

## UNITARY AND FEDERAL STATES: HISTORICAL AND POLITICAL PERSPECTIVES

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SUMMARY: I. *Historical introduction.* II. *The notion of federalism: definitions and structures.* III. *Constitutional principles of federalism.* IV. *Short outlines of fiscal federalism.* V. *Some comparative aspects of federalism.* VI. *Conclusions.*

### I. HISTORICAL INTRODUCTION

The first documented federal system came into being among the ancient Israelite tribes over 3,000 years ago. Of similar antiquity were the confederations of the Bedouin tribes and the Native confederacies in North America. The early leagues of Hellenic city-states in Greece and Asia Minor were designed to aggregate communal democracies to foster trade, political domination and military defence. The Roman Republic established asymmetrical arrangements whereby Rome became the federale power and weaker cities were attached to it as federal partners. Even the first Islamic state founded by the Prophet in Medina can be perceived as a federation of independent communities. The medieval period saw self-governing cities in what is now northern Italy and Germany, and cantons in Switzerland linked in loose confederations for trade and defence purposes. The Swiss Confederation established in 1291 lasted despite some disruptions until 1847. In the late sixteenth century an independent confederation, the United Provinces of the Netherlands, was established during a revolt against Spain. Both the Swiss and Netherlands confederations were affected by the Reformation which sharpened

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internal disputes. This period also saw the first writing on explicitly federal theory, exemplified by the *Politica Methodice Digesta* of Althusius and subsequently by the efforts of German theorists, above all the philosopher G. W. Leibniz, to provide a grounding for a decentralised Holy Roman Empire.

Since the peace of Westphalia in 1648, the Dukes and rulers of the member states of the German Empire enjoyed full sovereignty, and their relationship to the Emperor became questionable. Several of the British settlements in North America, particularly in New England, were based on federal arrangements growing out of Reformed Protestantism. Following the American Revolution the newly independent states established a confederation in 1781. Its deficiencies, however, led to its transformation in 1789, following the Philadelphia Convention of 1787, into the first modern federation. Switzerland, after a brief civil war, transformed its confederation into a federation in 1848. Canada became the third modern federation in 1867. Germany followed as the fourth example in 1871. Not long after, in 1901, Australia became a full-fledged federation. In addition, during the latter part of the nineteenth century and the early twentieth century a number of Latin American republics adopted federal structures in imitation of the U.S. federation.

The second half of the twentieth century has seen a proliferation of federations as well as other federal forms to unite multi-ethnic communities in former colonial areas and in Europe. New federations or quasi-federations were founded in Asia, for example, in Indochina (1945), Burma (1948), India (1950), Pakistan (1956), Malaya (1948 and 1957) and then Malaysia (1963); in the Middle East, *e. g.* in the United Arab Emirates (1971); in Africa, *e. g.* Libya (1951), Ethiopia (1952), Rhodesia and Nyasaland (1953), Nigeria (1954), Mali (1959), the Congo (1960), Cameroon (1961), and Comoros (1978); and in the Caribbean, *e. g.* the West Indies (1958). Among the federations founded or restored in central and eastern Europe were those of Austria (1945), Yugoslavia (1946), Germany (1949) and former Czechoslovakia (1970). In South America, Brazil (1946), Venezuela (1947) and Argentina (1949) adopted new federal constitutions.

Between 1960 and the late 1980s, however, it became increasingly clear that federal systems were not the panacea that many had imagined them to be. Many of the post-war federal experiments experienced diffi-

culties and a number of them were temporarily suspended or abandoned outright. These experiences suggested that, even when undertaken with the best of motives there are limits to the appropriateness of federal solutions or particular federal forms in certain circumstances. Despite these difficulties there has been a revival of interest in federal political solutions in the 1990s. Belgium (1993), South Africa (1996) and Spain (which as a result of the operation of the 1978 constitution has in practice become a federation in all but name) have been moving towards new federal or quasi-federal forms. In Italy too there has been pressure for the adoption of a federal system. In the United Kingdom the so called “devolution process” has taken place and created more autonomy for Scotland, Wales and Northern Ireland. Progress towards greater integration in what has become the European Union has also heightened interest in federal ideas. Political leaders, leading intellectuals and even some journalists increasingly refer to federalism as a liberating and positive form of political organisation.

