

A federal Bosnia and Herzegovina: can a weak centre lead the way?

Where constituent unit governments spend almost 99% of total public expenditure it is not surprising that there are intractable problems of fiscal imbalance.

THEME II: FEDERALISM, DECENTRALISATION AND CONFLICT MANAGEMENT IN MULTICULTURAL SOCIETIES

BY PAUL BERND SPAHN

Can federalism be a model for conflict prevention and post-conflict reconstruction of countries? The answer appears to be positive.

After World War II the Western Allied Forces had insisted on a federal constitution for Germany hoping that this would incorporate checks and balances to guarantee political stability and prevent the reemergence of abused central powers and dictatorship. The Dayton Peace Accord (DPA) signed in December 14, 1995 under the auspices of the international community reestablished peace for a conflict-ridden region within the territory of the former Republic of Yugoslavia, and Bosnia and Herzegovina, and it laid the ground for a federal constitution for the new country. Will federalism again be successful in reconstructing a post-conflict society as in the case of Germany?

Some similarities and dissimilarities

There are a number of similarities between the two situations.

In both instances the objective was to prevent further conflict and to assist post-conflict reconstruction and reconciliation. In both cases there was need to undo the results of a destructive war: emotional wounds and resentments; shattered homes and damaged physical infrastructure; large numbers of refugees and displaced persons; political and economic frailty; poverty and social quandary. And in both instances there were expectations that a decentralized political structure would fit better for rebuilding and reconstructing a society and its economy than any central authority, because local authorities are closer to the people and in a better position to recognize the immediate needs.

Despite such outward similarities, the results of a federal organization of government are likely to differ significantly between the two countries, because there are variations in the nature of the originating conflicts, and differences in political and economic behaviour.

Germany, despite internal political splits, had essentially become a nation by the end of the war, which fostered economic cooperation

and smoothed the progress toward social cohesion. She could also rely on human capital, entrepreneurial spirit, and administrative proficiencies familiar with modern technologies and market processes.

Bosnia and Herzegovina still remains an ethnically divided polity, and the behavior of its political and economic agents continues to be shaped by values and behavioural patterns of the former socialist system.

Complex architecture of decentralization

Bosnia and Herzegovina has a rather decentralized structure of government. There is a weak central authority, the State of Bosnia and Herzegovina, and two constituent Entities: the Federation of Bosnia and Herzegovina (Federation) and the Republika Srpska (Serb Republic). In March 2000, the Brcko territory was declared an autonomous District. For the time being, the State, the Entities and the District of Brcko remain under the supervision of the Office of the High Representative (OHR) of the United Nations (see diagram 1).

The political, administrative and fiscal structures are distinct in both Entities. The Federation comprises ten cantons and eighty municipalities, and it represents almost 3/4 of the consolidated Bosnia and Herzegovina budget. The Serb Republic counts sixty-two municipalities, but it is administratively and fiscally centralized. Its budget represents about 1/4 of Bosnia and Herzegovina's consolidated budget.

The State of Bosnia and Herzegovina has only limited political power and relies basically on the Entities. The Entities have enacted their own constitutions and are politically, administratively and fiscally autonomous. In their respective jurisdictions, they exert all

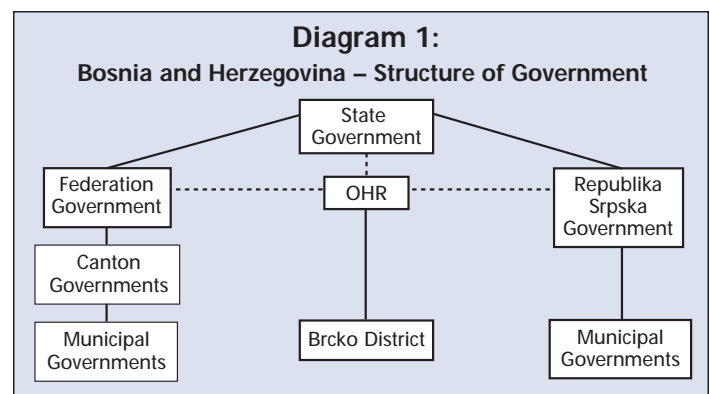
public functions that are not explicitly assigned to the State by the State Constitution.

The Entities have retained sovereignty even in policy areas that are typically assigned to the central government in other federations. For instance they are authorized to:

- Establish special relationships with foreign governments and international organizations; and
- Provide defense and social security (including social assistance) to the citizens of their respective territories.

While the State of Bosnia and Herzegovina is administratively and fiscally decentralized, its operation as a federation is severely hampered by a lack of interjurisdictional cooperation.

In the Federation there is an almost complete vertical and horizontal segmentation of government, which is reflected in its fiscal arrangements and budgetary structures. The relatively well-off minority, the Croats, prefer separated governments with no interjurisdictional



solidarity, while the comparably poor majority, the Bosnians, tends toward the more centralized provision of public services with fiscal equalization across jurisdictions. In the Serb Republic the predominant Serb population is more homogeneous, but interjurisdictional solidarity is also weak.

Given that vertical and horizontal cooperation between governments is extremely poor in practice, most of the coordination of policy takes place under the

auspices of the Office of the High Representative and other international organizations.

A fiscal system that discourages cooperation...

The State is fiscally dependent on the Entities and neither possesses fiscal autonomy nor a proper revenue source of its own, except for some administrative fees. Therefore the share of sub-national governments in total public expenditure is extremely high by international standards (98.7 percent), which reflects idiosyncratic fiscal arrangements that attribute all public revenue sources (including customs duties) to subnational levels of government.

Down to the Cantonal level, the Federation is perhaps one of the most decentralized government structures in the world, with cantonal governments enjoying substantial decision-making power on fiscal policies, at least on the expenditure side. The share of sub-Entity government expenditures (considering Cantons and municipalities together) is roughly three quarters of the Entity's total expenditures. However, from the Cantonal level downward to municipalities, the Federation is one of the most centralized fiscal structures, with only 8 per cent of the Entity's aggregate budget being executed at the municipal level. In the Serb Republic the share of local expenditures (excluding Brcko) is comparably low. In both Entities, municipalities enjoy very little discretionary powers in fiscal matters.

By statute, customs duties, excise taxes and profit tax (except for some smaller corporations in the Federation) are *exclusively assigned* to the Entities. The sales tax (a tax on the turnover of goods and services) and the personal income tax—both the wage tax and the so-called “citizens tax”—are the most important shared taxes in both Entities. In the Federation, the property tax (mainly a real estate tax), the property transaction tax (on sales, inheritances and gifts), and “road taxes” (including the motor vehicle registration tax) are also shared between Cantons and municipalities.

All tax revenue is apportioned on a derivation (origin) basis. This is true for the three levels of government in the Federation (Entity, Cantons, and municipalities) at uniform sharing ratios, and for the two layers of government in the Serb Republic, where there is some differentiation of municipal sharing ratios in favor of economically lesser-developed local jurisdictions.

