

## FEBRUARY 2002 / VOL. 17 (1)

### From the Chair

In the one and one-half years since I became Chairperson, I have tried to keep RC28 moving along the path that our past chair, Lloyd Brown-John guided us for so many years. Lloyd's support and counsel has been most valuable in the transition. I would also like to thank the many officers and board members who have made this operation more than a "one-man show." Among our accomplishments is the highly successful Federalism and Decentralization Conference, held in Jávea, Spain last October. Not only did we have around 25 participants, but a record number of young political scientists presented papers and participated in one of our workshops for the first time. Conference paper abstracts were published in the last newsletter and several authors are revising them for journal submission. We also hope to approach a journal editor with a mini symposium with selected papers.

This year the RC will be involved in two joint conferences. The first is the working Conference on Parliamentary Bodies and Federalism, held in April, 2002 which was jointly sponsored with the University of Windsor. It was attended by several RC members. A report on that conference appears elsewhere in this newsletter. The second is the RC28/IACFS triannual joint conference, to be held in Innsbruck, Austria in November. This conference invites papers on the general theme of the "Appropriateness of Central Intervention" and/or on one of the RC's four working themes. While the deadline for submission has officially closed, contact the organizers (listed elsewhere in this newsletter) to see if space remains. Hopefully, the Innsbruck conference will exceed the attendance in Spain last year.

The Committee has launched its four study groups – – supranational federalism, federalism and regionalism, federal theory and fiscal/intergovernmental relations – – which should carry us at least through the 2003 World Congress in Durban, South Africa. The four themes will form the organizing core of part of the Innsbruck meeting. A roster of those who have already designated their interest is published in this newsletter. An indepth look at the proposed agenda for each group is contained in an upcoming IPSA Participation article requested by Guy Lachapelle, IPSA Executive Secretary. It is also reprinted in this newsletter. I urge those of you not on this list to join by contacting the Chair or one of the two study group co-chairs designated for each group.

The RC maintains an active liaison role. First, with practitioner organizations interested in federalism and federation, Uve Leonardy has taken the lead with this function and has actively coordinated our activities with such organizations as the Forum of Federations and the U.S. Council of State Governments. Another means of liaison with the Forum is the membership of RC28 board member Ronald Watts on the board and with IACFS with John Kincaid, currently their President and an RC28 board member. Another RC28 member, Michael Stein, is the recently designated official liaison between IPSA research committees and the IPSA board. Finally, one of our active RC28 members, Maureen Covell is a member of the IPSA Executive Committee. These connections have helped make this Committee's work a visible part of the IPSA and federalism "enterprise," if you will.

The year 2002 marks the start of a new project on the role of federalism in the "state of the discipline." Launched in 2000 by the RC 33, "The Study of Political Science as a Discipline" and headed by John Trent and Michael Stein. The RC has received a small seed grant to leverage external foundation funds. The initial paper authors/steering committee has been selected: 1) development of federal studies over time, Ron Watts, Queen's University; 2) federalism methodology, research infrastructure, and research venues, Robert Agranoff, Indiana University; 3) federalism theory, Michael Burgess, Hull University and Franz Gress, Goethe University; and, 4) a critical evaluation of federal studies, John Kincaid, Lafayette

University. Additional papers will be designed and authorized by this group and a commercial book publisher will be sought out. Further details will follow.

Finally, we have tried to take a different Newsletter approach. Posting it on the RC website offers flexibility and capacity that did not exist before. In addition to news about the Committee, we have tried different formats such as dialogues on different topics of interest, paper abstracts, and review essays on federal countries not in everybody's reading lists. In this respect, an interview with Ron Watts regarding his work on Pakistan's Constitution and a review essay on federal Brazil appears in this issue. What we need is more member contributions, such as volunteers to write topical book reviews and dialogues on subjects of committee interest. Also, we need for you to submit news about upcoming conferences, projects and your recent publications, so that they can be identified. If you have additional suggestions regarding how to make the Newsletter serve the membership better please let me know.