A distinctive feature about the current popularity of federalism in the world is that the application of the federal idea has taken a great variety of forms. The degrees of centralisation or decentralisation differ across federations as do their financial arrangements, the character of their federal legislative and executive institutions, institutional arrangements for facilitating intergovernmental relations, judicial arrangements for umpiring internal conflicts, and procedures for constitutional amendment. Among interesting recent developments has been the acceptance in an increasing number of asymmetrical relationships of member units to federations or to supranational organisations. Examples in practice include Belgium, Malaysia, Russia, Spain and, following the Maastricht Treaty, the European Union. Another has been the trend for federations themselves to become constituent members of even wider federations or supranational organisations. Examples are Germany, Belgium and now Austria within the European Union. It is also worth noting that the three members of the North American Free Trade Agreement (NAFTA), Canada, the USA and Mexico are each themselves federations. Thus there has been an emerging trend towards three or even four (not just two) levels of federal organisation to reconcile supranational, national, regional and local impulses in order to maximise the realisation of citizen preferences.

## II. THE NOTION OF FEDERALISM: DEFINITIONS AND STRUCTURES

There has been much scholarly debate about the definition of federalism. For the sake of clarity we may distinguish three terms: “federalism” “federal political systems” and federations. “Federalism” is basically not a descriptive but a normative term and refers to the advocacy of multi-tiered government combining elements of shared-rule and regional/local self-rule. It is based on the presumed value and validity of combining unity and diversity and of accommodating, preserving and promoting distinct identities within a larger political union. The essence of federalism as a normative principle is the perpetuation of both union and non centralisation at the same time. “Federal political systems” and “federations” are descriptive terms applying to particular forms of political organisation. The term “federal political system” refers to a broad category of political systems in which, by contrast to the single central source of authority in unitary systems, there are two (or more) levels of government which combine elements of shared-rule through common institutions and regional self-rule for the governments of the constituent units. This broad genus encompasses a whole spectrum of more specific non-unitary forms, *i. e.* species, ranging from “quasi-federations” and “federations” to “confederacies” and beyond. Indeed, the late *Daniel Elazar* has identified the following as specific categories: unions, constitutionally decentralised unions, federations, confederations, federacies, associated statehood, condominiums, leagues and joint functional authorities.

Furthermore, other political systems outside the general category of federal systems may incorporate some federal arrangements because political leaders and nation-builders are less bound by considerations of theoretical purity than by the pragmatic search for workable political arrangements. Such considerations may also lead to hybrids such as the European Union which, although originally a purely confederal arrangement, has in recent years been moving towards incorporating some features of a federation. Within the genus of federal political systems, federations represent a particular species in which neither the federal nor the constituent units of government are constitutionally subordinate to the other, *i. e.* each has sovereign powers derived from the constitution rather than another level of government, each is empowered to deal directly with its citizens in the exercise of its legislative, executive and taxing powers and each is directly elected by its citizens.

The generally common structural characteristics of federations as a specific form of federal political system are the following:

- Two orders of government each acting directly on their citizens.
- A formal constitutional distribution of legislative, executive and judicial authority and allocation of revenue resources between the two orders of government ensuring some areas of genuine autonomy for each order.
- Provision for the designated representation of distinct regional views within the federal policy-making institutions, usually provided by the particular form of the federal second chamber.
- A supreme written constitution not unilaterally amendable and requiring the consent of a significant proportion of the constituent units or their representatives in the second chamber.
- An umpire (in the form of courts or provision for referendums) to rule on disputes between governments;
- Processes and institutions to facilitate intergovernmental collaboration for those areas where governmental responsibilities are shared or inevitably overlap.