Sales and wage taxes account for about 5/6 of the Cantons' budgetary revenues in the Federation. And municipal budgets are highly dependent on sales taxes and personal income taxes – for more than 80% of their revenues in both Entities.

Local taxes (on which local authorities have some discretionary power) have not been given much attention in Bosnia and Herzegovina. Their importance as a policy instrument to improve the allocation of resources at the local level and to finance the budget has not been recognized.

Local governments are accustomed to rely on shared taxes. This dependency creates perverse incentives, since local authorities do not feel directly responsible for these resources and are not accountable toward their citizens.

...creates imbalances...

The problem of fiscal imbalances is particularly serious since compensation mechanisms between the Entities and the Cantons have been frustrated because of a politically charged climate and ethnic tensions. The vertical imbalances are aggravated by the fact that the Entity governments make tax policy decisions and that cantonal governments tend to delegate social expenditures, which affects both the budgets of Cantons and municipalities, respectively.

Vertical fiscal imbalances clearly work against the State (the central government) and the municipal sector. The State's own revenues cover only one half of its operational expenditures, and municipalities faced a collective deficit of about one third of their expenditure responsibilities in 2000. Unfunded mandates of the lowest tier of government entail either substantial payment arrears, or a lack of basic service delivery.

As for horizontal fiscal imbalances, sub-Entity governments differ considerably in terms of their ability to raise revenues. Their economic potential (e.g., natural resource endowment, agricultural activities, industrial development, employment, factor productivity) is unevenly distributed across regions. For instance gross value-added per capita is four times higher in the canton of Sarajevo than in the canton of Gorazde. There are also distinct expenditure needs—owing to differences in the costs of services (e.g., civil security, water, energy, housing, transportation) and the share of population with special needs (e.g., refugees and displaced population, children to be educated, elderly, poor).

While the proportion of displaced persons is about 20% in the Federation and 30% in the Serb Republic, these shares vary substantially across municipalities within each Entity. About two-thirds of the inhabitants are displaced persons in some municipalities, while their proportion is less than 5 percent in others.

...and leaves poor regions behind

The current system of tax assignment based on the derivation principle tends to exacerbate existing horizontal imbalances across regions, because regional tax capacity is inversely related to regional poverty indicators. The poorer and economically stagnating regions tend to be left behind in the process of development, and economic convergence is put in jeopardy. This is a fundamental obstacle to nation building and achieving social cohesion.


Horizontal fiscal imbalances are usually addressed through equalizing grants, but given the ethnically driven tendency toward budget segmentation and the lack of cooperation, such equalizing transfers are practically nonexistent in the country.

In the Serb Republic the situation is slightly better than in the Federation, because there are some small grants-in-aid to municipalities (especially for investments), and the differentiation of the sharing ratios also eases financial discrepancies, albeit on a minor scale. Transfers among governments of the same level are unthinkable in both Entities.

Given the considerable divergence in taxable capacity across regions, the prevalence of the derivation approach for allocating revenue will perpetuate the current disparities in public expenditures and service delivery among Cantons—and municipalities, let alone among Entities—and this will end up aggravating an imbalanced economic pattern of growth across regions for the foreseeable future.

New incentives required

Federalism may mobilize resources and growth through decentralization and competition among jurisdictions, but this potential is easily squandered where there is little or no interjurisdictional cooperation and fairness. Where federalism is understood to mean fiscal segregation and budget segmentation, existing regional inequities will persist and even become aggravated, social cohesion will remain illusory, and latent conflicts are likely to build-up further.

The challenge for Bosnia and Herzegovina and the international community is to judiciously create the necessary incentives for greater interjurisdictional cooperation, to strengthen the elements of nation building, and to bring about regionally more balanced growth through intergovernmental transfers that aim at equalizing economic and social opportunities across regions. If Bosnia and Herzegovina and the international community fail to achieve these objectives, there appears to be only one ultimate alternative: political division. Germany chooses unity. 



In India the Constitution holds the key to resolving conflicts

The world's largest federation is divided by language, culture and tradition but held together by a political structure based on shared values.

THEME II: FEDERALISM, DECENTRALISATION AND CONFLICT MANAGEMENT IN MULTICULTURAL SOCIETIES

BY AHKTAR MAJEED

Indian pluralism is a fact that gets amply reflected in her social federalism, recognizing and respecting diversities in the society, and providing social and political space for the articulation of multiple identities. India has 18 languages and some 2000 dialects, a dozen ethnic and seven religious groups fragmented into a large number of sects, castes and sub-castes, and some sixty socio-cultural sub-regions spread over seven natural geographic regions.

Variation exists in social systems, economic formations, culture patterns, language/dialect groupings, religious communities, castes and sub-castes, local mythologies, ethnic identities and folklore, music, dance, crafts and cuisine, regional alignments and sub-regional attachments. In the evolution of a 5000-year-old civilization, many strands of ethnic segments, religious influences, languages, and cultures have intermingled to develop a classic plural society. All these identities and variations are as distinct in their distribution and dimensions as are, normally, separate nation-states. And yet, this mammoth federal polity is a single sovereign territory, making the unity itself a federal concept.

Constitutional nation-building

The Constitution of India makes it clear what kind of nation India is by highlighting her shared past and shared destiny. The hopes that are enshrined in the Preamble to the Constitution are values commonly shared by the people of India — not by any particular group on whatever basis. That is the best guarantee for nation building.

In the *Golaknath* case of 1967 and the *Keshavananda Bharti* case of 1973, the Supreme Court of India emphasized a Doctrine of Limitations by emphasizing that certain “basic features” of the Constitution cannot be amended. This means that certain values permanently represent the aspirations of the people of India. For democratic nation building, this is a check on the whims of the political majority. Democracy, rule of law, equality before law, federalism, secularism, and independence of judiciary, are all part of this basic structure. Its inviolability guarantees the country's smooth transition to and consolidation as a Nation.

The rights of minorities

This phenomenon has special significance when considering various problems of and for the minorities in India. Even if there is a perception of discrimination and political alienation exists, the only course open to minorities is to get incorporated into the public life of the nation *as citizens* and not just as *dependent minorities*. Minority groups have realized that they can no longer remain clients of this or that political party but must emerge as partners in sharing the power in the nation.

Ultimately, it is not just the question of majority-minority in a plural society but also of social and distributive justice in a liberal democracy. The Indian Constitution provides a viable method for dealing with this question. Since following the democratic procedures and institutions in the normal course would be disadvantageous to minorities, the state has ensured special provisions for the protection of minority rights (Articles 25 to 30).