Robert Agranoff  
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## **2002 Meeting in Innsbruck, Austria – Reminder**

### **Report on Parliamentary Bodies and Federalism Conference**

Federalism and The Future of Parliamentary Democracy in Canada

Over 40 academics, researchers, and students, along with a small number of parliamentarians and staffers, met from April 4-7 to look at the future of Canada's form of federal democracy. The informal conference was held at the Kempenfelt Bay Conference Centre, Innisfil, Ontario (about 70 km North of Toronto). The conference was jointly sponsored by the Department of Political Science, the University of Windsor, RC28, and the Churchill Society for Parliamentary Democracy. Lloyd-Brown John of Windsor, Past RC28 Chair, chaired the meeting. Several RC members participated in this conference. The conference was enabled by the Canadian Social Sciences and Humanities Research Council and the Federalism and Federations Research Programme. The focus of the conference was on questions relating to the health of Canadian legislatures in the light of the emergence of executive dominated federal relationships. Has the contemporary Canadian federal system peripheralized legislatures? Have legislative roles been altered? Does "governing from the center" affect the inherent character of legislative democracy? These themes are elaborated in Professor Brown-John's introductory charge to the conference, which is reproduced following this conference summary.

After an initial free-flowing roundtable the group decided to focus on five broad topical areas for intensive discussion, proposals for reform, and possible research agendas:

The changing nature of polities and political systems and the future of democratic systems.

The emerging role of governmental institutions, with particular emphasis on legislative – executive relations.

Electoral reform, with particular concern on alternative models of selecting and electing parliamentary mandates.

Federalism questions, especially the locus of problems/problem resolution as well as global impacts on federal questions.

Methodologies of studying the problems and issues that emanate from the discussions.

Within these topics numerous issues and problems were discussed. For example, the institutions group discussed the following concerns: so-called anti-parliamentary reforms (fixed terms, separate election of the head of government, referenda) elected bicameralism's merits and tradeoffs; the consequences of executive federalism; and, differences between parliamentary and presidential systems. The electoral reform group looked at different options but highlighted the German mixed model, where half of the deputies are elected by constituency and half proportionally by party list. Then it assessed the prospects for such a reform, which were assessed as "highly unlikely."

Another feature of the conference was an address by the Hon. Senator Mahmud Waziri, Special Advisor on Democratic Reforms, Office of the President, Nigeria. Senator Waziri traced the waves of Nigerian democracy, as well as the measures that are currently being undertaken to consolidate democracy. He also shared Nigeria's experiences with parliamentarism and presidentialism. The conferees were asked to consider features of presidentialism and separation of powers, at least in the context of their contribution to Nigeria's current challenges.

The session concluded with five basic thematic conclusions:

The milieu of government and politics has shifted from the "empire" of the pink colorings on the map (i.e. Commonwealth), to a host of challenges in empire building: global agreements and governance, regionalism, city-states, and a host of governmental – non governmental connections.

The changing Canadian constitutional status, e.g. the implication of Charter of Rights, aboriginal/first nation concerns, and international concerns.

The nexus of federalism and democracy, that is the changing ground of the debate from rights of provinces to rights of individuals, electoral mechanisms, "democratic deficits" (deficiencies in institutions and processes) under federal parliamentary democracy (e.g. electoral systems, political party structures), meeting the challenges of interdependent society.

The promise and perils of government in an electronic era, e.g. portal government, other aspects of e-government. Will technology offer a better future?

The validity of the Westminster parliamentary model. Is this U.K. import of continuing value or is it necessary to modify the single responsible party majoritarian system? Neither of the new regional parliaments in Scotland and Wales have followed this model, nor have many recent transitioning democracies. Should Canada examine this issue? These questions are designed to stimulate a next round of reactions that can be circulated among scholars and other interested persons. Also, a more complete report on the conference will be compiled by faculty and students at the University of Windsor. Finally, for those Research Committee members familiar with Lloyd Brown-John's tradition as a host, he was once again outstanding. Thanks to Lloyd for the opportunity to co-sponsor.

**Call on Parliamentary Bodies and Federalism – by L. Brown-John**

## **Participation: Comparative Federalism and Federation Research Committee**

### Participation Article on the Comparative Federalism and Federation Research Committee

Federal theory and practice moves as federalism and federations change, and such movement is reflected in the views of those who operate and study them, according to Preston King, one of our research committee members, in the first edition of his landmark book, *Federalism and Federation*. Following these movements constitutes the primary aim of RC28, the Comparative Federalism and Federation Research Committee. Organized in 1983, it is devoted to exploring and promoting scholarly knowledge about federations and federal arrangements within countries from a cross-national perspective. Its members are from six continents and include political scientists, lawyers, economists, political geographers, and political sociologists. Committee members include a number of the world's leading federalism scholars and country specialists. The Committee's current work plan is divided into four topical areas, which forms its core agenda between the 2000 and 2003 IPSA World Congresses: federalism and supranational bodies, federalism and regionalism, federal theory and structure, and fiscal and intergovernmental relations. Each constitutes a study group. In addition, at its meetings the Committee welcomes studies of other facets relating to federal questions not included in the four areas.