### III. CONSTITUTIONAL PRINCIPLES OF FEDERALISM

Federal systems are based on a set of principles enshrined in the constitution as written or unwritten legal requirements:

#### 1. *Federal freedom*

An important feature of every federal constitutional order is federal “freedom”, the quality of autonomous statehood (sovereignty) of the members of a federation and their organisational, material and functional independence of wider state structures. In the federal state all three powers—legislative, executive and judicial—are distributed between the federation and the member states. In so far as a constitution does not explicitly allocate competencies to the federation, the members are responsible for the fulfilment of state tasks and possess an autonomous sovereignty not derived from the federation. The autonomous statehood of the members is expressed above all in their power to establish their own constitutions, to

create their own state organs and to structure the legal position of their citizens and the process of forming the political will as matters of their own concern (within the limits imposed by a minimum of structural homogeneity). In addition, and in so far as they have the legislative competences, they possess a share of external jurisdiction: they can conclude treaties with foreign states and accordingly even take on the status of subjects of international law.

The autonomous statehood of the members also requires financial independence from the wider state. The principle of “the who buys, pays” largely determines the type and extent of fulfilment of state tasks. A federal constitution therefore demands not just separate budgets for federation and members’ but also allocates separate tax revenues to the members. Accordingly it also bases their respective expenditures on a separate expenditure responsibility of the members and even provides for a “right” to have their necessary expenditures covered. Only with this financial independence the member states achieve that freedom of manoeuvre of autonomous political action which corresponds to the principle of federal “freedom” in federally structured states.

## *2. Federal equality*

A second, and not less important element of federalism is federal “equality”. In a federal state all the members, irrespective of their size, population, territory or economic strength, in principle have equal rights. They do not only have the same tasks and competencies in all areas of state activity, but also possess the same rights and duties in their relationships to one another and to the federation. This is reflected for example in the internal organisation, composition and decision-making procedures of conferences of Premiers and portfolio Ministers. In Germany for example North Rhine-Westphalia (with 17 million inhabitants) is equipped with essentially the same type of constitutional organs, administrative authorities and courts as the smallest Land Bremen (a so called City State with only half a million inhabitants). Similarly, each member state has the same status (also in dealing with third parties) and possesses the same voting weight in the above-mentioned policy co-ordination bodies. This also applies to the federation, which is treated as a component state in all these relationships.

The principle of federal “equality” takes a greater relevance in the participation of the member states in the legislation and administration of the federation. It is concretised here as a “right” to political participation and the basis of equal rights which as a rule is realised via a second chamber alongside parliament. For this reason, the second chamber consists in some federal states (e.g. the USA, Canada, Switzerland) of the same number of members from each sub-national entity, either elected directly by the people or indirectly by the sub-national parliaments. By contrast, the Basic Law, following German tradition, opted with the Bundesrat (Federal Council) for an assembly of government representatives, whose entitlement to seats and votes is graded in relation to population size. North Rhine-Westphalia therefore currently has six members (and votes, but they have to be casted as block-votes) in the Bundesrat and Bremen just three. This differentiation demonstrates that, in the Federal Republic of Germany at least, the principle of equality of Länder participation in the affairs of the federation is not realised in pure form. Thus, it has also some asymmetric features.

### *3. Federal unity*

Federal orders are subject finally to the principle of federal “unity” which should not be taken to mean “uniformity”, but rather agreement amid difference (*concordantia oppositorum*). What is sacrificed in a federal state is above all the establishment and maintenance of that unity of political action and effect which belong to the very essence of modern statehood. This requires that there should be a minimum level of homogeneity of fundamental constitutional principles at both levels, the federal and the regional, in the constitutions of the members, on whose basis such important aims of modern industrial societies as unity of economic, monetary and social conditions can be achieved. This is above all the federation’s responsibility, given its primary function in providing and taking responsibility for the cohesion of the political system in its entirety and variety.

When one speaks of federal “unity”, this comprises not only unity of state action and effect, but also and always the uniformity or, better, the equivalence of living conditions in society. Without such a minimum level of social and economic homogeneity, a federal state would be ex-

posed from the outset to the danger of fragmenting over the antagonistic differences of interest of its individual components and—as a number of contemporary examples have shown (*e. g.* Canada and Yugoslavia)—gradually to fall apart a “rich” South and a “poor” North can, for example, be tolerated as long as the people do not see this as a condition determined by fate, but rather one which can be changed by their own efforts, and as long as a state compensation system ensures that differences of interest do not become so wide that they remove the barriers which hold back the pursuit of naked self-interest. Seen in this light, the federal system requires a high degree of altruism, self-sacrifice and self-control in the common conviction that the strength of the whole can only grow out of the welfare of the weak. For this reason, it is not just a moral appeal which lies behind the concern to overcome German division by “sharing”, but also a deeply held federal principle with direct constitutional relevance. The question is whether and how far this principle has come in mind in the process of German unification.

