



Federations

What's new in federalism worldwide

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From the Editors

Permanent evolution

Reading the articles in the current issue of *Federations* one gets the strong impression that federalism is very much a work-in-progress almost everywhere it is practiced.

Young (or at least newly-reinvented) federations, such as Nigeria, are naturally experiencing growing pains. Last time we reported on revenue sharing in the West African giant, and how the different orders of government can't seem to agree on a formula. This time, our story is about salaries for civil servants, always a hot topic in Africa – where the public sector is such an important source of employment.

As Nigeria is the giant of its region, so is India the giant of South Asia. But as federations go, India can hardly be called young. India has been living under its current federal constitution for more than half a century and that makes it quite old when compared to a great many federal countries. Still, India has not remained static for the past half century. Among the many changes in the practice of Indian federalism has been the trend to increasing decentralization. The encouragement of “panchayat” or village level governments is an important part of this trend. We have had accounts of that important development in earlier issues of *Federations*. In this issue, Harihar Bhattacharya reports on measures to safeguard the rights of aboriginal peoples in India's relatively isolated North-East region.

Three of our stories this time deal with elections and their implications for the workings of federalism on three different continents.

In Argentina, the new President Néstor Kirchner will be looking for allies in the provinces. After all, he doesn't have the legitimacy of having actually been elected. He won by default when his opponent dropped out of the second round of voting. Plus, Mr. Kirchner is himself a product of provincial politics, which should make him particularly sensitive to the needs of Argentina's constituent units.

The recent Belgian election didn't result in any radical changes, but it was a nail-biting affair in one sense. Less worrisome than who would win was whether the Flemish and Francophones would vote in very different ways and so upset the country's delicate linguistic balance. That didn't happen this time, but the continued success of xenophobic far right parties (on both sides of the language divide) is a disturbing trend.

The Canadian province of Québec has elected a “pro-federalist” government for the first time in almost a decade. But the pro-sovereignty Parti Québécois is alive and well. From the opposition benches its strategy will be to seek opportunities to demonstrate that the federal system simply does not work in Québec's interests. The newly-elected Liberals will try to show that it is possible to make tangible gains for Québec by pursuing co-operation with the federal government and the other provinces, rather than

confrontation. But if the Liberals don't succeed – or, if public opinion in Québec can be convinced they have not succeeded – those who advocate secession from Canada will have a whole new set of arguments.

And talking about countries that are “giants” in their neighbourhoods, our cover story this time deals with another such giant, this one at the heart of Europe: Germany.

No federal system provides for as much intertwining of powers and responsibilities as the German. As is their wont, the Germans even have a word for it: “Politikverflechtung” – a “political system in which all major decisions are made jointly.”

Of course, even in federations such as Canada and the USA, where there is, theoretically, a great deal of separation of powers and responsibilities, modern day programs such as health care have forced old constitutions to adapt to new realities. In Germany, the constitution specifically provides for a high level of collaboration between the federal government and the Länder. In fact, the federal government is, partly, a creature of the Länder in the sense that the Länder control the German upper house, the Bundesrät.

This German constitutional “intimacy” may seem good in theory. But in the current context it could jeopardize efforts at much needed social and economic reforms. That, at least, is the argument that Rainer-Olaf Schultze puts forward in this issue's special report. At a time when the EU itself is contemplating federalization, we think it particularly relevant to consider the special challenges facing its largest federation. ☺

As in the past, we encourage you to have a look at our web site (www.forumfed.org). If you click on “Search the Forum's online research library” you will have access to well over 600 articles, papers, presentations, and other documents related to the practice of federalism worldwide. All of these valuable resources are categorized by geographic region, author and topic (such as “economy, fiscal” or “constitutions”). The Forum has worked hard to make its growing stock of documentation on federalism readily available to researchers, students, practitioners and anyone else who might find it useful or interesting. We would very much like to know how easy to use and how valuable you find it to be. You can reach us directly...

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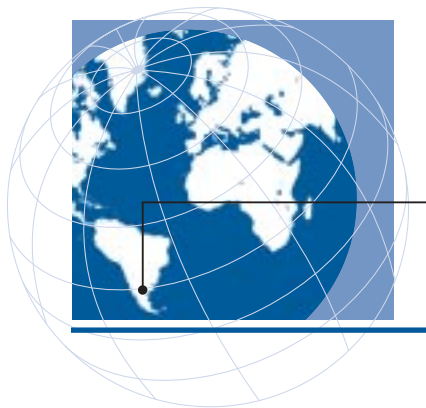
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Argentina's politics shift in a surprising presidential election

Without a conclusive electoral mandate, Néstor Kirchner seeks federal-provincial co-operation and supporters in the new Parliament.

BY GABRIEL PURICELLI

When Néstor Kirchner assumed the presidency of Argentina on May 25, it ended a period of profound political crisis that began a year and a half ago and continued right through to the presidential election itself. Kirchner's victory arose from a series of dramatic firsts in Argentine politics, in which he "won" the presidency despite placing second on the only ballot with just 22 per cent of the popular vote. The leading candidate, former president Carlos Menem, withdrew from the subsequent run-off election, thereby denying Kirchner the opportunity to gather a majority of votes and the strong electoral mandate that he surely would have achieved (see Table 1). His new administration now faces fundamental challenges that suggest the political instability may not be over yet.

Kirchner must deal with his nation's enormous economic problems, including the need to strengthen the incipient economic recovery, combat very high unemployment and reorganize the foreign debt with private creditors. His inaugural speech indicates that he will also work to establish a federal standard for the provinces' educational systems and adopt a new federal-provincial revenue sharing law. The success of his ambitious agenda and his new administration now depend on federal-provincial negotiations and the results of further elections over the remainder of this year.

A crisis begins

The Argentine Republic's 17-month political-economic crisis was sparked on December 20, 2001, by Fernando De la Rúa's sudden resignation as president. His startling departure began a whirlwind series of events over the course of a week: the early resignation of a president-elect, which was followed by a series of four replacements, the suspension of payments on the public debt and the devaluation of the currency. The political developments prompted public protests, triggering governmental repression that caused more than thirty deaths. There were also millions of pesos in individual losses as a result of massive looting in large city centres.

Gabriel Puricelli is an economic and political analyst who lives in Buenos Aires.

This violent explosion eventually gave way to an interim administration headed by Eduardo Duhalde, a senator who belonged to the party that had lost the 1999 presidential elections against De la Rúa. Duhalde's months in office were marked by social upheaval led by the holders of financial fixed-term notes, originally in American dollars, that were returned to investors in Argentine pesos after the devaluation. At the same time, masses of unemployed people expressed their anger by picketing and disrupting the country's roads and highways.



Néstor Kirchner, the new President of Argentina.

The debt and the provinces

Argentina's huge public debt presents a fundamental challenge for any new government. During the previous Menem administration, from 1989 to 1999, the debt grew exponentially, a total of 123%, reaching \$146 billion US. And this only accounts for the federal government debt – the total debt is much worse. Most of the 24 jurisdictions that make up the Argentine federation also have significant financial problems. Their combined debt grew during the same period from \$15 billion to \$37 billion US. This has caused the International Monetary Fund (IMF) to scrutinize not only the federal government's balance sheet, which is the only one connected to the Fund, but also those of the provinces.

The situation is worsened by the absence of a federal-provincial revenue sharing law, which the 1994 federal constitution required be approved before the end of 1996. There has been growing tension between the federal administration and the provinces because of the distribution of the fiscal adjustments required by the IMF. Then in 1999, when the federal government was taken over by a political party that was different than that which administered the majority of the provinces, federal-provincial relations were further soured. During De la Rúa's term, the federal-provincial tensions created an ongoing, intense competition. The governors, mostly Peronists, began to provide a more effective opposition to the Radical Party administration than their party's own legislators in the nation's Parliament.

De la Rúa's replacement by Duhalde, a Peronist, resulted in an improved federal-provincial relationship, due not only to matching political colours but also to the improved fiscal performance at both levels of government brought on by currency devaluation.

Table 1: The vote for president in 2003

Candidate	Party	Vote (%)
Carlos Menem	Loyalty Front (Peronist)	24.45
Néstor Kirchner	Victory Front (Peronist)	22.24
Ricardo López Murphy	Recreate Federal Movement	16.37
Adolfo Rodríguez Saá	National People's Movement (Peronist)	14.11
Elisa Carrió	Alternative for a Republic of Equals	14.05

Kirchner and the split in Peronism

Now Néstor Kirchner, one of those Peronist governors, is moving to Buenos Aires to head the federal government. Kirchner gained valuable insight running the Santa Cruz provincial government and understands well the dynamics of federal-provincial relations. Although he inherits the improved situation, the redesigned federal political scene raises questions about the governors' future behaviour in their relationship with the presidency.

Peronism, whose candidates have been Argentina's governing party almost exclusively since its foundation in 1946, was split among three candidates during the April 27 election: the winner Kirchner, ex-president Menem and ex-Governor of San Luis, Adolfo Rodríguez Saá. This split and the virtual extinction of Radicalism, the other traditional party, gave way to an unusually fragmented electoral picture. Only ten percentage points separated the first place candidate, Menem, from the progressive representative who placed fifth, Elisa Carrió. It is too soon to say whether this novel political scenario will be a permanent change in the political system or if it is a just a fleeting state. Peronism could easily be reunified behind the leadership of the new president, or its split could very well be reinforced with the emergence of three different parties having strong regional ties. Like never before in Argentina's democratic history, the citizens' voting patterns produced a political map strongly marked by regional support for different candidates (see Table 2).

When Menem decided to withdraw from the second round,

originally planned for May 18, it was the first time in the long history of the ballot system around the world where a candidate who won the first round pulled out before the second. His departure was undoubtedly aimed to weaken the legitimacy of Kirchner's mandate. Opinion polls suggested Kirchner would trounce Menem, with between 71% and 79% of the votes, when his opponent pulled out. Menem's decision could mark the end of his long political career, at 72 years of age, since he cannot harbour serious hopes of being a candidate again in 2007.

Rodríguez Saá's case may be different, as he is 10 years younger than Menem and is not burdened with strong rejection ratings like those that ended up convincing Menem to pull out of the race. If Rodríguez Saá retains significant support, then Peronism will remain divided.