The first area of research, federalism and supranational bodies, focuses on the examination of multinational federative bodies comprised of nation-states. Examples include the European Union, the Commonwealth of Independent states, the African Union and the many international regimes (e.g. NAFTA) that govern trade, environmental and other issues. Several research questions have been, or will become part of the scope of this group. First, there is the bundle of issues that relate to the role and influence of subnational governmental units in supranational bodies. Second, are questions of differences of policy-making between single countries and supranational bodies. Third, is the role of national parliaments in the supra federation, and the feasibility of second chambers, in supranational bodies like the EU. Fourth, a whole series of Ameta-constitutional@ questions are being raised and examined, such as should there be charters of competencies, charters of rights, consolidated law texts, the nature of majorities, and direct election of suprafederation executives. These and other issues relating to component federal units as signatory countries, as well as their status as federal units are being advanced.

The second research area, federalism and regionalism, brings together researchers interested in questions of regional governance, autonomy of constituent units, program and administrative deconcentration, and other federal developments that are Adifferentiating@ unitary states and changing federations. The first research question of interest to this group involves what role regions play in facilitating governance in diversified (ethnic, economic, linguistic, religious) societies? A second and related question involves what role federal arrangements play in solving the problems rooted in linguistic/cultural/religious diversity? Third, is the role of subnational constitutions (or charters or laws of autonomy) in fostering federalism=s aims? Fourth, what role do asymmetric arrangements play in contributing to federal governance? Fifth, how do federations and federal arrangements facilitate subnational competitiveness in a global economy? This group also follows constitutional legal, electoral, and administrative trends that impact federalism.

Federalism theory and structure is the third research area, with emphasis on constitutional structures and changing definitions with federal countries. The first research question that this area is addressing is a theoretical underpinning of the divergent paths (e.g. U.S. and Canada) that countries have taken as federations. A second question relates to the constitutional and legal delineation of federation and proto-federation theory. Third, relates to how federations promote diversity yet guarantee human rights. Fourth, how does third tier (e.g. indigenous or other group recognition) federalism change the theory of federation? And fifth, what is the

meaning of autonomy in federations; when is central intervention appropriate and what does intervention do to self-governing? These issues address the very nature of a federation status.

The fourth group, fiscal and intergovernmental relations, looks at the workings of federal systems: financing, transparency, interunit connections, representational patterns, administrative processes. The first research issue relates to the revenue bases within federal systems and particularly the degree of own-source revenues of subnational governments. The second issue relates to those intergovernmental dimensions that facilitate or detract from federal operation: federal comity, subnational channels of access, subnational ability to change the system, fiscal independence, and program independence. The third set of issues or questions relate to administrative and fiscal efficiency within federal systems. And fourth, the important question of how democratic accountability – – legal, fiscal, performance – – is achieved in divided governmental systems? Such intergovernmental patterns define the operations within federal systems, and in major ways define federations themselves.

The Research Committee pursues this agenda through a number of vehicles. First, it sponsors an Annual Conference, the latest which was held in Spain in October 2001(see summary in News from RC's). Second, it engages in liaison functions with related organizations, such as the Forum of Federations, a practitioners group based in Canada, and the International Association of Centers for Federalism. In 2002 RC28 and IACF will hold a joint annual conference (see Agenda) in Innsbruck, Austria. Third, it sponsors panels at the World Congress every three years and occasionally holds pre-Congress workshops at a venue near the Congress site. Fourth, the RC has an online newsletter <http://www.iu.edu/~speaweb/IPSA/> that addresses substantive issues as well as news items. Fifth, the RC's newest effort is to convert some of its work agenda into IPSA's "Developments in Political Science in the Year 2000" project, coordinated by RC33. A number of leading scholars who are members of RC28 have agreed to write lead papers. Sixth, and finally, RC workshops and conferences have led to publications. During the 1990s, three anthologies on various facets of federalism were issued by commercial publishing houses.

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## Roster of RC28 Study Groups

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## Papers Received

### Papers and Publications Received

Two papers that are of potential interest to RC28 members have been submitted by the authors and are summarized here.