#### 4. *Federal solidarity*

The legal equality of competencies and status of different member states (in terms of size, population and financial capacity) presuppose forms of cooperation and compensation mechanisms which are rooted in a fourth element of federal order, the principle of federal “solidarity”. The Basic Law itself speaks in this respect of the “social federal state” (Article 20/1 BL). What is meant here with regard to federal-state cooperation is the unwritten principle of “federal comity” (or courtesy), as reflected first of all in member-friendly behaviour on the part of the federation vis-a-vis its component units and on the part of those units vis-a-vis one another, and second, in the style and procedure in which federation and component units deal with one another. Inherent in this principle is the duty of federation and members to mutual support and consideration. All of those participating in a constitutional “union” are therefore required to work together in accordance with the aims of the union and to contribute to its strengthening and to meeting the concerns of its component units.



## IV. SHORT OUTLINES OF FISCAL FEDERALISM

The idea of federal solidarity has its effects primarily in fiscal and financial matters. With particular reference to “horizontal” financial equalisation the Federal Constitutional Court of Germany has even spoken explicitly of a “solidary community” of the Länder. This provision translates into reality the federal principle of “all for one” and “one for all”. The principle applies not only to the relationship between federation and members, but also to the financial relations of the members to one another. It commits individual member states irrespective of their autonomous statehood and financial independence to providing support to other financially weaker members. This applies similarly to the federation. It too has to take appropriate measures to even the differences in financial capacity of the individual member states - if need be through federal supplementary grants (“Bundesergänzungszuweisungen”). Beyond that it can award financial support to especially important investment projects of the members, and is constitutionally required to ensure that a member does not enter a financial crisis sufficient to endanger its liquidity. Seen in this light, the federal solidarity principle has an importance in the field of public finances which can hardly be exaggerated.

“*Pecunia nervus rerum*”, the ancient Romans used to say and this is true even more today and for any federal system in the world. Firstly: It is hardly necessary to explain the importance of financial means, simply: money, within the political process. Money gives the opportunity to pursue certain policies. Money distribution within a political system always implies essentially the distribution of political opportunities. Money distribution is power distribution. Secondly: In federalist democracies, the State’s fiscal sovereignty is divided between the State as a whole (the federation) and its constituent regions (the States). Traditionally, the federation has often even been regarded as the constituent states’ “paying guest” (*e. g.* Germany after 1871, the USA until the Thirties, and today —once more on a larger scale— Canada). At the third territorial level the local authorities also enjoy a historically well established autonomy in tax matters (USA; limited in Germany). Nevertheless, the adoption of unitary constitutional elements has modified the federalist principle of decentralised public finances to the point where the Federation usually enjoys the right of

enacting framework legislation (Germany, Austria, Australia) or at least the right to its own receipts independent of the states (USA).

Thirdly: The financial arrangement of a federal system reflects the true power relations. If a constitution assigns certain responsibilities to one level of government, but fails to give the necessary financial means to fulfil its tasks, the division of powers runs idle. Within a federal system each level of government and each member of the federation is supposed to observe its responsibilities independently in its own right. It can do so only, if it is entitled constitutionally to receive the appropriate revenues independently. It is vital for any federal system to avoid financial dependence among the different levels of governments. Dependence will always imply an erosion of the federal power balance. Therefore the rules for the intergovernmental fiscal relations within Germany have been laid down extensively in the constitution.