Running a province vs. running a country

Experience in running a provincial government has again proven itself to be an important career boost for candidates of Peronist origin: both Kirchner and Rodríguez Saá were governors when they launched their campaigns, as was Menem when he ran for the first time in 1989. Unlike other federal systems, Argentina's political parties have been structured from the national level downward. Therefore, each party's provincial branches operate as structures from which one can rise to federal leadership positions. However, this

pattern appears to be weakening, especially in the case of the UCR, the Radical Civic Union, whose presidential candidate received only 2.34% of the votes. Yet it still controls the government in five provinces and provides the only significant opposition in most of the other districts. Even if this party does not regain a relevant federal role in years to come, its provincial presence will most likely remain strong.

Another development that came out of these elections was the emergence of a new conservative political force, built on the basis of a confederation of exclusively provincial conservative parties, which served as a platform for ex-radical Ricardo López Murphy to obtain 16% of the votes. From a right-wing minority faction of the old Radical Party, this ex-minister of the De la Rúa administration successfully combined his own personal appeal to certain sectors of the urban middle classes with the organization provided by the aforementioned provincially-based parties.

Changes ahead for the federal government

More changes to Argentina's political layout are scheduled after Kirchner's election. Every two years, there are elections for one-half of the House of Representatives for a four-year term, and one-third of the Senators for a six-year term. This year, elections will be held for one half of the federal House of Representatives and one third of the federal Senate. In all

likelihood, these elections will result in two houses of Parliament that look more like the sum of the electoral geographies of each province, rather than a genuine federal political geography. This is due to the transfer to each provincial government of the power to call elections for the federal legislators

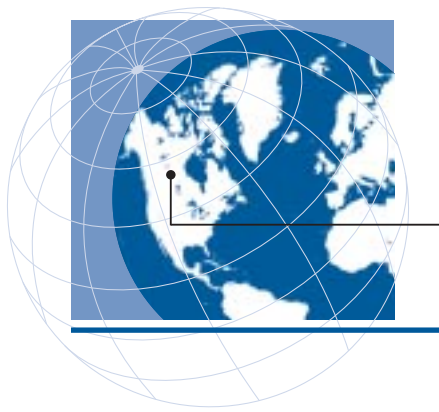
for each electoral district (which in Argentina coincide with the provinces and the self-governing city of Buenos Aires). This decision by the 1990's Menem government sought to transfer the political results at the provincial level (where Menem's party was the strongest) to the federal level, where voting preferences were becoming unfavourable for Peronism.

Ironically, the concrete effect of staggering electoral dates for the federal Parliament will surely be the opposite of what large citizen protests demanded in late 2001 and early 2002. Then the public's favourite slogan was "All of you go away", a demand for a radical shake-up of the political elite. A series of 24 district elections will make electoral victories for those who currently control the provincial governments easier.

Regardless of when they are elected, one half of the 257 representatives and one third of the 72 federal senators will take their seats on December 10, 2003. The outcomes will affect Néstor Kirchner's ability to govern his country until the end of his mandate in December 2007. His relations with the new Parliament will determine, among other things, how feasible it will be to impose a single standard of educational quality in a country with highly different regions and how simple or winding the path will be toward a new federal-provincial revenue sharing system. Whatever Kirchner's strengths and achievements over the coming four years, neither of his promises will depend solely on him. ☺

Table 2: How Peronist candidates fared

Candidate	Region	Provinces	Regional %	Federal %
Kirchner	Patagonia (South)	Tierra del Fuego, Santa Cruz, Chubut, Río Negro, Neuquén	47.43	22.24
Menem	Northwest	La Rioja, Catamarca, Salta, Jujuy, Tucumán	45.24	24.45
Rodríguez Saá	Cuyo (Centre-West)	San Luis, Mendoza, San Juan	53.28	14.11



Québec's new government and the question of fiscal imbalance

The election of a pro-federalist government in the province of Québec changes – but does not end – Canada's federal-provincial tensions.

BY LOUISE GAGNON

The newly elected Premier of Québec has served notice that conflict between his province and Canada's federal government is not about to disappear, despite his background as a federal politician. Jean Charest's Liberal Party won 76 of the Québec National Assembly's 125 seats in April, ending nine years of Parti Québécois government. The Québec results allowed the federal government and English Canada to let out a sigh of relief. That sigh was an expression that tensions with the previous nationalist/separatist government in Québec might dissipate.



Yves Séguin tables Québec provincial budget.

However, one of the main issues that the new Québec Liberal government has put on its agenda will place it in direct opposition to the federal government in Ottawa. Premier Charest and his new finance minister Yves Séguin are both campaigning to correct what they call the "fiscal imbalance" between the province and the federal government. The recently defeated Québec Premier Bernard Landry, leader of the separatist Parti Québécois in the province, simply described the dilemma this way: that the money is in Ottawa but the needs are in the provinces.

"The debate originates from a centralist vs. decentralist view of the nation," says David Perry, senior research associate and an economist at the Canadian Tax Foundation, a non-profit organization dedicated to exploring an optimal tax system for Canada. "The question becomes which level of government sets the pace for the nation as a whole. Clearly, the Canadian public will only pay so much for public services."

Charest is a former federal cabinet minister who went on to become leader of an opposition party in Ottawa before moving to provincial politics. With that background, he is well-positioned to build a broad national campaign to address what economists refer to as a "vertical fiscal imbalance". As a convincing federalist, Charest should have greater success than his predecessors in attracting political support in English Canada.

"Charest has the ability to gather other provinces behind him," says Perry. "The federal government will not easily discredit the Québec government on this question, as it has in the past. The federal government sees eye-to-eye with Charest on the need to keep the country intact. The disagreement will come over how much money should be flowing from Québec. The provinces will likely back his position."

Louise Gagnon is a journalist based in Ottawa who writes frequently on medical issues.

Federal surpluses; provincial debts

Vertical fiscal imbalance refers to the unequal capacity of each level of government to raise revenues and fund its expenditures. In recent years, the federal government has been declaring surpluses while many of the provinces have posted deficits.

At the premiers' annual conference in August of 2002, the provincial leaders claimed the fiscal imbalance was impeding their ability to meet health-care needs in their respective provinces. Health care consistently ranks as the top political priority in public opinion surveys and as the largest area of program expenditure by the provinces. The provincial share of all program spending in Canada is 62 per cent.

Last year the Conference Board of Canada, an independent economic research organization, was commissioned by the provincial and territorial premiers to examine the vertical fiscal imbalance. The study concluded that federal government surpluses were projected to rise steadily over the next two decades, reaching nearly \$86 billion. At the same time, the provinces and territories will need further fiscal restraints to avoid recurrent deficits, which could climb as high as \$12.3 billion by the 2019-2020 budget year.

The Conference Board concluded that while the federal government would virtually eliminate its debt by that year with successive annual surpluses, the total provincial/territorial debt would increase by 54 per cent to \$386.9 billion.

For its part, the federal government maintains that no fiscal imbalance exists, since both federal and provincial/territorial governments have access to the same major tax bases, including personal and corporate income taxes, sales taxes, and payroll taxes.

Canada's Minister of Intergovernmental Affairs refutes the Conference Board report because it assumes government spending will remain constant relative to GDP over time. The federal department of finance is also unconvinced, saying long-term forecasts for spending cannot be considered accurate beyond two or three years.

The simmering dispute over a fiscal balance or imbalance, depending on the perspective of the order of government, has perhaps arisen from a lack of transparency in governance: it is not readily apparent to the citizen/taxpayer which order of government finances which programs.

"The lines of accountability become frayed when multiple levels of government intervene in the taxing and spending decisions," says Finn Poschman, a senior policy analyst at the C.D. Howe Institute in Toronto, an independent and non-profit think tank that provides information on economic and social policy. "This is the context in which it makes sense to speak of

a fiscal imbalance. Ottawa could collect less in taxes, and leave the provinces room to step in as they see fit to finance the goods and services that their voters tell them they want.”

Poschman praises Charest’s suggestion that income tax points be transferred from the federal to the provincial governments, to ensure they have adequate revenues to meet the spending obligations. Charest’s finance minister, Yves Séguin, has gone further. Séguin was revenue minister in a previous Liberal government, then was commissioned by the sovereigntist Parti Québécois government to study the fiscal imbalance. The Séguin Commission recommended that Canada’s lucrative Goods and Services Tax (GST), which came into effect in 1991, be shifted from the federal government to the provinces.

“Yves Séguin is saying that Ottawa is not accountable,” says Poschman. “It’s Québec’s task now to garner some support for the report and its recommendations. Québec has to construct a political alliance and establish viewpoints on how the fiscal machinery will work. Their natural allies would be Alberta and Ontario. We do find ourselves now in a position where Ottawa is taxing way beyond its needs.

“If what the provincial premiers say starts to resonate with voters, the elected government in Ottawa will start listening,” says Poschman. “With a leadership change in Ottawa in the next year, the question of solving the alleged fiscal imbalance will have more traction.” Prime Minister Jean Chrétien has announced his intention to retire next winter, potentially paving the way for new policies in Ottawa regarding tax points and transfer payments.

Growing provincial expenditures

Harvey Lazar, director of the Institute of Intergovernmental Relations at Queen’s University in Kingston, Ontario, notes that Canada is already one of the most highly decentralized federations in the world. Lazar is concerned that the vertical fiscal imbalance is an impediment to optimal health-care delivery in Canada and says there are efficiencies that lie both in centralized revenue collection and decentralized expenditure. He says Charest has a chance to forge successful alliances, but that the provinces’ complaints are weakened by some of their own policies.

“The wisest course for Charest is to build an alliance with other provinces to substantiate their claim for additional federal resources,” says Lazar. “To the extent that they choose to do it, their claim might be better received in Ottawa if most provinces were not promising tax cuts to their own voters. It might be an easier sell for Québec and other provinces if they abandoned that particular part of their program. It might also be easier for the Québec Liberal party to try to strike a deal with the next federal prime minister than the current incumbent.”