The issue of minority rights seems to be linked with the phenomenon of ‘Protectionist Sub-nationalism’. In several places in India, feelings of sub-nationalism have developed against such minority groups when the natives in a region have failed to effectively compete against the minority coming from outside in matters of employment, trade and commerce, and when these ‘others’ were culturally distinct and visible and could be easily blamed for failures. “Protectionist” demands from majority groups in many regions have become aggressive nationalism and antagonistic regionalism, on the part of people who perceived that they were being deprived of their status. Such a perception might have been based on false consciousness and false aspirations but it grasped the sub-conscious of people in Assam, Telengana, Vidarbha, Marathawada, Tamil Nadu, Uttarakhand, Jharkhand, Punjab and Kashmir. That sub-conscious provided them with an opportunity to symbolically overcome their apprehensions, their inabilities, and their failures.

The matter of language

In India, employment policy has played a catalyzing role in linguistic identification. While a language cannot be culturally neutral, it can be politically neutral (like English in India to some extent, as it does not identify with the culture of any indigenous group). But it is a fact that, in the socio-political life of a society, it is the language of the majority that dominates. Equal opportunity in liberal democracies would mean, first, that the State make available the resources and the opportunity to master the dominant language and, secondly, that the State

also make available similar resources and opportunities to languages of non-dominant groups. Whereas the first is clearly present in multi-lingual India, the second is conspicuous by its absence.

In India, conflicts over state boundaries have erupted over questions of linguistic identity. While Hindi represents the Indian nation-state, English is the language favored by the national elite. Of course, in the process, another language —Urdu— that is erroneously identified with the cultural identity of a minority gets sidelined and neglected. Similar is the fate of various dialects of the dominant language. If opportunities do not exist for the languages of minorities in education, administration and the job-market, then such languages become marginalized. If a community wants to move ahead socio-economically, it has to abandon its language and, consequently, its distinct cultural identity. The language may retain an emotional and symbolic value but the material linkage with the community is severed.

That is what has happened in the case of the Urdu language used by the Muslims of northern India. Since the Muslims in India are geographically dispersed across the country in numerical minority, the basis of their distinct cultural identity cannot be territorial. Religion is not considered a relevant variable in understanding distinct national characteristics. Linguistically, Muslims are prone to being assimilated in the wider linguistic identity of the State where they live. To preserve their socio-religious cultural identity, Muslims in India have relied on some symbols and the Urdu language provides that role.

Accommodating diversity

The Constitution of India recognizes the nature of ethnic identity and makes adequate arrangements for it. The Constitution has not ignored differences based on religion and language nor does it discourage them, but only says that no one is to be disabled by such differences. In fact, instead of discouraging differences, the Constitution takes them

for granted and offers every facility for their expression and development (Articles 19(1), 25-30). Whereas Articles 14,15,16 & 19 deny inequality, Articles 25 to 30 confer privileges; and there is no contradiction involved. The Constitution recognizes the ethnic plurality of Indian society and gives scope for its expression, both to the individual (Art 19) and to groups (Art 25,26, 29 & 30).

For a plural society like India, the option cannot be 'unity' or 'diversity'; rather, both have to co-exist in a single framework.

One unique feature of the Indian Constitution is the right (under Art 25) to propagate one's religion. Many constitutions grant a right to their citizens to practice and profess any religion. It is a major contribution of India's Constitution that it grants, in addition, the right to propagate a religion. The result of all this is that every citizen can exercise his privileges in the name of religion and culture, and nobody can do in the name of religion and culture what he cannot do as a citizen.

Take the implications of Article 30 as an example in this context. Article 30 confers on linguistic and religious minorities the right to establish and administer educational institutions of their choice. Minorities have the right, under the constitution, to transmit their culture through their educational institutions.

This right is not merely a minority right but also a fundamental democratic right, based on the freedom to dissent from the majority view. Without this freedom, integration would only be assimilation. As with many other rights, the Courts in India have been vigilant in checking the governmental actions that tend to erode the educational rights of minorities.

For a plural society like India, the option cannot be 'unity' or 'diversity'; rather, both have to co-exist in a single framework.

Liberal values have been adopted in the Constitution to facilitate the promotion of tolerance and cultural co-existence. And that was believed to be the ideal relationship for the minorities in the 'Nation'. Today, minority concerns for the retention of their religious-cultural identity as an ethnic group are often seen as 'Fundamentalism' and as a threat to national unity.

Similarly, the minorities treat the inevitable process of "cultural osmosis" as a threat to their distinct cultural identity. All this leads minority groups to more vigorously assert their distinct identities as safeguards for cultural existence. The dilemma has been sorted out by the Constitution in not treating cultural, linguistic, regional and religious differences as a threat to national unity, or as a conflict between the majority and minorities.

The Indian Constitution has recognized that the way to achieve equality among individuals and groups is through the accommodation of interests. In a democratic plural society, there can be no place for one ideology, one faith, one religion, or one culture above all others. To maintain its democratic nature, such a society has to provide a separate 'social space' for each of its identities.

The viable guarantee for the future of Indian democracy is the blending of democracy, pluralism and rule of law in the Constitution of India. The founding fathers of India's Constitution rejected the philosophical postulates in the "clash of civilizations" thesis by proclaiming that every citizen of India, irrespective of religious belief, is absolutely equal before the law. The constitution makers who rejected the theory of two nations — the idea underlying the Partition of India in 1947 — constitutionally and institutionally guaranteed equality of citizenship. ☺



Ways of diffusing power

Could the labyrinth of terms to describe sharing, distributing and decentralizing political control have relevance for the Middle East?

THEME II: FEDERALISM, DECENTRALISATION AND CONFLICT MANAGEMENT IN MULTICULTURAL SOCIETIES

BY *RUTH LAPIDOTH*

Why does Switzerland call its Constitution federal but preserve its official name "Confederation Helvetique"? Why are the federal units of the U.S.A., Australia, India and Malaysia called states, while elsewhere only independent countries bear that name? What is the difference between a federal unit, an autonomous region and a decentralized district? How can these institutions serve the interests of ethnic and religious minorities?

Cooperating independent countries

A *confederation* is a more or less institutionalized system of cooperation among independent states. It is usually established by an international agreement, members are free to leave it, and resolutions have to be adopted unanimously. At least, opposing members do not have to implement resolutions to which they objected. Confederations are usually established in order to enhance security cooperation, and have no impact on minorities. The most famous examples are the U.S. *in the past* (1781-1787) and Switzerland *in the past* (1815-1848). Today perhaps the Commonwealth of Independent States (CIS) could be described as a confederation.

One country with a federal constitution

Despite the similarity in name, a *federal state* is very different (see box 1). It is a full-fledged independent state. It has a constitutional structure under which the state is divided into regions that assume different names in various countries, such as "state" in the United States, "province" in Canada, "Land" in Germany, and "canton" in Switzerland.

Federal states are usually established for economic or security reasons. However, they may also help to combine political unity with multiculturalism or multilingualism, as Canada and Switzerland demonstrate.