With regard to the financial regime of the Basic Law two different questions have to be distinguished: *Firstly*, the *vertical* relations between the federal and the state level of government, or: between the federation and all the states together. *Secondly*, the *horizontal* relations, that means the relations among the states themselves. In Germany, taxes were formerly divided pursuant to the separation principle among the Federation, Länder and communes: the regional and local authorities were allocated the direct taxes whilst the Federation got the indirect taxes. But the unitary approach adopted in everyday politico-administrative practice led in the field of public finances to comprehensive changes: The financial constitutional reform of 1969 largely replaced the Separation principle by an interlinked system of so called “joint taxes”. The financial constitution is supposed to distribute the financial means —taxes, revenues— according to the distribution of tasks. In other words: The distribution of fiscal revenues follows the responsibility for certain tasks (*principle of connexity*). A financial constitution shall give the different levels of government the revenues which each level needs to fulfil its tasks independently. This proposition has two aspects: *Firstly*: Each level of government is entitled to certain financial provisions. The two levels of government —federation and states— are obliged and entitled to fulfil their tasks equally. It would not be acceptable if one level of government had to neglect its tasks because of lack of financial means while the other one can pay for “public

luxury". In principle, there is no space for a rich and a poor level of government. An unequal distribution of revenues —unequal with respect to the constitutional responsibilities— will either lead to the negligence of tasks at one level of government or to an interference of the richer level of government into the affairs of the poorer. Both attitudes have to be avoided. *Secondly*: The financial resources —taxes primarily— have to be distributed in order to furnish independent revenues to both levels of government. The revenues (or parts of it) of certain taxes have to be assigned to certain levels of government by constitutional law. Discretionary financial allocations for certain tasks from one level of government to the other have to remain an exception. An equilibrium of the two levels of government is essential within a federal system.

The horizontal fiscal relations amongst the Länder themselves are governed by the federal principles of uniformity and solidarity. With respect to the constitutional command of the equality of all persons, the definition of the Federal Republic of Germany as a social or welfare state and finally due to the constitutional requirement to safeguard —formerly uniform living conditions (*Einheitlichkeit der Lebensverhältnisse*)— now, equal living conditions (*Gleichwertigkeit der Lebensverhältnisse*) within the country the different states have to achieve an equal standard while implementing federal law. It is quite obvious that federal law cannot be implied unevenly by the different authorities of the different states. An unequal treatment of the citizens because of different place of residence would be unconstitutional.

But not only federal law has to be implemented evenly country wide, in fields of state law certain comparable standards have to be achieved. In this area we have a very delicate balance of variety and diversity on one side and equality and uniformity on the other. Schooling is a good example to demonstrate the importance of that idea. Schooling and education is —like in many other federal systems— one of the most important fields of state policy. In principle the states are obliged to offer their inhabitants equal access to education. It is a public task to care for educational standard of equal value since exams are recognised all over the country regardless of the state in which the exam has been passed in order not to limit the right of free movement across the country for the individual. Given the more or less equal access to the institutions of education and a certain uniformity concerning the standard the states are free

to adopt different policies to achieve these aims. For instance: Conservative state governments tend to foster the traditional grammar schools. They implement the more traditional way of schooling. Progressive state governments put more emphasis (and money) in comprehensive schools. They are more interested in opening the institutions of education for outsiders, for people who have spent some time at the work bench for instance. But yet, the deviation is limited by the acceptance of other states who have to admit students for example at their universities.

#### V. SOME COMPARATIVE ASPECTS OF FEDERALISM

Comparisons among federations are useful, but not because their institutions are easily exportable to different situations. Indeed, rarely do institutional structures applied to different countries work in the same way. The need to adapt them to differing social, economic and political and cultural conditions invariably affects their operation. Nevertheless, comparative analyses are useful because they give insights or draw attention to the significance of certain features in a particular political system. The ways in which similar institutions operate differently, in which different institutions operate in similar ways, and in which unique institutions or traditions affect the political processes which predominate, can help us to understand a particular federal system more clearly.

One can do so in terms of five sets of comparative questions. These are:

- The processes of federalisation.
- The social bases of federalism.
- The institutional structure of the federations.
- Their political cultures, *i. e.* ideas of federalism.
- The functional dynamics arising from the interaction of the first four aspects.