The focus on the fiscal situation would broaden the nature of the dispute between Québec and Ottawa. While the issue of sovereignty sets Québec against English Canada, the fiscal imbalance sets all the provinces against the federal government.

However, Charest’s approach could backfire if it is not successful, predicts William Johnson, the former head of “Alliance Québec”, an English rights group in the province. Johnson is a columnist and long-time observer of Québec public affairs. He is concerned that while Charest is a staunch federalist, Québeckers could see the federal government as rigid and inflexible, giving comfort to those who advocate separation of Québec from Canada.

Johnson notes that the ongoing demands for greater taxing and spending powers date back to the Québec Liberal government of the early 1960’s, which implemented what it called the “Quiet Revolution”. The province saw a more active role for the state in education, health care, economic development and social welfare.

“The governments that have led Québec since the Quiet Revolution of the 1960’s have had an unrealistic approach to the workings of the federation,” says Johnson. “For its part, the federal government will inject funds as the need arises in areas such as health care or education. The federal government will be weak in its own capacity to guide national policy, the national economy, and national welfare.”

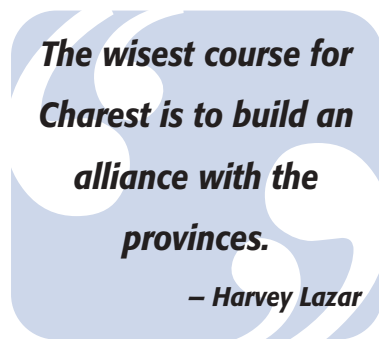
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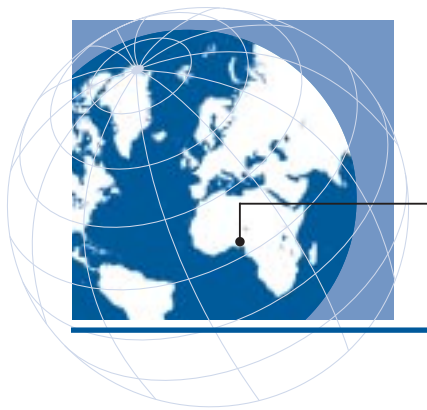
The push for greater decentralization is not a distinctive Canadian phenomenon. The trend is one that is taking shape globally. In many other federations such as Switzerland and Belgium, the theory that supports decentralization is that sub-national governments can make more informed choices about spending decisions.

Peter Graefe, a post doctoral researcher at McMaster University in Hamilton, Ontario, notes that Canada’s federal government sometimes takes on initiatives which encroach on provincial jurisdiction. For example in health care, where Ottawa has established a national health insurance scheme, Ottawa has set five guiding principles. Graefe believes one’s view on the question of fiscal imbalance determines one’s position on a centralized vs. decentralized view of the country, how it should be governed, and the responsibilities of the respective levels of government.

“A more centralized approach to governance permits the federal government to ensure that the five principles of medicare are being met,” says Graefe, who holds a PhD in political science from the Université de Montréal. “It’s been at the federal government’s discretion to play a role in national cultural institutions. That’s not something that’s stated in the constitution.”

As far as Charest’s determination to tackle this issue, Graefe suggests that it will supply nationalists in Québec with the opportunity to rebuild their platform and radicalize their demands, and if Charest is unsuccessful in attaining any concessions from Ottawa, Québec secessionists will claim the federation is untenable. ☺





Nigerian pay raise angers workers and state governors

The tradition of pay equity for civil servants causes tension in a federal system still emerging from years of military rule.

BY KINGSLEY KUBEYINJE

After vacillating for more than two years, the Nigerian federal government has agreed to raise the pay of its more than 1.5 million public service employees by 12.5 per cent, across the board.

For the first time though, the salary increase is only for federal public servants. Workers in the employ of state and local governments will not automatically benefit from the increase and will have to negotiate directly with their employers. Each state and local government will have to decide whether to increase their employees' pay or maintain the existing pay structure.

This is a novel and radical departure from traditional practice. Until now, public servants in Nigeria — federal, state and local — have always enjoyed pay parity, regardless of who their employers are.

A "pay-what-you-can-afford" policy

Fears are already being expressed around the country that the new "pay-what-you-can-afford" policy will create tensions and labour unrest in Nigeria, as public servants employed by state and local council governments will certainly insist on pay parity with their federal colleagues.

Announcing the pay increase for federal employees, on the occasion of Workers' Day — May 1 — President Olusegun Obasanjo said that although his administration had acceded to employee agitation for an upward pay review, "some things will have to give".

"I do not know what, but what I know is that we will do everything to reduce wastage, inefficiency and corruption in our system", he said.

Recent speculation about imminent job cuts has a solid foundation. Yearly, the federal government spends the bulk of its budget on salaries and administration, leaving little for capital expenditure. "We have been eating almost all our revenue and this must stop and whatever it will take to stop this, we will do as government. My aim is to have 25 per cent of government earnings expended on capital projects, so that not more than 75 per cent will go into overheads," Obasanjo said.

The last pay increase was in May, 2000. Barely a year in office, the Obasanjo-led federal government granted what it described as a "living wage" to all public servants in the

Kingsley Kubeyinje is an editor with the federal-government-owned News Agency of Nigeria (NAN), a wire service. He also served as the agency's East and Southern Africa Correspondent.



Labour leader Oshiomhole takes on government over pay hikes.

country — federal, state and local councils. Tagged "jumbo pay packets" by the mass media, the salary increase resulted in a more than 100 per cent raise in the earnings of public servants, causing the minimum wage, which in Nigerian currency was previously about 3,500 naira (U.S. \$28), to jump to 7,500 naira (\$60) per month.

In addition to that increase, labour and the federal government also agreed that in the following year of 2001 there would be a further 25 per cent pay raise, and another 12.5 per cent hike in 2002.

The government's cold feet

However, the federal government developed cold feet soon after the 2000 agreements and refused to grant a further pay increase in 2001 and 2002. The government pleaded that the nation's single industry economy could not accommodate it — the sale of crude oil accounts for 90 per cent of Nigeria's foreign exchange earnings.

For two years there was a stalemate in negotiations with the government refusing to grant a further pay raise. The labour unions insisted that the 2000 agreements had to be implemented in full, in view of the deteriorating living standards of Nigerians, whose per capita earnings had fallen to the lowest level in recent years, well below \$300 per year. During the stalemate, the government even denied that it had ever agreed to further salary increases in 2001 and 2002. In the end, it took the publication of the entire 2000 agreements in major national daily newspapers, by the nation's powerful umbrella labour body, the Nigeria Labor Congress as well as threat of an imminent nationwide strike, before the federal government conceded that indeed there was such an agreement. President Obasanjo agreed to the latest increase just weeks before he was sworn in for a second four-year term on May 29 of this year.

Although the 2000 "jumbo" pay hike was a welcome relief to public sector employees, it created huge economic and political problems for the nation's 36 state governments, as well as the 774 local councils, which were "naturally expected" to acquiesce and pay the new rates to their estimated three million employees.

State and local governments were not amused by the development, as their entire monthly allocations from the federation account could hardly pay their new wage bills.

The legacy of military rule

Although Nigeria is a federation, the long years of military rule have impacted negatively on its practice of federalism. The military's hierarchical "command-and-obey" structure governed the country more like a unitary state, with

a powerful and overbearing centre. Under the Nigerian military — which was in power for 29 of the nation's 42 years as a sovereign state — there was total disregard for the finer concepts of federalism, such as separation of powers, respect for legislative lists and spheres of influence.

The federal military government dictated what should be done, oblivious to the fact that the issue in question might well be within the exclusive domain of the state or local governments. The military suspended the nation's constitution and ruled with decrees. There was no room for dissent, as governors were appointed at the whims and caprices of the head of state, who controlled the federal government.

But in the wake of the nation's return to democracy on May 29, 1999, the state governments began to assert their constitutional rights and authority. State governors openly criticized the federal government and slammed the Obasanjo administration for acting improperly and unilaterally on the pay issue, and for not consulting them before granting an across-the-board pay rise to public servants, irrespective of who their employers were.

The states use their freedom to say no

In their new found "freedom", most state governments vowed not to implement the year 2000 salary increase on the grounds that the federal government could no longer dictate to them. "Obasanjo is still suffering from the military hangover" said an angry Bola Tinubu, governor of the coastline state of Lagos, the nation's former federal capital. "He cannot dictate to me what I will pay my employees. He didn't employ them for me in the first place. He cannot prescribe the conditions of service for my workers." Lagos has more than 50,000 employees on its pay roll.

Tinubu was not alone. The initial unwillingness of the state governments to implement the year 2000 federally prescribed salary increase resulted in damaging strikes across the nation, as state and local government employees insisted on pay parity with their federal counterparts "as has always been the tradition".

Confronted with work stoppages, general resentment and growing unpopularity, state governors, one after the other, succumbed reluctantly.

How to fund salaries

Finding funds to pay the year 2000 wage bills became a monumental problem for the states, except for the few oil producing ones — Delta, Rivers, Bayelsa, Cross River, Akwa Ibom — which get special fund allocations, known as derivation funds, in addition to their statutory allocations from federally collected revenues. Because political considerations informed the creation of most states in Nigeria, only a handful of them are economically viable or can survive on their own without monthly subsidies or handouts from the federal government. Some states generate as little as 5 million naira (U.S.\$40,000) internally monthly from rates and taxes, yet their monthly expenditures are in excess of 500 million naira (\$4 million).

Following the pay increase in 2000, state governments insisted on an increase in their monthly allocations from the federation

account. Allocations of funds to states and local councils did increase significantly — most states now get as much as three times what they received under the military. Yet they are still finding it difficult to pay their huge wage bills. Workers in states, such as Anambra, Ekiti, Plateau, Osun, Oyo, Enugu and Edo went on strike many times and for many months in protest against the irregularity in the payment of their salaries, as well as against the non-payment of some other entitlements, such as their yearly leave allowances.

The recent defeat of many state governors, who sought re-election in the April 19 gubernatorial poll, has been partly blamed on their inability to meet their monthly obligations to their employees, who constitute only a tiny fraction of the electorate, but are politically powerful nonetheless. In Nigeria, public servants are opinion moulders and executors of government projects. They can determine the success or failure of government programs and could create problems for their governors.