The Federal State

A federal constitution often allocates powers to both the central authorities and the regional ones. Sometimes only the powers of either the center or the periphery are enumerated, leaving all the rest to the other one respectively. In cases where the entities that make up the federal state existed before the latter and united in order to establish it, these entities are often in control of residual powers.

The division of powers is not the same in all federal states, but one can safely observe that usually the center is in charge of foreign affairs, defense, immigration, border and customs control, monetary and fiscal matters as well as citizenship. The federal units, on the other hand, are in control of local matters. The regions, as such, participate in the legislative function of the central authorities: their representatives are members in an upper house, and the consent of the local parliaments is required to amend the federal constitution. Usually, there is a special tribunal for settling disputes among the various regions or between a region and the center.

Among the most famous federal states are the U.S.A., Switzerland, Germany, Australia, Canada, Brazil, India and Argentina. According to its Constitution, Switzerland is today a federal state, but it has kept its name from the time it was a confederation. This explains the discrepancy between the name and the actual regime.

A third related term is *federation*. It is an "ideal" term likely to confuse students. Some use it as a synonym of confederation, while for others it equals federal state.

Response to demands for self-rule

The term *autonomy* is widely used, with rather varying meanings (see box 2). Territorial political autonomy is an arrangement aimed at granting to a group that differs from the majority of the population in the state, but that constitutes the majority in a specific region, a means by which it can express its distinct identity. It is a well-known means of satisfying groups' demands for self-determination while preserving the unity of the state. Opinions differ on whether minorities have a right to autonomy. With regard to indigenous populations, the international community tends to admit that they do have a valid claim to autonomy.

The powers of the autonomous region usually relate to education, culture, use of language, environment, local planning, natural resources, economic development, local policing functions,

and housing, health and other social services. There are, however, different degrees of autonomy, and the extent of the transferred powers varies accordingly, ranging from very limited to larger and up to a high concentration of major powers in all or some of the above spheres. The central authorities, on the other hand, are usually in charge of defense, foreign affairs, immigration and customs, macro-economic policy and monetary affairs. The control of the center over the activities of the autonomous authorities is limited to extreme cases, such as excess of powers or acts endangering the security of the state.

The most famous examples of territorial autonomy are the Åland Islands, (a group of islands in the Baltic sea; they are under Finnish sovereignty, but the great majority of the population speak Swedish); Scotland; Greenland/Kalaallit Nunaat (the island, inhabited by an indigenous majority, is part of the Danish realm); Puerto Rico (this Estado Libre Asociado, with its Spanish speaking majority, is part of the U.S.A.); South Tyrol/Alto Adige (a province in Northern Italy with a German speaking majority);

and Hong Kong (in the wake of its return from Britain to China). There are great differences among the various cases of autonomy.

At first sight, territorial autonomy may look similar to the system of a federal state. However, there are some very important differences. In most cases, the autonomous entity, as such, does not participate in the activities of the central authorities, whereas the cantons in a federal state (see box 1) play an important role in the central authorities (membership in the upper house and participation in the process of amending the federal constitution). Autonomy is usually established in regions that have a particular ethnic character, whereas the federal structure applies to the entire territory of the country.

Last but not least, one should mention the term *decentralization*. Some authors use this word as a general term for all types of diffusion of power from the center to the periphery. However, in a narrower and perhaps more accurate sense, decentralization implies a limited delegation (not transfer) of powers, subject to the full control and overriding responsibility of the center. There are various degrees of decentralization, depending upon the scope of the delegated powers, the extent of participation of locally elected officials, and the degree of supervision by the center.

Of course, not all constitutional arrangements fit into the various categories identified here – such as the state of Bosnia and Herzegovina, for example.

Autonomy in the 1978 Camp David Accord and the Oslo process

Are any of these institutions relevant to the Israel-Palestinian issue? Already in 1978, the Framework for Peace in the Middle East negotiated at Camp David by Egypt and Israel, with the mediation of President Carter, foresaw an interim regime of “full autonomy” for the West Bank and Gaza. However, the negotiations for the establishment of that regime did not lead to an agreement.

Much later, in 1993, Israel and the PLO agreed – in the Declaration of Principles on Interim Self-Government Arrangements (sometimes referred to as the Oslo accord) – to establish a self-governing Palestinian Council for five years. Various sets of negotiations led to a staged transfer of powers from the

Autonomy

The term autonomy is used in philosophy and its derivatives, in natural sciences, and in the sphere of law and political science. In the last mentioned category, for some it means a right to act upon one's own discretion in certain matters; for others autonomy is more or less a synonym of independence. In the sphere of diffusion of powers autonomy can mean decentralization but more often the term means that a certain entity has exclusive powers of legislation and administration – in some cases also adjudication – in specific areas. A distinction is made among “administrative autonomy” which resembles mere decentralization, “political autonomy” which involves a transfer of authority to legislate for a certain territorial unit in certain spheres, and “personal (or cultural) autonomy”

Personal or cultural autonomy differs from territorial autonomy at least in three respects. The self-rule is allocated to a culturally, ethnically or religiously rather than territorially defined group; the scope of self-management is usually limited to matters of education, culture, use of minority language, religion and welfare; and the institutions of the autonomous group can exercise authority only over those individuals who are part of that specific group. This kind of autonomy is helpful if the minority is not concentrated in a certain area, but is scattered in the whole country or region. The most famous example of personal autonomy was the millet system of the Ottoman Empire. It has also been established in some of the countries that regained or acquired independence after the break-up of the Soviet Union and Yugoslavia, such as Estonia, Latvia, Slovenia, Croatia and the Russian Federation.

Certain other institutions of diffusion of powers are quite similar to autonomy though not identical: self-government, self-rule, home-rule, and devolution.

Israeli military government to the Palestinians, accompanied by a withdrawal and redeployment of Israel's forces. The regime was one of self-government or autonomy with a high degree of powers and responsibilities, in both civil and security matters. The parties had also agreed to negotiate on the terms of the permanent status of the relevant territories, but these negotiations were interrupted in 2001 due to an outbreak in 2000 of violent attacks by Palestinians against Israelis, which provoked violent reactions by Israel.

Possible confederation?

When the violence stops, and we hope very much that it will, the negotiations on a permanent solution will probably resume. The geographic, strategic and economic circumstances may lead to a need for cooperation, but it is doubtful that the parties would establish a federal or a confederal relationship in the foreseeable future due to the lack of confidence and the bitter memories.