Carl Joachim Friedrich has noted that federalisation may occur by either aggregation of formerly separate political units or by devolution through the granting of constitutional autonomy to political units formerly subordinate within a unitary political system or empire. In this respect, a simplistic contrast might be made between those federations like the United States, Switzerland and Australia which at their formation

were created by aggregating distinct political units on the one hand, and Canada in 1867, the Federal Republic of Germany in 1949, India in 1950 and Nigeria in 1954 which emerged from preceding unitary political systems on the other hand.

W. S. Livingston in his classic work on constitutional amendment in federal systems emphasised the importance of the social basis of federalism. Indeed, he referred to federal institutions as the mere “instrumentalities” of federal societies. From a comparative perspective, one might identify five aspects for consideration:

- The degree of territorial, ethnic or religious pluralism or homogeneity.
- The degree of economic regionalism or integration.
- The extent of economic disparities between the constituent units.
- Differences in social and political ideology.
- The impact of the international context upon internal relations.

Among those federations where the territorial distribution of linguistic or religious groups and their concentration in constituent units is particularly notable are Switzerland, Canada (particularly in the case of Quebec), and some of the newer federations such as India and Nigeria. In such cases, federalism has provided a political expression for internal ethnic and religious cleavages. While such cleavages may sharpen the character of internal territorial diversity, it should be noted that in the case of Switzerland the situation is moderated by cross-cutting cleavages since the linguistic and religious cleavages do not coincide. By contrast, in Canada the religious and linguistic cleavages have tended to reinforce each other. One should note also the tendency to political polarisation in such bi-communal societies as Canada and Belgium, which contrasts with the tri-communal character of Switzerland or the multi-communal character of India and Nigeria. There are other federations, however, such as the United States and Australia, where the constituent units are not marked by sharp ethnic cleavages. In both these federations there is more general homogeneity although there are some variations of political culture and historical tradition. The same could also be said of the nine English-speaking provinces of Canada.

The international context of each federation is another factor which may affect internal relations and attitudes. A classic example has been

Switzerland. With Germany, France and Italy as its neighbours there has been a long tradition of avoiding alliances which might be a source of internal disunity among its own linguistic groups. Another example is Canada. The Canadian provinces represent a string of beads along the United States border with their populations concentrated in a narrow band 100 miles wide and 500 miles long. In such a situation not only language and economic regionalism but relations with the United States have often caused internal contention. By contrast, in Australia and the United States, internal regionalism has been less affected by international relations. This is explained by Australia's continental isolation, and by the United States, domination of relations with its continental neighbours.

With regard to institutional structures turning first to the form of the distribution of powers between the orders of government, federations may be broadly grouped into two categories according to whether the allocation of legislative and executive authority for particular subjects coincides or is divided between different governments. In one category are the United States, Australia and Canada where generally legislative and executive responsibility for a particular area is assigned to the same government. Thus, in these federations, in constitutional terms the central governments generally have both legislative and executive responsibility for the areas of jurisdiction assigned by the constitution to them, and the states and provinces have both legislative and executive responsibility for the areas of jurisdiction assigned by the constitution to them. In contrast, the Federal Republic of Germany and Switzerland constitutionally concentrate much of the legislative authority in their central governments while constitutionally allocating administrative authority for many of those same areas in the *Länder* and the cantons. This arrangement makes possible the combination of a high degree of legislative centralisation with extensive administrative decentralisation.

An important factor affecting the character of inter-governmental cooperation and the expression of regional viewpoints within the institution of national government is the form of executive-legislature relationship existing within each order of government. Broadly, federations may be categorised in terms of whether the "separation of powers" between executive and legislature has prevailed within each order of government, or a parliamentary executive responsible to the legislature has been the arrangement within national and within state governments. The first two

modern federations, the United States and Switzerland, both incorporated the separation of powers between executive and legislature within their national and state or cantonal governments as a further expression of the principle of the division of authority considered to be the essence of federalism. The difference between the two was simply that in the United States federal executive authority was concentrated in a single individual, the president or the governor, while in Switzerland the preference was for collegial executives within each government. A second category consists of those federations, Canada, Australia, the Federal Republic of Germany, Belgium, India and Malaysia, which have combined federalism and parliamentary executives. In these federations, legislative and executive authority has been fused within their national and within their state governments through making the executive directly responsible to the legislature.

