Soviet Union because Russians have a majority of 81.5 per cent in the Russian federation; they had only 51 per cent in the USSR. Together these qualifications show that multinational federalism is not bound to fail. But there are some conditions that would make success more likely.

A federation with a dominant ethnic community has some advantages: such a majority has the strength to resist secessionism yet it may also feel secure enough to make concessions to other groups. Multinational federations without one strong group can sometimes be unstable because other peoples are more likely to think they can prevail. This means that we cannot extrapolate Russia's future from the experience of the Soviet Union, because one single group – Russians – are far more dominant within the former than they were within the latter.

If a federation has a dominant majority group, how can a minority group be best protected? One approach is to ensure that the federation is decentralized. Another is to see that the majority group is dispersed across several federal units. In this scenario, at least some of the majority units may come to have similar interests with the minority's unit on at least some issues. This will help to prevent the sort of zero-sum politics that sometimes occur between majorities and minorities in unitary states or in federations that have only two units. In Canada, for example, the French-speaking province of Quebec regularly makes alliances with some of Canada's nine English-speaking provinces, particularly with Ontario. This is an important factor underlying Canada's stability.

Power sharing at the centre

Another key condition for success: a federation is more likely to endure if all groups are represented within the

Canada: Two official languages protect minorities

Continued from page 14

had to share when they were in a better situation than the others. But, sometimes, for economic or social reasons – language, history, culture – a province or state might be tempted to say that this autonomy is not sufficient. Some might say "We must become a sovereign state now." And this is something that we need to understand, particularly in Canada.

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

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

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

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federal government. Supporters of multi-ethnic federalism usually defend it as a method for giving autonomy to distinct peoples.

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

It is also helpful to have political parties that can attract support across the country. Both Switzerland and Canada have country-wide parties that are also multilingual. Canada's Liberal, Conservative and New Democratic parties organize across the federation and operate in both official languages. The major Swiss parties – the Social Democratic Party, the Swiss People's Party, the Christian Democratic Party, the Radical Party and the Green Party – are all country-wide parties with candidates from Switzerland's different linguistic groups. However, it is important to understand that while parties may organize across a federation, there is no guarantee that they will be successful in every region, unless there is a pre-existing consensus.


Democracy, rule of law and free choice

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

dialogue is a prerequisite for the development of co-operative practices.

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

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

The successful multinational federations, including Canada and Belgium, arose from voluntary agreements. Most of the failed federations, on the other hand, began without the consent of all their communities. This condition does not augur well for Bosnia-Herzegovina, which owes its origins to the internationally imposed Dayton Accords. Prosperous multinational federations are more likely to have a bright future than those that are in difficult economic situations. We should not exaggerate the importance of economic factors when matters of identity are at stake, but the plight of the failed communist and post-colonial federations was plainly exacerbated by their inability to provide materially for their citizens. 

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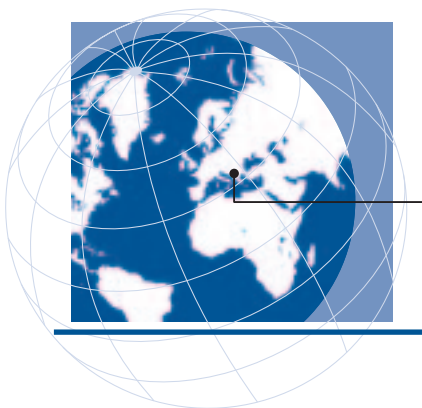
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Why Yugoslavia failed

BY DEJAN GUZINA

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

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

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

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

Two moves that failed

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

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

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

In Serbia, after 1972, more than 6,000 people lost their jobs in politics, the economy, the media and the cultural institutions. Their places were quickly filled with party

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

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

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

Why Tito's reforms failed

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



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

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

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

The economy crashes in the 1980s

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

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

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

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

Enter ethnic nationalism

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

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

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

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

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

proposal, it promoted the particular interests of one nation over the interests of the others.

The “third way” fails to appeal to all

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

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

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

Lessons for the future

What lessons might be learned from the Yugoslav experience? The solution to the destruction of Yugoslavia’s federation and the war in Bosnia-Herzegovina was the creation of yet another federation, that of Bosnia-Herzegovina, and the international imposition of certain power-sharing forms of government on Macedonia and Kosovo. To many Yugoslavs, this looked like trying to extinguish a fire by throwing oil on it! But there may still be

time to save something from the fire. The international community has finally recognized that the problem of Yugoslavia was not its federal character or ethnic diversity but rather its authoritarian political structures and non-democratic traditions. Thus, the solution to former Yugoslavia’s maladies has always been at hand – liberalizing and democratizing the federal political system. For former Yugoslavia it is too late, but one can hope that there is still a chance for Bosnia-Herzegovina and for Macedonia.

Even though federalism has been used as an instrument of ethnic conflict management in multinational states, it is not certain to what extent multinational federations and other forms of territorial and political decentralization can be implemented in the region. Despite the current international support for Bosnia-Herzegovina and Macedonia on the principles of federalism and compromise between ethnic communities, federalism may still not have a future in the region. One of the most unfortunate consequences of the war in former Yugoslavia has been the outright rejection by most people in former Yugoslavia not only of the liberal model of federalism but also of much less radical forms of territorial and political decentralization. Recent elections in Croatia, Bosnia-Herzegovina and Serbia seem to corroborate this claim. Nationalist parties are still attracting a substantive percentage of the population and thus remain a strong alternative to democratic parties in the region.

Will the new federal proposals succeed?

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

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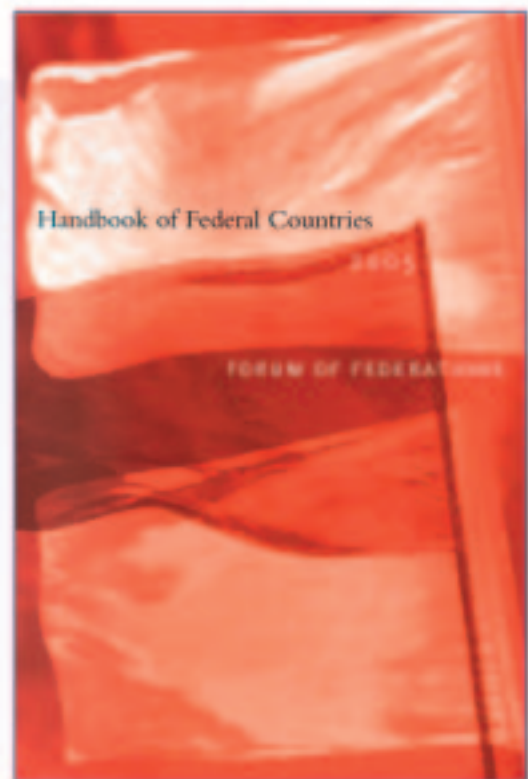
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