On the other hand, it is quite possible that a confederation between Jordan and the Palestinian entity may be established. Already in 1985 King Hussein of Jordan and Yasir Arafat, chairman of the PLO, expressed the wish to unite Jordan and the future Palestinian state in an “Arab Confederation”. The idea was mentioned again in an unofficial Israeli-Palestinian

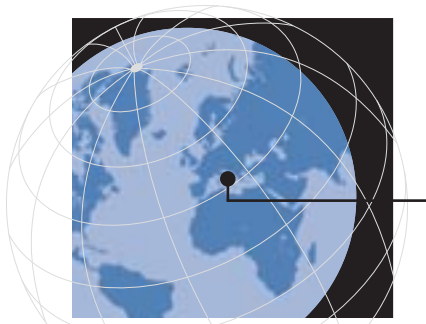
peace plan – the Beilin-Abu Mazin plan – of 1995. Such a confederation would be justified because of the ethnic affinity between the population of Jordan and of the West Bank and because of their common history. It could contribute to a peaceful coexistence with Israel. In the remote future, if confidence is established, perhaps a trilateral confederal arrangement that would include Israel could be envisaged.

Human ingenuity the key

Two phenomena characterize our times: integration or globalization on the one hand, and fragmentation or subsidiarity on the other hand.

The common umbrella established by integration makes it easier for a country to give up some of its powers to sub-state or regional entities. When choosing among the various means for diffusion of powers – federalism, autonomy, decentralization or a combination of them – one has to take into consideration all relevant circumstances, such as geography, demography, history, tradition and culture, as well as economic aspects.

Most of the above means for diffusion are flexible and can be adapted to the special needs of different countries. Moreover, there is no obligation to choose one of the solutions studied above, and human ingenuity may invent new regimes for new situations. ☺



Italy: toward a federal state?

A recent constitutional reform empowers the regions and moves Italy closer to a federal structure.

THEME II: FEDERALISM, DECENTRALISATION AND CONFLICT MANAGEMENT IN MULTICULTURAL SOCIETIES

BY *BENIAMINO CARAVITA*

In the last year, Italy has gone through an important constitutional reform process that strengthened the role of the Regions and the Local Authorities as well as their international and European relationships. Federalism has long been an important strain of political thought in Italy and over the past decade many Italians have argued for increased decentralization and “federalization” (see box).

On November 8th, 2001 a significant reform of the part of the Constitution that deals with Regions and the Local Authorities came into force after being approved by the Parliament and confirmed by a referendum (Constitutional law nr. 3 of 2001).

Although this reform was hotly debated, it adapts Italy to the phenomena of regionalization and federalization of public powers – a process that is already taking place in most parts of the European Union.

Today, 8 European states out of 15 have regional institutions that are more (Germany) or less (France) significant in the political process, and more or less guaranteed at a constitutional level, with or without legislative powers. Poland has reorganised its regional administration, with the objective of making accession to the European Union easier.

Powers enshrined in the Constitution

Among the changes instituted by this reform in Italy are that it lists Municipalities, Provinces, Metropolitan Cities, Regions and the State (the central government) as components of the Republic with equal “dignity”, rejecting the notion of an absolute identity between State and Republic.

The federal idea in Italian history

Italy became a unitary State between 1861 and 1870, assembling under the Savoy dynasty (at that time governing Piedmont and Sardinia) other States and Reigns of the Italian peninsula (State of the Church, Reign of the Two Sicilies and other States under the direct or indirect control of the Austrian Empire). The Italian territories were unified only after World War I, when Trent and Trieste joined the Italian Reign.

In the first period of state making and nation building, the question of the regional autonomy - though debated in intellectual circles - was not on the political agenda; the search for a national identity was too strong. The focus of the authoritarian fascist regime (1922-1943) remained the enforcement of nationalism without any space left for regional differences.

The democratic Constitution of January 1st, 1948 recognised the Regions as political bodies with legislative and administrative powers: five of them (Aosta Valley, Trentino-Alto Adige, Friuli-Venezia Giulia, Sardinia, Sicily) were granted a special status, based on constitutional laws due to ethnic and linguistic reasons or insularity. These regions could start to work just after the Constitution came into effect (1963 for Friuli-Venezia Giulia, when an international agreement regulated the status of Trieste). The 15 other Regions were ready to function only in the Seventies, when the Regional Councils were elected (in 1970) and when the new regional Statutes, finally enacted by an act of the national Parliament, were approved (in 1972).

In the 1990s, strong political pressure for subsidiarity and federalism emerged in Italy. The burden of politics and administration on the economy was too high; the northern Regions (Piedmont, Lombardy, Veneto), whose economic systems grew faster than those of the rest of Italy, were afraid that Italy would not be able to enter into the European Union and therefore were asking for a devolution of powers to the Regions. A search for different local solutions for welfare organization was observable. The Presidents of the northern Regions (but also the ones of the more efficient Regions such as Emilia-Romagna, Toscana, Puglia, Marche) were developing autonomous international policies and trying to support the efforts of the regional economies. The central State was perceived as an unproductive mechanism and citizens demanded that decision-making procedures with regard to local matters (i.e. financing of local economies, education, health, local security, etc.) should be at a closer level.

An important decision of the Italian Constitutional Court (n. 106 of 2002) had clearly stated that, according to Article 1 of the Constitution, the only sovereign subject is the people, and not the State. And local and regional institutions derive their legitimacy from the people just as much as do the National Parliament and government.

The constitutional reform introduces a new division of legislative powers

between the central government and the regions, overturning the criteria that had been applied previously.

Prior to the reform the regions had responsibilities only for those matters that the constitution expressly assigned to them. The new constitutional provision lists responsibilities reserved to the central government and those governed by concurrent legislative powers of the centre and of the regions.

For any other matter not expressly reserved for the centre, the regions have legislative powers, without interference of the centre.

The central government has priority jurisdiction in a number of key areas:

- foreign and defence policy,
- coordination at the European level,
- citizenship,
- the organization of justice,
- the civil and penal codes,
- local authorities,
- protection of the environment,
- and equal protection at the national level of civil and social rights.

Concurrent legislative powers are recognized in the sectors of infrastructure, welfare, labour policies, and urban and territorial planning. Agriculture, handicrafts, commerce, tourism, industry, local transportation, and public works are, among others, in the exclusive regional jurisdiction.

This list is not exhaustive and there are no doubt matters where the Constitution doesn't specify who is responsible. It is probably impossible to devise a list of powers and responsibilities that would take into account all contingencies. The history of Constitutional and Supreme Courts of federal countries "is full of cases trying to resolve the whole question of what is the role and the power of the states as opposed to what is the role and the power of the national government in ever new circumstances" (President Clinton's Speech on Federalism, October 8, 1999, Mont-Tremblant, Quebec, Canada, available on the Forum's web site: www.forumfed.org).

Who does what, international relations, finance

In addition to defining areas of jurisdiction, as best it can, the constitutional reform reorganizes the distribution of administrative functions. It seeks to rationalize and distribute roles and tasks according to the principles of "unity, subsidiarity, differentiation and adequacy", to use current popular European language. The effect is that Municipalities have an enhanced administrative role and Regions have the responsibility to administer matters on which they legislate.

As regards international and European relations, the reform opens up interesting prospects for the Regions. It refers to "international and European relations" and the fact that agreements may be made between Italian Regions and other sub national entities.