The federal government steps in

The federal government's latest move abides by the letter and spirit of federalism, by limiting the pay increase to public servants on its own payroll. However, it is bound to raise tensions between state governors and state employees, as workers in the service of state and local governments will not accept a disparity in pay. In spite of their earlier posturing, state governments will be equally uncomfortable with the new arrangement as any attempt by them to disregard the pay increment would ignite labour problems.

"What the federal government has done is tantamount to snare-setting. State governments will be forced to kowtow, since no governor wants to be unpopular with its public servants", said Jide Adenrele, an Abuja-based labour leader.

The Nigeria Labor Congress President, Adams Oshiomhole, insisted that the new pay rise must go round. "State governments will have to implement the 12.5 per cent pay rise. The overwhelming majority of the states can afford to pay and should pay. Those who cannot pay will explain why not," he said.

While two state governments — Rivers and Zamfara — have openly agreed to pay the 12.5 per cent, others are yet to make their positions known.

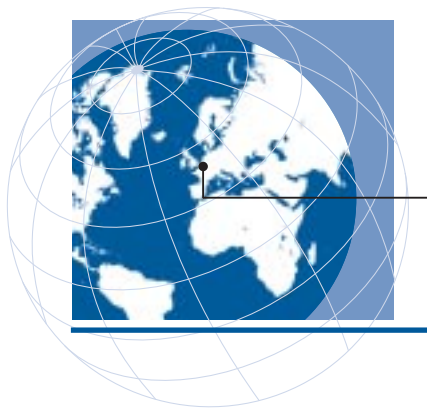
What the federal government has done is tantamount to snare-setting.

— Labour leader Jide Adenrele

Empty coffers in the states

Indeed, the months ahead will be demanding. Some newly elected governors are already bemoaning the lean coffers left behind by their predecessors. Ekiti State Governor, Ayo Fayose, has raised alarm over the 6 billion naira (U.S. \$48 million) debt left by his predecessor, Niyi Adebayo, and has already taken the issue to the federal government. The new administration in Kogi State said its predecessor left behind about 15 billion naira (\$120 million) debt. These and many other states could find it difficult implementing 12.5 per cent pay increases.

Many state employees said that they are prepared to repeat their 2000 agitation - which led to the sacking of some of their colleagues. Whether the states follow the federal lead or not, it seems certain that Nigeria's recovering federal structure is in for a rough ride in the months ahead. (6)



Belgians change rainbow coalition for reds and blues

But the new Belgian government has not totally eliminated the community “poison.”

BY PHILIPPE ENGELS

An upset in the Kingdom of Belgium: increasingly accustomed to staring each other down, the Flemish and francophones, who represent the two largest language communities in this small, complicated country, actually voted the same way! On the evening of the May 18 federal election, party leaders in both camps were celebrating, television commentators on both “sides” voiced very similar views and political observers all dismissed the possibility of the widely dreaded political asymmetry. Since then, the winners of the election — socialists and liberals, left and right — have been rushing to form a coalition government that mixes oil and water.

With the virtual annihilation of the Greens, what Belgians called the “rainbow” has faded from the sky over Brussels: the “rainbow” was the name given to the outgoing executive, composed of socialists, liberals and environmentalists that represented vastly differing political movements. It has been replaced by a purple coalition formed of reds and blues. This unusual formula has been put into practice only once before — from 1954 to 1958 — since Belgium became independent in 1830. As a result, Guy Verhofstadt will succeed himself as Prime Minister. This former fan of Margaret Thatcher and the Chicago School of neo-liberalism has settled down and reverted to a soft right-wing stance that borders on centrist.

A horror of asymmetry

So far, the aftermath of the election has been fairly quiet. During the scant 15 days of the campaign, which coincided with the war in Iraq, public debate focused on economic and social policy, mobility and, to a lesser degree, security. Institutional themes and “community problems” — this is the explicit label given to the fractious relations between the Flemish and the francophones, who represent 65% and 35% of the population respectively — attracted little attention.

Admittedly, there was no great confrontation, nor any major negotiations in evidence, like before the 1999 elections, when a new separatist fever presaged the possible end of Belgium. May 18 did not result in the infamous asymmetry, which would have seen a political philosophy without federal representation for both of its components (a Flemish and a francophone party). This would have been the case, for example, if the Christian Democrats and the Liberals had received wide support in the north (in Flanders, where Dutch is spoken), while the socialists and liberals continued to



PM Guy Verhofstadt:
a new coalition.

dominate the south and centre (in Wallonia and in Brussels, where French is spoken). This scenario, ultimately rejected by voters, would have led to the radicalization of isolated parties, which would have had to govern without the counterweight of a corresponding party in the other linguistic community. Another problem: finding a common denominator among political movements that are by nature dissimilar. Of course, proponents of federalism feel that an asymmetrical government would simply be a matter of logic: Flanders, which is more prosperous, is essentially rightist, while Wallonia, whose mining and metallurgical industry has only very recently been modernized, tends to lean left. In

practice, federal Belgium has never dared to venture down the road to asymmetry. Is this due to a lack of maturity? Or is it because the ambitions of the two parties appear contradictory? For the past 10 years, the Flemish have sought increased autonomy by every means at their disposal. The francophones, on the defensive because their economy is less healthy and because they depend in part on federal solidarity, are fiercely resistant. Under such conditions, it is difficult to make any reasonable progress.

The players

Socialists

PS - Parti socialiste (francophone) and SP.A - Socialistische Partij Anders (Flemish)

In terms of votes, the leading political family since the May 18 election. In power since 1988, a historic record for the “reds.”

Liberals

Mouvement réformateur-MR (Francophone) and VLD - Vlaamse Liberalen en Democraten (Flemish)

Neck-and-neck with the socialists. The “blues” left the opposition in 1999 after a dry spell of more than 11 years. Prime Minister Guy Verhofstadt’s party.

Christian Democrats

Centre démocrate humaniste-CDH (francophone) and CD&V - Christen Democratisch en Vlaams (Flemish)

In opposition since 1999, where they had not been since 1958. Formerly the most solid political family, the kingpin in all coalitions. Going through an identity crisis.

Ecologists

Ecolo (francophone) and Agalev (Flemish)

Trounced in the May election, after a first controversial term in power (July 1999 to May 2003). Slipped back to “normal” levels according to European standards.

Philippe Engels is a journalist with *Le Vif/L'Express* in Brussels, Belgium.

Left and right go head to head

The results of the most recent election should please the proponents of political realignment, whose cherished dream it has been for a long time. For the second consecutive time, the defeated Christian parties will have to question their existence from the opposition benches they have so rarely occupied. They have long been a mainstay on the political scene but have fallen victim to the phenomenon of structural erosion. It remains to be seen if they even have a future any more. The Greens, who were also defeated, will try to get rid of the bitter taste of their first experience in power. In the past, they were primarily a thorn in the government's side. Do they have any real hope of asserting themselves as a party of power? As for the far right, it has made gains throughout the country, despite the relative successes of the outgoing government.

In the north, the nationalist, xenophobic Vlaams Blok has also made inroads in rural areas and mid-sized cities, with average support at about 18%. Among francophones, the Front National has been reborn from the ashes after a resounding defeat in 1999. With support at 5.3%, it is poorly managed, disorganized and not as threatening as the Blok flamand. Still, if it manages to find a credible, populist leader, the FN might give Belgians a nasty surprise.

None of this seems to bother the democratic winners of the election, the socialists and the liberals, who are never troubled by the task of governing. Partners today, rivals tomorrow, they could eradicate all opposition and form a powerful force to bring about a profound change in Belgium's political landscape. Belgian society is characterized by a number of rifts (philosophical, ideological, linguistic) and, until now, a fragmented political scene. But soon, two major "poles" or "blocs" could go head to head with the gloves off: left against right, like in France and Britain.

The euphoria of 1999

In the meantime, the Belgian federal "model" should still go through a few permutations. The previous phase of government reform — the fifth since 1970 — confirmed the transition to a more mature federalism. In 2001, the dreaded free-for-all ended well, with one of those gigantic compromises that is customary in the Kingdom of Albert II, but one that satisfied every political persuasion, a rare occurrence. Following economic policy, education and transportation, which had already been transferred by the central government to the Communities and the Regions, other areas of jurisdiction were regionalized: agriculture, foreign trade, co-operative development (which remains to be confirmed) and the organization of the Communes, the most decentralized level of power. As part of this reform, the Flemish and the francophones struck a devil of a deal. The Flemish demanded greater fiscal autonomy, especially for the unilateral reduction of income taxes (which the francophones cannot allow themselves). In return, the francophones

demanded federal financial support to refinance "their" education system, which was on the brink of bankruptcy. In short, it was a win-win situation, which undoubtedly encouraged the institutional give and take of 2001 and created a climate bordering on euphoria in some media circles. At almost the same time, Belgium had a fresh, new government, congratulated themselves on more cordial community relations, celebrated a royal marriage with great pomp and ... witnessed the resurrection of its hapless national soccer team, the Diabes rouges.

Dividing up Social Security?

But, as usual, the ink on the agreements scarcely had time to dry when new demands were heard. Flanders has confirmed its institutional agenda, which has been an open secret since the late 1990s. It concerns moving sensitive areas such as management of the railroad, the international airport and social security away from federal control. Rightly or wrongly,

the francophones view such demands as outright declarations of war, fearing a fool's game in which they would pay the price. They believe the reform of 2001 should be given some time before it is evaluated. There is every indication that new wrangling will take place after the regional and community elections of June 2004, whose imminence may plunge the country into some kind of permanent election campaign.

Institutional reform in Belgium is a highly politicized affair rather than the work of rational and patient independent experts. It takes the form of a power grab following a cleverly orchestrated and dramatized conflict.

Just about every case that ends up before the government has a taste of community to it. For example: although supported by all francophone parties, the granting of the vote to the large immigrant community (about 10% of the population) is currently in limbo because the Flemish Liberals of the VLD, the Prime Minister's party, oppose it. Ideally, only arguments of political philosophy should separate them. But this does not take into account the community "poison" that complicates life for all federal ministers.