Most federations have second chambers in two forms: In some federations the second chambers are indirectly elected by the legislatures of the states. The United States had that arrangement until 1912 and at the current time among parliamentary federations having this form of federal second chamber are Austria, India and Malaysia. The second form found in other federations has been a directly elected federal second chamber. The United States and Switzerland evolved to this form and Australia, a parliamentary federation, has had it from the beginning. Germany has been unique among federations in having a federal second chamber composed of representatives of the executives of the *Länder*, thus providing a constitutional expression of "executive federalism". A recent Hybrid has been developed in South Africa where the National Council of Provinces consists of 10 representatives per Province of whom 6 are "permanent delegates" which are permanently located at the mission of the province at parliament, appointed by the provincial legislatures according to proportional representation and 4 are "special delegates" from the respective provincial government and the legislature, who come to the NCOP only for sittings of the second chamber.

A second feature common to most parliamentary federations, by contrast to those incorporating the separation of legislative and executive authority within their national institutions, has been the weakened expression of regional and minority views within their national institutions. By comparison with the United States and Switzerland, in Canada and Australia the opportunities for the representation of provincial, state or mi-

nority views are more limited for two reasons: First, there has been the relative political weakness of their second chambers in the national parliaments since the cabinets have been responsible to the other chambers (although the Australian Senate can on occasion exert some control if it is willing to contemplate double dissolution). Second, these federations have been marked by the prevalence of strong party discipline within the popularly elected chambers (including the Australian Senate). Here too the Federal Republic of Germany displays some of the tendencies characteristic of the other parliamentary federations, but the unique form of its parliamentary second chamber, the "Bundesrat" has had a strongly mitigating effect. The extensive range of national legislation over which the Bundesrat is able to exercise a veto ensured the governments of the Länder a powerful influence upon national policy-making, and has created a strong inducement for national governments to take into account in their legislation the views of the various Länder, although there has been a tendency to give preference to the federalism, which a recent constitutional reform tried to ease. .

Every federation has found it necessary to strike its own particular balance between the pressures for the provision of a uniform standard of services for its citizens and for the re-cognition of diversity. The clash between the values of uniform treatment for all citizens within a federation and of autonomous decision-making for regionally distinctive constituent units is displayed particularly vividly in the realm of fiscal federalism. Thus, the use in many federations and most notably in the United States of conditional grants to support social programmes in less wealthy states has at the same time often limited the autonomy of state governments by influencing state priorities and expenditures. Parallels to this in Germany have been described as the "golden lead". The different balance between these two values that has been struck in different federations is exemplified by the differing proportions of unconditional as opposed to conditional transfers employed. In comparative terms the United States relies the most heavily on conditional transfers. Interestingly it is Canada and Germany which in their arrangements and fiscal transfers have most respected the autonomy of the regional units by having a large proportion of these transfers unconditional. Equalisation arrangements do play a major role in these two federations in assisting poorer provinces or states, but a large proportion of the total transfers of fiscal resources within these two federations are made



with only rudimentary, or no conditions as to their expenditure imposed upon the recipient governments. Of special interest elsewhere are the efforts that have been made in Germany since reunification to cope with the problems of the new eastern Länder and the sharper disparities there.

## VI. CONCLUSIONS

Three concluding points arise from this review of federalism from a global perspective. First, the existence of two different sovereignties over one people on the same territory is not a contradiction, but a result of the constitutional division of powers and functions and their allocation to different levels of government. Thus, sovereignty in federal states is always divided and limited. Second, the different elements of federalism do display a number of similarities and differences with various aspects of federations, but in the United States on the one hand and more unitarian systems like India or the Federal Republic of Germany on the other hand, they have been brought together in their own unique blend of institutions and processes. Third, both types of federations exemplify a complexity of institutions and processes which is typical of all federations. As *Alec Corry*, a noted scholar of Canadian federalism, used to say regularly to his students, “a neat and tidy mind is a crippling disability in efforts to understand the operation of federal systems”.