With respect to financial autonomy, though the constitutional changes do not introduce the principle that tax revenues should be spent in their area of origin, Municipalities, Provinces, Metropolitan Cities and Regions have autonomous resources, receive a part of the tax revenue collected in their territory, and establish and apply their own taxation and revenue systems. Coordination of public finance is a concurrent jurisdiction of the central government and the regions.

Not subject to the centre

Another feature of the reform is that the central government no longer exercises control over regional legislation. Regional laws now come into force as soon as they are approved by the Regional Council and enacted by the President of the Region. The central government's Regional Commissioner no longer exists.

In addition to their guaranteed powers, all the Regions may now request special "conditions of autonomy" with regard to the concurrent legislative powers (e.g. health, professions, employment, infrastructure, education, etc.) and with regard to three matters in which the central government has exclusive jurisdiction (the organisation of the basic level of justice, the environment, and guidelines on education).

On the question of elections, the new constitutional law provides that the Presidents of Regions be directly elected by popular vote. Previously Regional Councils would elect the Presidents. The new constitutional provision also states that the regional Statutes are acts of regional autonomy, approved by the Councils, and that they do not need approval of the central government.

In the case of possible violations of the Constitution, regional laws and statutes can be brought by the central

government before the Constitutional Court.

The reform stipulates that a referendum against the statute can be triggered by 1/50 of the regional electors or by 1/5 of the regional deputies. And the reform foresees that in the near future, a council of Local Autonomies, as a connecting body between the Region and the Local Authorities, should be created.

Still much to do

Italy is now facing difficulties in both completing and implementing the constitutional reform.

In terms of completion, the political debate focuses on the need for a Chamber of Regions that could represent the political regional instances at the central level and on the need for a regional presence inside the Constitutional Court. (In Italy there are two political Houses, both composed according to the same criteria and both participating at the election of the Government. The Constitutional Court is composed of 15 judges, 5 of them elected by the Parliament in common session, 5 appointed by the President of the Republic, and 5 selected by the Supreme Civil, Administrative and Account Courts.)

The goal of creating new institutional mechanisms is that in the new, more "federal" Italy, the regions should participate in the political decisions of the central government.

As for a timetable for putting this package of reform into practice, Italian authorities are most concerned about the capacity of the regions to assume their new, greater role. After all, the regions will have to assume new legislative power and Italians have to figure out a practical working distribution of functions between administrative levels. Plus, Italy faces the task of building accountable fiscal federalism. The challenge will be to guarantee better public services and to include an element of equalization that improves the fiscal capacity of the poorer areas of the country – all without adding burdens to the Italian economy as a whole. (6)



Federalism past and present in the Netherlands

The contemporary Netherlands is a unitary state but notions of federalism have played an important part in its history and in that of its colonies.

THEME II: FEDERALISM, DECENTRALISATION AND CONFLICT MANAGEMENT IN MULTICULTURAL SOCIETIES

BY *BERNARD HOETJES*

The Netherlands do not figure prominently on the list of federal or federalizing countries. Yet federal lines and links in Dutch history are indispensable to explain current events in the Netherlands and in other parts of the world.

At some points in the history of the Netherlands, both domestically and in its former colonies, federalism played a prominent role, and at other times, it was completely discredited (see box). The Kingdom of the Netherlands is now a 'decentralised unitary state' that acts as a single entity in international relations with a uniform legal structure – but it does accord a constitutional status to municipalities and provinces. The provinces and municipalities are mentioned as 'autonomous' entities in the constitution, and their powers are defined in separate laws (*Provinciewet*, *Gemeentewet*). In legal terms, their role is twofold: agents of the central government, and autonomous, democratically accountable administrations.

Dutch political culture: small is beautiful

While Dutch law may allow the provinces and municipalities certain autonomy, in reality the system is quite centralized. In terms of personnel and budget, the provinces and municipalities take 25-30% of the public sector, but in terms of autonomous tax revenue they amount to no more than 5%.

In spite of this, however, Dutch political culture is strongly decentralist, or even federalist. The autonomy and identity of groups in society (religious and cultural) and local or regional entities are handled with great respect. At the root of this political culture is the historical necessity to survive in a system where no single group has ever been able to gain exclusive dominance.

The model of "consociational" democracy in the Netherlands (as developed by Lijphart, a Dutch-American political scientist, strongly inspired by Althusius) is quite close to federalism, especially non-territorial federalism. In fact, this model has been applied not only to the Netherlands, but also to federal systems such as Belgium, Austria and Switzerland. And so, although the Netherlands are not a federal system, basic federal 'reflexes' – respect for diversity among groups and regions, non-majoritarian modes of decision-making, and consensus-seeking – are strongly embedded in its culture.

In domestic administration in the Netherlands, as elsewhere in the western world, municipalities have been confronted with an increase in technically complex tasks, and in new and daunting challenges caused by increased socio-economic scale/mobility. The answer to these developments has been to expand the administrative scale, which has entailed the merging of small municipalities. The total number of municipalities in the Netherlands in the 20th Century was reduced from some 2000 to less than 500 today. Citizens' resistance against this trend is rising, and in 2002, as an alternative to mergers many municipalities supported the idea of creating inter-municipal "federations" (*federatiegemeenten*).

Decolonization and mistrust of federalism

From the 16th Century onwards, the Dutch established a sea-based trading empire in the East and the West Indies. In order to gain access to the colonies, deals had to be made with local rulers, especially in the East. Their internal rights were recognized, and Dutch influence was restricted to trade, commerce and external relations.

In some parts of present-day Indonesia, a system developed similar to British

indirect rule in India. In other parts, however, Dutch colonial influence took a much more direct form, and in the late 19th and early 20th Centuries the overall tendency was increasingly direct intervention by the Dutch. When the desire for independence presented itself in the 20th century, the Dutch response was reluctant and centralist. Only a limited 'native' influence was granted to a People's Council (*Volksraad*) at the central level.

After the Second World War, when Indonesian independence became a political reality, political authorities began negotiations regarding the transfer of power (1947-1949). Surprisingly, federalism was brought to the table as a formula for transition. In view of the enormous diversity of the East Indies, a federal structure was drafted for the United States of Indonesia (U.S.I.). The Dutch government transferred power to the U.S.I., which was quickly dismantled, however, by the new government in Jakarta. Although the diversity of Indonesia might very well justify a flexible federal system, federalism was considered a neo-colonial 'divide-and-rule' ploy. Even today, federalism in Indonesia is not looked upon very favorably.

East Timor, which just gained its independence in 2002 after a period of violent conflict, is the former Portuguese part of Timor. The western part was conquered by the Dutch in the 16th century, and became part of Indonesia in 1949. Indonesian policy towards East Timor was motivated by the tensions and conflict potential within its own borders: in western Timor, in the nearby Moluccan Archipelago, in the Indonesian part of New Guinea, and in the region of Aceh in Sumatra in northwestern Indonesia. Instead of a federal arrangement (which the then U.S. President mused would have been a preferred option were it possible) the

international community brokered a deal to separate East Timor from Indonesia.