The arrival of a new executive should not change anything in this toxic climate. On the contrary, the face-off between socialists and liberals could be fairly contentious. In the poor economic climate, it will take close political arbitration to balance social priorities on one side (refinancing social security, investing in public companies) and tax demands on the other (continued income tax cuts). Hesitation or carelessness by public authorities would be unforgivable. If the new government does not manage to get the national railway - the *Société nationale des chemins de fer (SNCF)* - out of its financial rut, if it does not eliminate the looming divergence on the funding of federal social security, political forces in Flanders will be in a good position to demand a split. And so it goes in Belgium. Slowly, the country is approaching the great divide. (6)

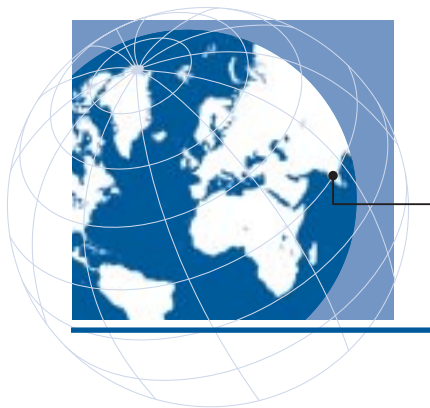
Federation Belgian style

Three territorial regions:

- Flemish region (mostly Dutch-speaking)
- Walloon region (mostly French-speaking)
- Brussels-Capital region (bilingual)

Three linguistic communities:

- French-speaking community (or the Walloon-Brussels community),
- Flemish community
- Germanophone community (essentially marginal)



Indian federalism and tribal self-rule

Ethnic conflicts and secessionism result in a delegation of powers to sub-state councils to protect aboriginal identity and culture.

BY HARIHAR BHATTACHARYYA

On February 10, 2003, India signed a tripartite ethnic accord with the Bodos, an aboriginal tribe, and the state government of Assam. All three parties hope the accord will end more than a decade of agitation by the Bodos, who have demanded their own homeland. The Bodoland Territorial Council may be brand new, but it is just the latest group to achieve aboriginal self-rule, in which tribal councils have begun to take powers away from the state governments within India's isolated North-East region.

The North-East and autonomy

India's North-East is an ethnically complex region that is virtually cut off from the rest of the country by Bangladesh. The North-east comprises seven states — Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura. The home of about five million aboriginal peoples (known as 'tribals' in India), the region is geographically isolated, hilly, relatively underdeveloped, and poverty-stricken. Multireligious, multiethnic, and multiracial in composition, there is widespread discontent and political extremism, especially among the aboriginal peoples, including calls for separation. Tribals are in the majority in four out of seven states, and have significant presence in the rest (See table "Tribal Population...").

Three of the states are Christian-dominated, while two others were previously princely kingdoms.

The constitution and tribal self-governance

India's constitution contains a number of special provisions under schedules five to seven for the self-governance of various tribal groups. The most empowering is the Sixth Schedule, which enshrines the devolution of powers. Aspects of this schedule that promote tribal self-governance include the exercise of certain legislative, executive and judicial functions by autonomous district councils in areas such as "management of forests, agriculture, community projects, co-operative societies, social welfare, village planning, inheritance of property, marriage, and social custom".

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Mass migration

The Bodoland unrest was encouraged by other experiments in aboriginal self-rule in the North-East, the most successful of which has been the Tripura Autonomous District Council (ADC). The need for a district council was felt more acutely by tribals in Tripura than perhaps anywhere else. Tripura was originally a tribal majority state with a tribal dynasty ruling for centuries. However, the Partition of India in 1947 left the state surrounded by East Pakistan — now Bangladesh — on three sides! A huge influx of Hindu refugees from neighbouring Bengal raised the population to around three million by 1991 and overturned the state's demographic balance so much that the tribals became a minority in their own land. This has created persistent ethnic conflicts between the indigenous peoples and the immigrant Bengalis.



Honey-sellers in Agartala, Tripura state in India's North-East

The tribals have fought for the protection of their identity ever since the late 1940s. The Tripura Legislative Assembly reserved about one-third of its seats for tribals, but it clearly wasn't enough to provide them with cultural and territorial protection. Then in 1982, the Tripura Tribal Autonomous District Council was established to govern two-thirds of the state's area.

The new council's powers

The council covers 68 per cent of the total area of Tripura and 32 per cent of the state's population. Within that group, 77 per cent are tribals and the rest are Scheduled Caste (formerly known as "untouchables") and

others. There are non-tribal people in the council area and tribals in the non-council areas, too.

The council is a 30-member body, with two seats nominated by the Governor of Tripura, and 28 seats elected on the basis of universal adult suffrage, with 25 of those reserved for tribals only. The council operates as a legislative branch which must meet at least four times a year. A chairman is elected from among the members for a period of five years. He summons and prorogues the council. An executive committee is also elected from among the council members.

Tribal Population in India's Northeast (1991)

States	Total Population (millions)	Tribal people as % of total population	Number of Tribes
Arunachal Pradesh	0.9	79.0	101
Assam	22.4	10.8	23
Manipur	1.8	31.2	28
Meghalaya	1.8	80.5	14
Mizoram	0.7	94.3	05
Nagaland	1.2	88.2	20
Tripura	2.8	29.0	18

Source: Census Report of India, 1991.

Under the direction of the political executive, the permanent administrative body of the council is headed by a Chief Executive Officer, a civil servant belonging to the Indian Administrative Service. Principal Officers are in charge of departments such as tribal welfare, health, animal husbandry, and education. As a further measure of decentralized administration, the council has also set up four Zonal Development Offices, and 27 Sub-Zonal Offices.

The Tripura council was formed initially under the Seventh Schedule of the Indian Constitution, with very limited powers. The first Tripura council to be formed under the broader Sixth Schedule was in 1985. Elections have always been contested in a multi-party environment. Over several elections, the Communist Party of India (Marxist) led its coalition, the Left Front, to an overwhelming majority. However, in the current council, formed in 2000, the Indigenous Peoples Front of Tripura (IPFT), a tribal party, captured a majority for the first time with 18 out of 28 seats. The council in Tripura demonstrates a delicate case of power-sharing, with a Marxist coalition in control of the state administration, while the council is now controlled by its political rival, the IPFT.

Land, literacy, and employment

By promoting the welfare and development of the tribals, the council has provided an effective institutional safeguard for tribal identity. Within its first term, the council restored 2,946 acres of tribal land to 3,006 landless tribal families. Primary schools in the council areas were handed over to the council by the state government in 1986. Various federal and state special developmental programs are now implemented by the council, thereby establishing institutional linkages between these three layers of government in India.

On the legislative front, the council passed 31 Bills during 1985-92, including the Village Committee Bill which was designed to ensure grassroots participation under the council. The latter did not have a smooth passage and, after much revision and redrafting, finally became an Act in January 1994. This act provided for the election of as many as 434 village committees in the council areas. Such committees are yet to be formed though, because some requirements have not yet been completed.

Financially, the council is dependent on funds released by the state government. During 1994-95, for instance, the Council's Own Fund constituted only 8 per cent of the revenues, while funds from the state government provided around 92 per cent. In the very depressed areas of the council the scope for mobilization of resources is limited but the council has made a small but good beginning: it has earned thousands of rupees by issuing trade licenses. These self-employment schemes have been established by the Animal Husbandry and Fisheries Departments, with 35 thousand beneficiaries.

The council provides improved institutional protection to the state's threatened tribes, as evidenced by advances in population growth and literacy. Between 1981 and 1991, the proportion of tribals to the total population of Tripura rose from 28 per cent to 31 per cent. This is an important index of the level of confidence and security among tribals. In 1981, only 23 per cent of tribals living in the rural areas were literate, but that rose to 39 per cent by 1991.

The council represents a major institutional innovation at the sub-state level to accommodate tribal identity and manage

Recent Conflict in India's North-East

- **India - Northeast (1979 - first combat deaths) - Update: November 2002**

"2002: Fighting (in India's North-East) claimed close to 1,000 lives this year, despite the initiation of peace negotiations between a number of north-eastern rebel groups and the Indian government."

- *Armed Conflict Reports 2002*, from Project Ploughshares, an ecumenical peace centre of the Canadian Council of Churches

- **Erstwhile rebels in self-help venture**

"Tihu, June 22, 2003: A large number of youths, both male and female of Baska area in the northern part of Nalbari district in general and the villages of that area nearing Indo-Bhutan border in particular have come forward to engage themselves in enterprises in the fields of trade and commerce, agriculture, small scale industrial units, various other productive schemes and commercial units. ... According to an administrative source, [152 members of different armed groups from] different parts of the area, throwing away their arms, have returned to join the 'mainstream' and moved on the path of self-employment. "

- *Northeast Times*, India, June 23, 2003

- **Thirty-eight insurgents surrender in Tripura**

"A total of 38 insurgents of different outfits on Thursday surrendered with arms and ammunition to the Central Reserve Police Force at its headquarters in Agartala."

"Agartala, June 5 - Among them eight insurgents were of the banned National Liberation Front of Tripura (NLFT) led by one Hemanta Debbarma, who surrendered to the Inspector General, Sukhjinder Singh and deposited three AK series rifles ..."

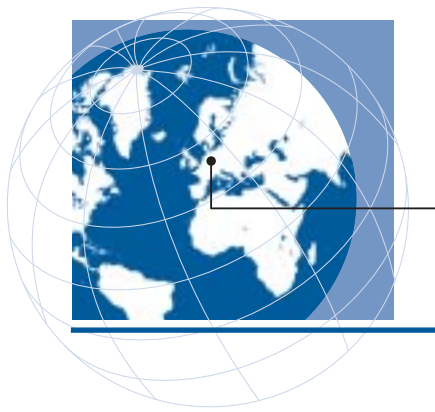
- *Hindustan Times*, India, June 5, 2003

ethnic conflicts. While the Tripura state government has had the difficult task of surrendering many of its powers to the council, this action has helped to ease secessionism in Tripura. However, the council cannot provide all the answers to the aboriginal peoples' overriding need for protection of their identity in Tripura. The council has problems, both structural and operational, in developing 'meaningful autonomy'. However, it can be said that a good beginning has been made.