Brendan O’Leary, “An iron law of nationalism and federation? A (neo-Diceyan) theory of the necessity of a federal Staatsvolk, and of consociational rescue,” *Nations and Nationalism* 7(July 2001): 273-296. Contact [boleary@sas.upenn.edu](mailto:boleary@sas.upenn.edu) ... a majoritarian democratic federation requires a Staatsvolk, a demographically, electorally and culturally dominant nation. This lends weight to Ernest Gellner’s theory about the power of nationalism. But the theory has a corollary: the absence or near absence of a Staatsvolk does not preclude democratic federation, but a democratic federation without a clear or secure Staatsvolk must adopt (some) consociational practices if it is to survive. This suggests that we are entitled to have greater optimism than Gellner allowed about political and constitutional engineering for multi-national and multiethnic units.

Dusan Sidjanski, “The Federal Approach to the European Union or the Quest for an Unprecedented European Federalism,” trans. Mme Chamouni Stone, [also available in French, German], Paris, Notre Europe. Contact [dusan.sidjanski@sete.ch](mailto:dusan.sidjanski@sete.ch). The European Union is divided between the two opposing tendencies that are developing at its heart: the community dynamic, which builds a union with a federal vocation, and intergovernmental cooperation in foreign and internal policies. This leads to the question of whether a durable cohabitation between the community system and intergovernmental dimensions is possible in the long run. Does the European Union not have an urgent need – on the eve of enlargement and faced with demanding challenges – to consolidate a structure which can provide common orientations and similar impulses in the integration sector and to cooperate with a multiplicity of public and private interests, and to affirm its European identity on the international front? Has the moment not come to think together on the consequences of the pragmatic step, which consists of juxtaposing disparate parts instead of integrating them into a harmonious unit? Have we tried to evaluate the effects of the intergovernmental method, which short of being transitory risk causing a loss of efficiency and capacity and a return to traditional means of organization? As a result, how do we avoid breaking up the institutional equilibrium and halting the democratization of the European Union? These concerns are reflected in the European debate, which centres on the immediate necessity for a core federator and, in the long run, a constitution.

## **International Federal Conference in Switzerland**

International Federalism Conference

This invitational conference is sponsored by the Swiss Federal Council and the Conference of Cantonal Governments. For further information contact the website <http://www.federalism2002.ch> or the Executive Director Dr. Raoul Blindenbacher [conference@federalism2002.ch](mailto:conference@federalism2002.ch) International Conference on Federalism 2002 27 – 30 August 2002, St. Gallen, Switzerland

The Conference deals with the general topic of federalism in the context of three themes. Each theme embraces four subthemes representing the major practical aspects of the theme. These twelve subthemes provide the frame for the 24 conference work sessions. Each subtheme contains two four-hour work sessions on subsequent conference days. The work sessions will focus on different topics within the scope of their subtheme. Practical cases relating to the work session topic will serve as a starting point for a learning-oriented dialog.

Theme 1: Federalism and Foreign Relations

Foreign Relations of Subnational Units

Participation of Subnational Units in the Foreign Policy of the Federation

Implementation of International and Supranational Law by Subnational Units.

Federal Structures and Foreign Policy of International and Supranational Organisations

Theme 2: Federalism, Decentralisation and Conflict Management in Multicultural Societies

Constitution Making and Nation Building

Decentralisation and Good Governance

Communities – Civil Society and Conflict Management

International and Regional Action with regard to Conflicts in Multicultural Societies

Theme 3: Assignment of Responsibilities and Fiscal Federalism

Fiscal Federalism and Political Decision Structures

Problems of Equalisation in Federal Systems

Fiscal Competition

Fiscal Decentralization in Transition Economies and Developing Countries

### **IPSA Issues**

IPSA Issues

IPSA's web address is: <http://www.ipsa.ca>

IPSA considered a rule at its Executive Committee meeting in Tenerife, Spain regarding whether IPSA should require RC members to be IPSA members. In the interest of encouraging flexible operation of RCs it was rejected. However, the EC did adopt the rule that RC officers and board members be dues-paying members of IPSA (and, of course, the RC).

It is expected that RCs will play a major role in organizing the panels, at the Durban, South Africa World Congress in August 2003. Panels organized by RC's must, as a matter of general IPSA policy, be open for paper givers who are not members of the RC, provided that the paper topic fits into the overall concern and theme of the RC in question.

Michael Stein, RC Liason, has engaged in an extensive electronic dialogue with RC Chairs. Clearly the most important issue is dues-paying, or lack thereof. As IPSA has moved away from automatic \$1 USD dues check off to a system of small, competitive grants (of which only

a few thousand dollars have been set aside). There seems to be consensus building for a form of dues “check off override” for RCs, at about \$10.00 per year or \$30.00 for the triennium. In other words, when a member rejoins IPSA for 3 years, an additional \$30.00 would be paid and transmitted to the RC. RC28 officers’ opinions have been solicited regarding this proposal, and there is general support for an “automatic” \$30.00 dues from each member, in lieu of the \$45.00 now voluntarily assessed.