Fragmentation in the Caribbean


In the Caribbean, the Netherlands Antilles are facing increasing difficulties staying united. Six islands – three of them close to the Venezuelan coast, and three in the Windward Group near Puerto Rico – were once united under Dutch colonial rule and are still heavily dependent on the Netherlands.

In this region, decolonization took place in gradual way compared to Indonesia. Surinam was granted independence in 1975. The Netherlands Antilles obtained internal self-government in the early 1950s. The regulations for the six islands envisioned a federal arrangement, based on equality and partnership among the islands and supported by the Netherlands. In practice, however, federalism did not materialize in the Antilles. The stronger islands were unwilling to take care of the weak ones, and the Dutch government was not willing to impose federalism on an unwilling group.

In 1986, the island of Aruba left the system and opted for a special status and a direct link with the Netherlands. At present, St.Maarten is following a similar line. Since loyalty among the islands is generally weak, and since no island is willing or able to impose its will on the others, an independent Dutch-Antillean state and/or a federal state seems politically unviable.

Implicit federalism

To be quite frank, and despite the examples cited above, in Dutch politics, one will find few references to federalism. Dutch Christian-democrats, leftist-liberals and Greens are explicitly in favour of a federal Europe. In domestic politics, however, federalism hardly rings a bell.

Nonetheless, the principles of federal thinking and federal 'political reflexes' are part of Dutch history and politico-administrative culture. The notion of 'municipal federations' may therefore well find fertile ground. As a practical solution to problems of accommodating groups in a society of minorities – multicultural, multi-loyal, small-scale – federalism is part of the Dutch *repertoire*. It has old roots in Dutch soil. 

History

16th and 17th Centuries

During the religious wars in Europe in the 16th Century, new political theories were promoted to justify breaking-up the universal order of church and state. Among them was federalism. The 'father of modern federalism', Johannes Althusius, was in close touch with the revolts against the Emperor. More specifically, he supported the Calvinist rebellions in Switzerland, northern Germany and the Netherlands. In fact, he developed his ideas on federalism and local autonomy at the University of Herborn, Nassau county, which is a stronghold of Calvinist reform and the territory where the Dutch royal family (Oranje-Nassau) finds its roots.

William of Oranje-Nassau took a leading role in the rebellion against Spain, and could draw on Althusius' ideas. The new Dutch state, which was formed in 1579 in Utrecht to organize the war against Spain, was established along new federalist lines, i.e. recognizing the autonomy of constituent units as much as possible, but creating a common authority for specific common purposes. The Union of Utrecht – a treaty rather than a constitution – stated that the signatories would 'act as if they were one state' in matters of war, respecting their full autonomy in all other matters.

The Dutch Republic of the Seven Provinces, which was recognized by Spain in 1648, and which became a major power in 17th Century European politics, was among the first new federally inspired states in post-medieval Europe – the other major example being Switzerland.

18th and 19th Centuries

After the successful war against Spain, the weaknesses of the new system quickly presented themselves. Whether the Republic was actually a federation or a confederation, clearly the common 'federal' executive remained very weak in terms of personnel, financial resources and autonomous powers. The provinces, especially Holland and Zeeland, supported by towns like Amsterdam, Leiden or Dordrecht, successfully resisted the ambitions of the federal executive in The Hague (the *Stadhouder*), even in matters of warfare and foreign policy. The Republic, therefore, increasingly became an arrangement for the common profit of the ruling provincial and local elites, without any overall loyalty – and with corruption, nepotism and elite self-enrichment becoming rampant.

The Republic became synonymous with Holland, which was its richest province. Its international role in the late 17th and 18th Centuries rapidly weakened. By the 1750s, this former world power had become a *quantité négligeable*.

When the American rebellion against Great Britain took shape and the Founding Fathers were considering the strengths and weaknesses of possible constitutional arrangements, they clearly took note of the Dutch Republic. The Federalist Papers devote considerable attention to the Republic of the Seven Provinces as an example of failed federalism. The Dutch experience was one of the reasons why the United States Constitution opted for a strong federal executive.

The Republic lost its credibility among its citizens because of corruption, oligarchy and ineffectiveness. The new ideas of the French Revolution gained ground, and in 1795 after a bloodless revolution, the Union of Utrecht was replaced by the new Batavian Republic whose constitution was based on French, centralist, unitary thinking. This Republic soon became a part of France, until 1815, when the Netherlands regained its independence. Throughout the 19th Century, however, French legal and administrative thinking remained very strong in the Low Countries.

In 1815, the Kingdom of the Netherlands consisted of both Belgium and the Netherlands. Its centralist constitution allowed the Dutch government to follow a policy of 'enlightened despotism', disregarding local or regional differences. This provoked a rebellion in the south, i.e. today's Belgium, which separated in the 1830s.

However, after Belgian independence, the Dutch constitution remained under strong criticism for its lack of democracy and respect for local/regional rights. The 1848 Constitution – the basic legal framework of the Netherlands today – brought back a recognition of municipal and provincial autonomy, based on German 'organicism' (not federalist) thinking, combined with French unitary principles.



the **Practitioner's** *page*

THEME II: FEDERALISM, DECENTRALISATION AND CONFLICT MANAGEMENT IN MULTICULTURAL SOCIETIES

Senator Aquilino Pimentel of the Philippines

Federalism as a solution to conflict in Mindanao?

Senator Aquilino Pimentel is one of the leaders behind the movement to create a federal system in the Philippines. The national movement spearheaded by Pimentel and others started in November 2000 and now has the support of 22 members of the 24-member Senate of the Philippines. Senator Aquilino Pimentel was first elected mayor of Cagayan de Oro City in 1980, and in 1984 was elected to Marcos' National legislature. When Marcos was deposed, President Cory Aquino made Pimentel Secretary of the Interior and Local Government. In 1987 he was elected to the Senate. His Web site, www.nenepimentel.org also shows his prison record under the Marcos dictatorship.

Forum staff member Carl Stieren interviewed Senator Aquilino Pimentel in Ottawa for *Federations* in May 2002.

Federations: What is your proposal for a federal system in the Philippines?

Pimentel: Basically we are proposing a 10 state federal system for the Philippines. Four of the states would be in Luzon, three in the Visayas and three in Mindanao. The actual territorial limits for each federal state would have to be defined by the constitutional convention or by a constituent assembly to amend our constitution. There is some linguistic content in the proposal for states.

In Mindanao, there would also be a state called Bangsamoro, for the Moros, or the Muslims as they are better known elsewhere.

Federations: Why do you support adopting federalism in the Philippines?