Federalization at the local level

Three aspects of the council experiment deserve special attention. First, it has provided a democratic platform for former separatists to become a party of governance, and thereby reduced significantly the bases of political secessionism in the state. Second, the multi-party electoral competitions have been a training ground for aspiring aboriginal leaders, preparing them for higher responsibilities. It has simultaneously had a democratizing effect on tribal life. Third, the council has served as a basis for India's further federalization below the state level.

The district councils have had varying degrees of success in protecting endangered tribal identity, threatened by the more advanced non-tribals, and immigrants from other parts of India. The success of councils in areas such as Tripura will serve as a constructive example for tribes such as the Bodos, who are just now establishing their own version of decentralized governance under the Indian constitution. (6)



German federalism at the crossroads

New weaknesses emerge in the success story of postwar German federalism.

BY RAINER-OLAF SCHULTZE

The highly successful West German federal system, which for 40 years brought economic and social prosperity to Germany's "second" democracy, has fallen into a state of crisis, mostly as a result of the momentous changes that occurred toward the end of the 1980s.

On the surface, German reunification looks complete – there are five new *Länder*, and West German institutions have been introduced in the East. However, reunification is still in progress on the cultural and economic levels, the consequences of which will continue to weigh on German politics for decades to come.

These strains have made structural reforms essential for the political system. However, Germany is poorly prepared for such changes and is wrestling with the necessary fundamental reforms. The reason for this difficulty is that the reform processes are slowed down by the past successes of Germany's federal model. The resistance to reform has clearly caused German policy-making to fall behind, although this cannot be blamed solely on federal institutions. It is also due to:

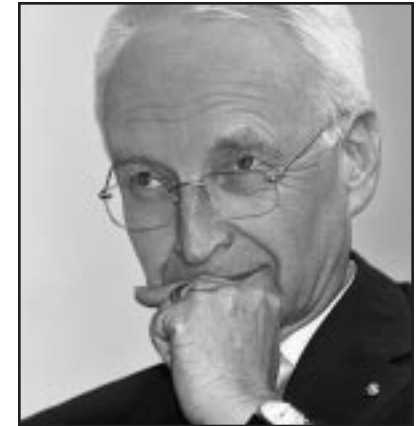
- an electorate very attached to the status quo;
- a government-focused political culture oriented toward consensus and output;
- political parties and politicians who shy away from innovation.

Even in early days there were problems

From the very beginning, the German federal system suffered at least four structural problems:

1. **Contradictory pressures.** Highly centralized federal democracies like West Germany are operating on two contradictory political principles. Horizontally – across *Länder* and across the country – the parties and their members in the federal and *Land* governments follow the logic of competition and the marketplace. Vertically – from city to *Land* to the nation – they work by the politics of accommodation and consensus.
2. **Executive federalism**, growing out of interlocking government, lacks transparency and legitimacy and accentuates the loss of influence by the federal and *Land* parliaments.
3. **Too much veto power** by too many players. The result is long negotiations, a freeze on innovation, and policies that usually fail to rise above the lowest common denominator (see box "How the German federal system is structured").
4. **Gridlock** resulting from legislative authority at the federal level and the administrative authority residing with the

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Edmund Stoiber, Premier of Bavaria, whose CDU/CSU party could block reforms

Länder or local governments (see box "Postwar history and German federal principles"). West German federalism has proved to be a "joint-decision trap", in the words of Fritz W. Scharpf, that was virtually impossible to escape.

New *Länder* bring new challenges

There are now 16 *Länder* of very different sizes and capacities. The number of players, possible vetoes and coalitions has grown, as have the asymmetries in the federation, fairly insignificant in the past. These asymmetries include:

- economic disparities between *Länder* in the east and in the west;
- cultural diversity; and
- differences in political and cultural attitudes increasing between the people in east and west, north and south in Germany. Political parties can no longer appeal to all regions, especially the two large catch-all parties, the CDU/CSU and SPD.

The particular challenge of German reunification is the need for policy-makers to show solidarity with eastern Germany and redistribute wealth for decades to come while at the same time recognizing that the principle of equal living conditions cannot be maintained (see box "Postwar history and German federal principles").

The basic task of German federalism is no longer just to provide checks and balances and efficient government through functional differentiation but also to ensure diversity and competition, i.e., integration through autonomy and subsidiarity – tasks usually easier to achieve in "dual" systems of federalism than in systems of "intrastate" federalism.

European integration

The process of European integration has meant a loss of sovereignty by national governments as various fields are

Postwar history and German federal principles

- 1948 German Constitutional Convention (poster)

The highly integrated structure of German federalism, as designed after the Second World War in the *Grundgesetz* of 1948-49, was not only a reflection of German tradition. This structure also reflected the demands placed on policy-makers after the Nazi dictatorship and total defeat in the Second World War. The primary aim of the founding fathers was to prevent an abuse of power. In shaping German federalism, they aimed therefore at putting controls on powers and at a balance of power, but not especially at the vertical separation of power.

Second, the founding fathers aimed to achieve equal standards of living in the various *Länder*, and not to create especially diverse, independent *Länder*. "Equal living standards" developed into the most important principle in German federalism. This principle was a focus for policy-makers, constitutional lawyers, citizens and interests groups. This principle was only marginally watered down in the 1994 constitutional reform, with the result that the Basic Law now refers to "equivalent living standards."

Third, the founding fathers aimed to help the governments of the *Länder* influence federal policy-making, rather than to make the *Länder* more independent or encourage competition among them. With the establishment of the Bundesrat, they created a "Republic of Länder princes" or *Republik der Landesfürsten*. (see box "How the German federal system is structured") While these princes are interested in the politics of their own *Land*, their primary aim always was to ensure the equality of living standards throughout the entire republic.

Why did this system emerge?

The capacities demonstrated by West Germany's federal system in the past depended on certain preconditions, without which policymakers would hardly have achieved the efficiency and success that they did. These pre-conditions included:

- **a single culture** - a society that was relatively homogeneous on the social and cultural levels after the rebuilding of West Germany;
- **few economic disparities** - only small economic disparities and asymmetries, especially as the national government was still able to take effective action to steer the economy and social policy. These conditions prevailed in the so-called "30 glorious years" of the welfare state, until the 1970s.
- **a common political landscape** - a party system that was highly integrated both horizontally and vertically so that the competitive, coalition and opposition constellations were broadly similar on the federal and the *Länder* level and political personnel were regularly exchanged vertically within parties. To give just two examples: Four of the seven federal chancellors (Kiesinger, Brandt, Kohl, Schröder) and six of the men who were candidates for chancellor (Strauß, Rau, Vogel, Scharping, Lafontaine, Stoiber) served as the premier of a *Land* either before they ran for chancellor or simultaneously. In addition, the elections to the *Land* parliaments served as a test for federal policies. Their results also affected the composition of the *Bundesrat* and the majorities in it.

Political parties on the federal and *Land* levels usually thought in terms of influencing and accommodating rather than confronting. With few exceptions, this led to moderate, middle-of-the-road policies in the past. The approach also corresponded to the relationship between politics and society typical of what has been called "the capitalism of the Rhein".



brought within the EU system and various jurisdictions and tasks are transferred to Brussels and EU institutions (Commission, Council of Ministers, Parliament, Court of Justice). Secondly, it has meant more "inter-governmentalism" by the national governments. Both processes reduce the competencies of national and sub-national parliaments and their ability to make decisions, while increasing the amount of "inter-connectedness" by adding many more players and another layer to the multi-level system of governance.

Fostering open markets has been the major focus of the EU's integration efforts on the economic level. Supported by the decisions of the European Court of Justice, the EU has concentrated almost exclusively on the liberalization of markets. The creation of the internal market, the economic union and the currency union are typical examples. This forces the member states to engage in "competitive deregulation" and the privatization of tasks formerly accomplished by government.

At the same time very few market-correcting policies have been transferred so far to the EU level. This is especially true of redistributive policies and therefore also of transfer payments in the area of social policy, which remain a jurisdiction of the member states.

One theory has it that in federal welfare states the constituent provinces and districts should concentrate primarily on infrastructure and economic development, for reasons of site competition, while the national government should concern itself with macroeconomic policy, especially tax policy and social policy (see box "Who gets what from German taxes").

The political reality in Germany is quite different.

Both the federal government, ever since the foundation of the Federal Republic, and the European Commission of the EU are permanently involved in the industrial, infrastructure and site policies pursued by the *Länder*. Conversely, the governments of the *Länder*, through the *Bundesrat*, have substantial influence over virtually all macroeconomic decisions of the federal government, especially in the area of social policy. What results is a mishmash of jurisdictions and responsibilities that is not very appropriate from either the standpoint of innovation and efficiency or of democracy and legitimacy.

How the German federal system is structured

German federalism is a highly integrated and centralized system of government. It is the model of intrastate federalism and is best captured by a term coined by Fritz W. Scharpf: *Politikverflechtung* or interlocking government based on joint decision-making.

Politikverflechtung refers to a political system in which all major political decisions are made jointly by the federal and *Länder* levels of government on the basis of solutions negotiated among the participants. It means that most governmental activities have to be implemented jointly by the federal and *Länder* governments: horizontally through inter-*Länder* cooperation and vertically through federal-*Länder* cooperation and multi-level governance. This process involves levels of government from EU institutions down to the municipalities. Institutionally, interlocking government is caused by the following:

- **constitutional clauses** that give precedence to federal over state law; clauses that enable the federal government to act and intervene if the *Länder* have not yet legislated in a particular field of shared responsibilities, or if the national interest or the interests of third-party members of the federation are affected by the legislation of a *Land*, or in order to protect the legal and economic union of the federation.
- **functionally differentiated distribution of responsibilities** where legislation is predominantly a federal responsibility (except for the areas of culture, education and the judicial system, which are under the jurisdiction of the *Länder*) while the *Länder* and municipalities carry out most administrative tasks
- ***Länder* participation in federal legislation** via the *Bundesrat*. *Länder* representation in the second chamber is based on the so-called *Bundesrat* principle – it is neither equal nor consistent with the representation-by-population rule; representation is asymmetrical and weighted. Members are not elected, but are delegates of the *Länder* governments. They have to vote as a block and according to the decisions taken by the cabinets of their respective *Länder*.