Another issue under discussion is the need for more than the automatic 2 panels per RC at the World Congress.

If you have a concern regarding any of these IPSA issues please contact Bob Agranoff.

### **IPSA XIX World Congress – Call for Papers**

IPSA has issued its call for the 2003 meeting, to be held in Durban, South Africa, from June 29 to July 4, 2003. The overall theme is “Democracy, Tolerance, Justice,” with some twelve sub themes. Consult the Spring 2002 issue of IPSA/Participation for full details on topics and proposal submission items. Although the Research Committee will be organizing a track of panels as usual, all of the proposals, including those organized by RC28, must initially go through the IPSA Secretariat on the online form available on the IPSA website ([www.ipsa.ca](http://www.ipsa.ca)). Please make sure that your proposal submission for a comparative federalism panel identifies RC28 – Comparative Federalism. IPSA will then send each research committee’s proposals to the chair. The RC28 panels will be organized with our Program Chair, Franz Gress.

The deadline for submission of proposals is December 1, 2002. The IPSA website will be open for submission in early September. It will be helpful if you submit a copy of your proposal to our Program Chair, Franz Gress ([gress@soz.uni-frankfurt.de](mailto:gress@soz.uni-frankfurt.de)). It would be beneficial for you to submit your proposals early, as the RC28 study groups will be meeting and be holding its 2002 panels in Innsbruck, Austria in mid-November. It will be the only time the Committee will be able to discuss the panels prior to the World Congress.

Papers for the RC28 panels are particularly welcomed on its four work themes: supranational federalism, federal theory, fiscal and intergovernmental relations, and regionalism and federalism. An additional RC28 panel will be sought on its state of the discipline federalism project (the same panel will also be submitted to the American Political Science Association for its 2003 meeting). Proposals for all papers relating to comparative federalism and federation are welcomed, regardless of fit into the Committee’s work plan.

Please remember that RC28 adheres to ISPA’s rules on participation: No single individual may make more than one appearance on the program in each of the following categories: panel chair, paper giver, or discussant. This means that one could appear up to three times on the program, but only once in each of these categories. It is the IPSA policy that papers presented at the World Congress are in the public domain and may not be restricted from citation or attribution.

It should also be noted that because of numerous past violations of IPSA and RC28 participation policy, particularly those relating to acceptance of a paper proposal and not appearing to deliver the paper, or even informing program organizers, the Committee will take into consideration past World Congress/Annual Workshop performance. The IPSA policy is as follows:

the International Political Science Association reserves the right to accept or reject any proposal received from an individual or individuals requesting participation in the World Congress. Reasons for rejection of proposals may include, but are not limited to: topics not

fitting into the World Congress theme or in the general political science panels, insufficient space on the program, failure to meet professional obligations in prior World Congresses (e.g. not completing a paper, not delivering a paper on time, failure to show for a scheduled appearance, failure to register or pre-register for the World Congress).

If you have any questions regarding the RC28 World Congress program, please contact RC28 Chair Robert Agranoff (Agranoff@indiana.edu) or RC28 Program Chair Franz Gress (gress@soz.uni-frankfurt.de).

### **Many Thanks!**

Many thanks go to RC28 members for their help in 2001 in making the committee go. In particular, the Chair would like to recognize the following persons/authors: to Franz Gress for organizing the Jávea Conference, panels, meetings, panel chairpersons, and for making it a smooth running meeting.

To Luis Moreno for arranging the meeting site at the Jávea Parador Nacional, for writing and receiving a CSIC (Spanish Research Council) grant to pay for most of the meeting expenses, and for organizing and moderating the panel on federal arrangements in Spain.

To Uwe Leonardy for serving as an effective communicator with allied federalism organizations, particularly the Forum of Federations.

To Lloyd Brown-John for seeking funding and organizing the joint 2002 conference on Parliamentary Bodies and Federalism, held in Canada.

To John Kincaid for providing smooth RC28/IACFS liaison, for helping plan the joint Innsbruck conference, and for providing a learned dialogue in the Vol.16 No. 1 newsletter.

To Maureen Covell for serving on the IPSA Executive Committee along with her active involvement in RC28.

To Alan Tarr for contributing to the Vol.16 No.1 dialogue.