Pimentel: Two reasons: one is economic the other one is for law and order purposes.

The first purpose would apply to the entire federal republic that we are proposing to create because as of now we have a unitary system of government and getting development funds for the far-flung areas of the country becomes very, very tedious and difficult. And it would shame us if we were always reliant on the government in Manila to get things done for our respective constituencies throughout the country. And so we believe that to fast track the development of the country, it would be better if we got the federal system instituted in our land.

By doing that, the federal states could make use of their own resources, as they would see fit.

And for those areas which lack resources, because obviously not all areas are endowed with adequate resources, we'll probably have to learn from the experience of Australia, which has a so-called 'equalization fund'. I understand Canada also has an equalization scheme where the federal government has some funds that are allocated according to the revenue capacities of the different provinces.

A second reason for our call for the adoption of a federal structure is to

institute just and lasting peace in Mindanao, and better law and order in the entire country. We believe that the only way we can put an end to the recurrent, centuries old armed uprising of the Moros in Mindanao would be the institution of a federal system where they would get their own Bangsamoro state.

Federations: You were named Chief Negotiator with the Muslim rebels by President Cory Aquino in 1987. What did you have to do to carry out that assignment?

Pimentel: Meeting the first rebel group

Well, it was quite difficult. I had to travel to Jedda, Saudi Arabia, to get to the Professor Nur Miswari, leader of the Moro National Liberation Front (MNLF). We had a long discussion there, which led to a preliminary agreement to conduct further talks inside the Philippine territory, which was really my main purpose, that is, to try to get him back to the nation, rather than discuss things abroad. We got him to agree to that and he did send his emissary. He himself did not return to the Philippines at that time, but he sent one of his top generals to meet with us.

Then I had to go into Kuala Lumpur to convince a faction of the MNLF that had separated from the main body of the rebels and convinced him to give the government a chance by going back. And he did go back.

Meeting the second rebel group

Then I had to meet with the so-called 'Field Commander' of the Moro Islamic Liberation Front (MILF), Haji Murad. But he was easier to get in touch with because at that time he was based in Mindanao, so I talked with him also. And made the same plea to give the new government a chance, and not engage in violent action because I told him we could always talk things over with this new government. And as far as the MILF is concerned, our talks started in Manila, then we shifted the venue to Zamboanga, which is in Mindanao.

After that I had to leave the panel because I was running for the Senate at that time and a new negotiator took over - former Vice-President Emmanuel Pelaez.

The negotiations got bogged down after that, sort of broke off.

Federations: Have any of the rebel groups in the Philippines indicated that they might agree to some form of federal solution?

Pimentel: At the time (of my negotiations), there was no serious talk about federalism. There was talk about secession and independence, and we sort of tried to follow the formula that Marcos had proposed to the MNLF, which was the creation of an autonomous region rather than a federal state. And, as I said, the negotiations got bogged down soon after I had left it. Then by 1987 the new Constitution of the country was already in place and it called for the creation of an autonomous region for the Muslims of Mindanao. Since I was already in the Senate at that time, I filed the bill to create the autonomous region in Muslim Mindanao and flesh it out with some detail, and got it approved by both houses of Congress. And in 1988, the autonomous region was put in place and elections were held for the regional governor as well as for the regional assembly people.

Discussions with the first rebel group

That was the structure of government that we had for the Moros of Mindanao. But it became obvious as the years went by that this was not satisfactory to them. Nur Miswari was persuaded by President Ramos to give it a try, to give the autonomous region a try. As a matter of fact he was convinced to stand for

election as governor of the autonomous region and he was elected governor. But towards the end of his term, which was in 2001, he found out that he could not be re-elected any more as he had mismanaged the experiment - the original autonomous regional experiment - and of course he also raised some of his own complaints that the structure was inadequate for their purposes. So he rebelled again and took up arms against the government, and the government sort of crushed his rebellion and he was forced to flee to Malaysia where just now, recently, this year, he was extradited back to the Philippines. He's now facing trial for rebellion.

The second rebel group negotiates

While this was taking place, actually a few months earlier, the Moro Islamic Liberation Front also acted up under the leadership of Salamat Hashim, chairman of the MILF and the Front engaged the government in outright confrontation - armed confrontation - and the government, then under the presidency of Joseph Estrada, sent troops out to quell the uprising of Salamat Hashim. In effect, they drove them out of their so-called camps, forcing Salamat to go into hiding. Recently there was a... some kind of negotiation that was entered into by the government and the emissaries of Salamat Hashim and as of now they have come up with some agreements which I do not see, unfortunately, as ending the armed uprisings of the Muslims or the Moros in Mindanao.

The reason for my disaffection is that there seems to be no strategic formula being offered to the Moros of Mindanao to end their secession. I fear that, or am apprehensive that, what the government is trying to do is merely to buy time. We are not about to engage in another front against the Moros of the MILF faction, because we have so many problems in the country. And the MILF is also going through the motions of negotiating with the government, because it also needs time to beef up its own arsenal, probably for another round of violence. The main reason why I think that is so is that in my conversations with Nur Miswari, with Salamat Hashim, with Haji Murad, and all other Muslim politicians as well as their own traditional leaders and academics throughout the nation, they believe that the only solution is the one that I am

proposing: the adoption of a federal state of the Philippines where the Moros would have their own Bangsamoro federal state.

Federations: What groups are supporting the proposal for a federal system and what groups are opposing it? Does it split on party lines or along economic lines?

Pimentel: I don't think the proposal is being opposed on party lines. The resistance arises more from lack of knowledge or ignorance about how the federal system would actually operate to the advantage of the Filipino people and we have been getting support from politicians, some Senators, a number of Congressmen including the Speaker of the House of Representatives, notable businessmen, academics in both the Muslim world as well as the Christian world - if you want to put it that way - and we believe that we still need to get a lot of work done. We have a lot of work ahead of us because we have to penetrate the veil of ignorance that shrouds this issue in the minds of many of our people.

Federations: What effect did the September 11 attacks on the USA have on the chances for peaceful resolution of conflicts in the Philippines?

Pimentel: Well, the September 11 attacks drastically changed, I think, a lot of things including probably the world view of sovereignty. It looks like the dominant power in the world today, the US, feels free to define the extent of the sovereignty of other nations, to put it very bluntly. And of course they are now in my country with our permission because we earlier entered into the so-called "Visiting Forces Agreement" with them. That entitles them to deploy troops in areas agreed upon with the Philippine government.

So they are now in Basilan province, where the Abu Sayyaf bandit group is operating. However, and I hasten to add that one of the things I had suggested is being carried out in relation to the deployment of the US troops there: that they should not engage in any combat mission against the Abu Sayyaf. They should let the Philippine troops do their job regarding the Abu Sayyaf. ☺

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THEME II: FEDERALISM, DECENTRALISATION AND CONFLICT MANAGEMENT IN MULTICULTURAL SOCIETIES

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