The *Bundesrat* has a hand in all federal legislation. There are two kinds of bills: those for which the second chamber has a suspensive veto only (*Einspruchsgesetze* in German), and those for which it has an absolute veto (*Zustimmungsgesetze* in German). In case of opposing majorities in the two chambers, the pending legislation is referred to the mediation committee with 16 members each from the *Bundestag* and the *Bundesrat*. The latter group of “absolute veto laws” includes not only more than 60 percent of all federal laws but also all major legislation - economic and social policy, as well as tax laws and acts concerning fiscal federalism.

Blocked reforms

Under current conditions, German federalism is increasingly developing into the main obstacle to necessary social changes.

The political impasse is primarily a consequence of the opposing political imperatives of party competition on the one hand, and the politics of accommodation on the other. Depending on tactical political considerations, the *Bundesrat* serves either as a tool for blocking the federal government or as a forum for compromise. It is, however, mostly responsive to the intentions of the parties that form the opposition in federal politics. For example, after the mid-1990s, the reform plans of the federal government under Chancellor Helmut

Kohl were blocked by the Social Democratic majority in the *Bundesrat* under the leadership of Oskar Lafontaine, including the efforts that were already underway to reform the pension plan and tax system.

At the present time, the main opposition parties, the CDU/CSU, are using their majority in the second chamber in a similar way usually as a tool for blocking legislation or gaining concessions or amendments. It is still the same policies that need reforming. With Chancellor Gerhard Schröder’s reform package – dubbed “Agenda 2010” – attention is currently focused on tax reform, overhaul of the immigration law and labour market policies, and urgent reforms to the health care system and old age security. However, because of conflicting tactical calculations of political parties and the large number of players with veto powers, there is a form of gridlock. In this stalemate, no one on the German political stage has the power any longer to actually make decisions, but all have the power to prevent them from being made. In other words: “No one really wants what is done, and no one will accept responsibility for it” (Fritz W. Scharpf).

Necessary reforms

The blockages in German federalism make substantial reform more urgent than ever. Everyone wants reform, from interest group representatives to academics and even the political players themselves. There is also considerable agreement about the goals of such a reform. What is needed is a new political architecture that provides more independence, subsidiarity and competition while taking European integration into account. The missing piece is a political architecture that provides a multi-level governance system that is as efficient as possible and, at the same time, highly responsive.

In particular, such a reform should aim for:

- separation and clear assignment of responsibilities;
- simple, transparent decision-making;
- more opportunity for citizens to participate and exercise some control through referenda and other forms of direct democracy;
- fair competition that not only tolerates social and cultural diversity but to some extent even encourages it, while at the same time having enough safeguards built in to prevent the *Länder* and regions from engaging in a race to the bottom.

Institutionalizing cooperative yet competitive federalism would be a major accomplishment. Today, even in federal systems based on independence and competition, federal government and provincial governments work together, although on the basis of loose linkages and voluntary cooperation.

To escape the “interlocking government trap”

The road to such a systematic change is arduous. Before such changes are achieved, the following steps are necessary:

1. **Disentangle the legislative jurisdictions** and redistribute government tasks on the basis of functional criteria. The increasingly important shift from an industrial society to a knowledge-based and service-industry society requires concentrating these responsibilities in the *Länder*. At the end of a long process of decentralizing functions, the central government would retain, in addition to its traditional jurisdiction over foreign policy and security, authority over financial policy, social policy, large-scale infrastructure policy, and possibly research policy. In any

Who gets what from German taxes

The tax system and equalization payment system are especially telling examples of the intra-state, centralized nature of German federalism. In 2001, the revenues of all three levels of government reached 443.1 billion euros. All three levels of government have at least a few exclusive tax powers. Exclusive federal taxes include the gasoline tax, tobacco tax, and 5% excise tax on income tax for the rebuilding of East Germany. These taxes amount to approximately 18 per cent of all tax revenue. Exclusive *Länder* taxes are among others automobile and inheritance taxes. *Länder* and local government taxes amount to 7.5 per cent each of all tax revenue.

The vast majority - 70 per cent - of the revenues of all levels of government come from shared taxes, especially income tax and the Value Added Tax (VAT). Of all revenues, 51 per cent went into the coffers of the federal government, 35.6 per cent into the coffers of the *Länder*, and only 13.4 per cent into the coffers of local governments. All taxes and tax rates, even those levied exclusively by the *Länder*, are determined by federal legislation. So is the distribution of the shared taxes among the three levels of government. Federal and *Länder* tax rates are therefore identical in all parts of the country.

The distribution of income tax is enshrined in the constitution of 1949 or Basic Law, which gives the federal and *Länder* governments each 42.5 per cent, and local governments receive 15 per cent. The distribution of the VAT is set by simple federal legislation: currently the federal government takes 52 per cent and the *Länder* 45.9 per cent. There are two forms of equalization payments, which are also determined by federal legislation: vertical and horizontal transfers. The horizontal transfers, called *Länderfinanzausgleich* in German, were introduced in the 1950s. The wealthier *Länder* contribute to, and the poorer ones draw from an inter-*Länder* revenue pool, according to a formula that has to be agreed upon by the federal and *Länder* governments. The formula has been challenged in the Constitutional Court several times and amended accordingly, although without abandoning the general principle. Vertical (federal) transfers are a more recent (1969) addition to the equalization system. Various federal supplementary payments are made to *Länder* whose financial capacity is below average or which have special needs - such as the city-states and the five new states in the East. These payments are taken from the federal VAT share and close 90 per cent of the gap between the respective state's fiscal position and the average. Together, both processes of equalization have achieved almost full harmonization on the revenue side. All *Länder* can expect to see their financial capacity brought up to at least 99.5 per cent of the mean. Intergovernmental transfers represented 12.8 per cent of *Länder* revenue in 2001.

The incremental reforms outlined here would be only the initial steps toward extricating Germany from its interlocking government trap. Because of past experience, when reforms generally led to greater interlock and uniformity, there is every reason for scepticism about the chances that these reforms will be undertaken. In contrast to the past, though, there is greater pressure now than ever before on federal and *Land* politicians to take action. Now, there is a realistic chance that the reforms needed to disentangle German federalism will actually be undertaken. ⑥

- case, many of these functions will probably be transferred in the future to the European Union in Brussels.
2. **Reform fiscal federalism** to break up the shared tax system and grant the *Länder* additional tax jurisdictions and latitude to structure their own rates, while at the same time seeking to harmonize national taxes on the EU level.
 3. **Change the competencies of the *Bundesrat*** by substantially reducing the amount of federal legislation subject to its approval. You can't have it both ways: helping to rule on the national level via the second chamber and engaging in competition among the *Länder* at the same time.
 4. **Redraw the borders of the *Länder*** and reduce their number from 16 to about nine. They will then have the resources to act and carry out their responsibilities and to compete on the European level. In the long run, re-drawing *Länder* borders is essential if we are serious about the disentanglement and transfer of powers. It is relatively easy to draw up a blueprint like this, but implementing it is another story.

History shows that mega-constitutional politics only rarely succeed. This holds true as well for the reform of German federalism. There is a lot of path dependence in the way of such large institutional reform. In addition, the politicians and civil servants in the federal and *Land* governments would have to renounce much of the influence they now exercise over the other level of government. This does not seem very likely. An incremental approach to change seems more promising, beginning with a few reforms that could provide the political actors with the necessary practical experience.

Indirect disentanglement

Germany's 1948 constitution, the *Grundgesetz*, is translated as the "Basic Law". In the debates over reform, there are serious discussions on amending the constitution, for instance, about

- abolishing the so-called "joint tasks" (Sec. 91a Basic Law),
- changing the framework legislation of the federal government (Sec. 75, Basic Law), and
- transferring jurisdictions in the area of concurrent legislation to the *Länder* (Sec. 74/74a Basic Law).

The transfer of jurisdictions could be done in two ways: directly through agreements on which tasks in particular should be transferred, and indirectly through a general clause giving the *Länder* the right under certain conditions to diverge from federal regulations by passing their own legislation. Both ways could be tried, although the indirect approach through opting out seems more promising.

Fair competition

Opting out or having loose linkages creates room for competitive attempts to find alternate solutions. Loosening of the tax system is absolutely essential in reforming fiscal federalism. Every *Land* should have some leeway in the handling of its own exclusive taxes, even in setting discretionary income tax rates. In addition, as opposed to current practices, the horizontal equalization payments should provide some incentives to be thrifty and competitive. Differing tax rates are quite common in interstate federal systems, but are foreign to Germany's political culture, and it would be difficult to convince the population of their advantages.



the Practitioner's page

Gabreab Barnabas of Ethiopia Encouraging country-wide development

Dr Gabreab Barnabas, Minister of State, Ministry of Federal Affairs of Ethiopia, was interviewed in Addis Ababa, Ethiopia, on February 28, 2003, by Forum consultant Dr. J. Peter Meekison (Former Deputy Minister of Intergovernmental Affairs of Alberta and University Professor Emeritus of Political Science, University of Alberta) and Forum staff member Paul Morton.

Forum:

How long have you been in this office? What are the main responsibilities?

Barnabas:

I am a medical person by profession and I have been involved in politics for the last 30 years. In this government I worked as a member of parliament during the transition period, 1991 to 1995. When I was still a parliamentarian, I went to study in London. I did a PhD in social policy, health education policy. When I came back in 1997, I worked as a researcher at the party headquarters in the People's Revolutionary Democratic Front. Then I was given this assignment. I just moved from party headquarters to a newly established ministry, the Ministry of Federal Affairs.

Forum:

And you're its first minister?

Barnabas:

And I am the State Minister of the new ministry because the Minister for Federal Affairs is another person. I'm in charge of the states, with emphasis on the four marginalized states: Kambela, to the southwest, Benishangul-Gumuz in the northwest, Afar in the northeast and Somali in the southeast. They make up about 40 to 50 per cent of the territory, they may have more than eight, nine million people. They are economically and, even in terms of good governance, doing less than the other states, because of lack of human resources.

Forum:

What are the main responsibilities of the office and the ministry?

Barnabas:

The ministry looks after all the regions and makes the federation work. Not at the legal, institutional level, because there is this House of Federation as far as constitutional problems are concerned, but with administrative and political and economic development issues. We give particular emphasis to those states that are disadvantaged to enable them to catch up with the other states.

Secondly, it does also look into the pastoral development issue. Of the four disadvantaged states, two of them are pastoral.

The third responsibility of my ministry is urban development. The capital is overseen by this ministry. It's a federal capital but we oversee it even though it has its own autonomous institutions.

Forum:

So what do you see as the main challenge that the ministry faces at the moment?

Barnabas:

The main challenge is rural development. Ethiopia's system of farming has failed us. We have an agricultural system which was very good and which has stayed and fed the people for millennia. It has worked because the population was smaller than now, and the land was probably more habitable...

We are not only behind the world: we are behind Africa. And that's why we are very impatient. We resorted to war to overthrow the establishment because it was stagnant. We had to move and save our country...

And what are we doing to change that? In the last ten years we have increased the educational enrolment of this country by 40 per cent. It's now 60 per cent. Elementary school enrolment will soon be 10,000,000, which means young farmers will have literacy and numeracy so we can teach them about modern farming – low-technology...

Food security is part of rural development, as is capacity building. Ethiopia can accommodate approximately 100 to 200 million people, at least. We are now 67 million.

So it's not that we are overcrowded, but we are not producing enough. We have lots of rivers, lots of rain. If we had money to harvest the river water properly and use it when we are short of rain, we could make do. But it's not easy.

If we had skilled people we could tap the natural resource base of the country and feed ourselves and even export.

We have the tenth largest livestock sector on earth and the highest in Africa. But we don't look after their health, vaccinate them, de-worm them, or feed them properly so they are good for nothing.

Forum:

How does your office relate to the role of the House of Federation?

Barnabas:

The House of Federation is mainly dealing with constitutional issues, and revenue sharing. The formula for revenue sharing is decided by them. The number one criterion is population

size, and the second is revenue generation. If you raise a lot of revenue you get more. If you don't, you get less.

Forum:

So how does that help to build up those who are not able to meet their needs?

Barnabas:

Because the third criterion is marginalization. The less developed the region is, the more it gets.

Like for instance, the states that I'm helping are Afar, which has a million population, and Somali, which has about four million. According to the formula of the House of Federation, Somali receives 500 million Ethiopian birr, and Afar gets 300 million birr.

Forum:

You described the House of Federation more accurately as a "House of Nationalities" – could you elaborate on that point?

Barnabas:

Our federation is based on national entities. The Oromos, an entity because they speak their own language, they say "we are one" even though half are Christians and half Muslims. There's a huge divide in terms of religion but the overarching criterion that has gone to unite the Oromos is their sense of belonging to one ethnicity or nationality.

So the House of Federation was composed of this because the ideology that prevailed before glossed over this identity. It didn't recognize these identities and then it created civil war. Our history is "checkered" in that there were civil wars... Many of them were ethnically caused... So the whole federation was deliberately made to emulate the diverse identities of the country. Every nationality was given one seat in that house. That's why I call it the "House of Nationalities"...

So it's only palatability that made it the House of Federation and we are a federation as a political order but it's a federation of nationalities.

Forum:

As one of the central players in the intergovernmental relations, with whom do you interact at the regional or local level?

Barnabas:

We deal with all of them. We deal with the state councils and we help them revise their constitutions. They have made revisions to their respective constitutions recently.

Forum:

And what changes do you make?

Barnabas:

We made provisions to include elders in the local government structure. Because they are still powerful, local leaders. They are not chiefs, but they could be clan leaders in the pastoral areas. We tried to strip off some religious elements that were inserted in the constitutions. Because the federal constitution is secular, religion had to go out.

Thirdly, there were provisions for states like Gambela and Benishangul-Gumuz states, now that they are multi-ethnic again. And you should have provisions for ethnic identity within one state. Like having their own councils where they could use their own language and discuss and decide on their own autonomous areas...

We included fiscal decentralizing, devolving resources and powers to local governments using formulas similar to the

ones formulated for the House of Federation. Those formulas are based on population, level of development, revenue generation and other criteria.

And then the separation of powers was not complete in some states. In the federal constitution, the separation of powers is complete. In those states that was not made clear in the previous constitutions. The president of the state was at the same time the man who convened the council. He was the head of the council so it created a problem of checks and balance. Now [the powers] have been separated.

Forum:

Within the regional government, is there somebody who would be your counterpart? Whom would you contact?

Barnabas:

The President of the state.

Forum:

And if the head of the government wanted to contact someone in the central government he would contact you?

Barnabas:

He contacts me first because I am responsible for regional issues. But he also has access to the Minister and the Prime Minister, who are executive. We are in the Executive Branch, not in the Parliament. This branch deals with most of the issues, but there will be issues where they will, if they want to, go directly to the Minister...

Forum:

Within the range of constitutions internationally, Ethiopia's is quite unique (e.g. the right to secede, the predominant role of nationalities). Where do you see the strengths or weaknesses over the past nine years?

Barnabas:

The federal constitution is quite remarkable. I don't see a lot of weaknesses. Maybe there needs to be some fine-tuning... Like in conflict resolution – where to take people who committed crimes in inter-state, inter-ethnic issues, because both groups, or both states get biased to favour their own criminals.

We are now trying to have federal, neutral courts to look into crimes committed by ethnic groups.

But many countries that are economically more developed than we are have not managed to put several diverse nationalities together. We have. Because our instrument is effective, it's an open-door system. Secession is a very charged term. We are not afraid of it. We deliberately put it there because we wanted to get this meaning of 'open door' policy. Nobody will force you to stay in Ethiopia. You have to love this country to stay in Ethiopia. If it's aerated, oxygenated, everybody loves to go into a house. If it's a suffocating one, everybody wants to go out... We are poor, we are undeveloped and yet we can live in peace together.

We have to work off biases and create a value of unity, equality, brotherhood. And we have to not only say it, we have to practice it.

[Among our] weaknesses only our scarcity of resources has been betraying us. Even if we have some resources, sometimes we use available government structures, and corruption occurs... We have to fight against corruption.

So the weaknesses are mainly not at the level of the law but at the level of implementing bodies, it is weaknesses in individuals, rather than in the provisions themselves.

That's how I see it. ☺



Briefs & Updates

Obasanjo's candidates win leadership of Nigerian National Assembly

On June 3, following the April 12 general elections in Nigeria, the two houses of the Nigerian Congress chose their new leaders. Adolphus Wabara was chosen by the Nigerian Senate as its President and Aminu Masari was chosen as leader of the Nigerian House of Representatives after a three-way race, reported *This Day* (Lagos) on June 4. Both Wabara and Masari are members of President Obasanjo's party, the People's Democratic Party.

After the Nigerian elections last spring, the South-West of Nigeria returned a majority of Obasanjo supporters to the Senate. This was a major shift from the 1999 election results, in which 17 of the 18 senators elected from the region were members of the Alliance for Democracy, a party opposed to Obasanjo.

In the House of Representatives, a three-way race among Lawan Farouk, Dr. Usman Bugaje and Alhaji Masari turned into a two-man contest between Bugaje and Masari. The victory of Masari was attributed to "forces loyal to President Olusegun Obasanjo" according to the Nigerian news magazine *Vanguard* of Friday, June 6.

EU heads approve draft of a European constitution

Twenty-five European heads of state, meeting in Salonika, Greece, approved the draft of a constitution for the European Union on June 20. The 15 heads of state of current EU members and 10 heads of state of future members all approved the text in principle. The idea of a constitution for the EU has been a hot topic for some time (See "Is Europe heading toward a federal constitution?", by Uwe Leonardy, *Federations* Vol. 1, No. 5, Summer 2001).

On May 28, *The Guardian* in the UK viewed the most important features of the draft as these provisions:

- a long-term EU president to replace the current rotating presidency
- creation of an EU foreign minister
- expanding the EU commission from 15 to 25 members
- a Euro defence force
- tax harmonization
- a charter of fundamental rights
- an EU prosecutor
- allowing the EU to sign treaties

Letter from the Cyprus Embassy in Washington, D.C. USA

June 2, 2003

To the Editor:

With reference to your brief article on Cyprus in the most recent issue (May, 2003) of *Federations*, ("Cyprus federation proposal rejected; EU membership approved"), I regret to say that what you mention about the UN Secretary General's plan is completely inaccurate.

As described exhaustively in the UN Secretary General's Report to the Security Council (S/2003/398 of 1 April 2003), the prime responsibility for the failure of Kofi Annan's effort rests with the Turkish Cypriot leader, Mr. Rauf Denktash, who flatly rejected a proposed referendum on the Annan plan. Mr. Denktash's negative attitude was also regretted by the UN Security Council in its Resolution 1475 of April 14, 2003.

In contrast, the UN Secretary General commended the co-operation and flexibility of the Greek Cypriot side throughout the process and especially President Papadopoulos' positive response on the issue of submitting the plan to a referendum.

Yours sincerely,

Erato Kozakou Marcoullis
Ambassador of Cyprus
Embassy of Cyprus
Washington, D.C.
United States of America



Ambassador Marcoullis

Gay marriage legal, Canadian court decides

After an appeals court in the Province of Ontario decided that marriage should not be denied to gays and lesbians, the Canadian federal government announced on June 17 that it would not appeal this decision to the Canadian Supreme Court, the *Globe and Mail* reported on June 18. Instead, there will be federal legislation drafted to formalize gay marriage soon, said Canadian Prime Minister Jean Chrétien, adding that there will be a "free vote" (without party-enforced discipline) on the legislation when it comes before the House of Commons. And all Canadian provinces except Alberta said they would be willing to co-operate in marrying gays and lesbians. In Canada, the Canada Marriage Act is federal legislation, but the provinces issue all the marriage licences. In the mean time, the Ontario court decision stated that gay couples could marry immediately and more than 100 gay and lesbian couples in the province have done so. Canada became the third country in the world in which gay marriages were legal, following Netherlands and Belgium. ☺