To Michael Stein for becoming the first all research committee liaison with the IPSA executive. In this capacity he represents all 51 RCs. Also thanks to Michael for helping us launch our "State of the Discipline" contribution through a seed subgrant.

To Salvador Espinosa for writing the book review on Spain in Vol.16 No.2.

If anyone was overlooked, please let the Chair know and they will be recognized in the next issue.

### **Review Essay – Brazil, by Robert Agranoff**

Lawrence S. Graham, "The Role of the States in the Brazilian Federation," in Louis A. Picard and Raphael Zariski, eds., *Subnational Politics in the 1980s*. New York: Praeger, 1987.  
Frances Hagopian, *Traditional Politics and Regime Change in Brazil*. Cambridge: Cambridge University Press, 1996.

Bolivar Lamounier, "Institutional Structure and Governability in the 1990s," in Maria D'Alva G. Kinzo, ed., *Brazil: The Challenges of the 1990s*. London: British Academic Press, 1993.

Scott Mainwaring, *Presidentialism in Brazil: The Impact of Strong Constitutional Powers, Weak Partisan Powers and Robust Federalism*. Washington, D.C.: Woodrow Wilson International Center, 1997.

Javier Mart'nez-Lara, *Building Democracy in Brazil: The Politics of Constitutional Change, 1985-95*. London: Macmillan, 1996.

Joseph A. Page, *The Brazilians*. Reading, Mass.: Perseus Books, 1995.

Wayne A. Selcher, "A New Start Toward a More Decentralized Federalism in Brazil," *Publius: The Journal of Federalism* 19(Summer 1989): 167-183.

Wayne A. Selcher, "The Politics of Decentralized Federalism, National Diversification, and Regionalism in Brazil," *Journal of Interamerican Studies and World Affairs* 40(Winter, 1998):25-50. Note: Entire issue devoted to Brazil: The Challenge of Constitutional Reform.

Celina Souza, *Constitutional Engineering in Brazil: The Politics of Federalism and Decentralization*. London: Macmillan, 1997.

Matias Vernengo, "Brazil's Federal Government Imposes Fiscal Rules on the States," *Federations* 3(April, 2002): 7-8.

Anyone interested in researching Brazilian federalism with English only material will find that one will have to sift through a pile of material, some old, some new, not all of which recognizes that the structure and operation of the polity is constitutionally a federation. Indeed, one leading anthology on the transition from dictatorship to democracy in the 1970s and 1980s mentions that Brazil is federal only in passing. As a result, a blend of the venerable (dated, relevant) as well as more recent (contemporary, focused on governance) will be offered, works that might help the researcher move into an overview of Brazil's federal system.

Independent Brazil (1822) was initially a constitutional monarchy, but power was shared with the oligarchs who controlled the regions, using authoritarian political organizations that suppressed political competition and participation. A federal republican system was adopted in its 1891 Constitution, as the monarchy was abolished, but the control of regional elites, particularly those from the stronger states, was maintained. It afforded the states even greater powers than the U.S. system, after which it was modeled. Each state could draft its own constitution, negotiate commercial treaties with foreign governments and borrow money from abroad, levy taxes on exports, rural and urban lands, property transfers, industrial activities, and professional activities, and maintain control over municipalities (Hagopian 1996: 39). The powers of the union were limited. In the 20th Century, Brazil moved through several constitutions, authoritarian as well as democratic. Power shifted over time to the general government (Graham and Rowland 2001).

An introduction to Brazil could be taken by either a standard history (e.g. Fausto 1999) or a broader ethnographic look that blends in polity and economy. One such work by an American law professor, Joseph Page's *The Brazilians*, links the national culture to events of the past several decades. This highly readable book is not intended to be scholarly, but an outsider's impressions and reflections of a complex nation. It introduces unfamiliar readers to Brazil's multiethnic influences, the elites and the poor, regional distinctions, social and spiritual elements, as well as such culturally identifying marks as football and carnival. Historically, Page traces the transformation of the "Old Republic" in the 1930s, of the military coup that brought in dictator Get elio Vargas for fifteen years, strengthening of the central government's powers and its bureaucracy. The Vargas dictatorship was followed by a democratic period, then military government from 1964-1988, and since the current democratic transition.

None of these governance waves seemed to have slowed the weight of the political oligarchs that run state governments, or the second level “colonels” who dispense jobs and other forms of patronage, and who control the votes of extended families. The state governments form national presidential alliances to control electoral outcomes. Meanwhile, the economic elites have been able to exist with the state in a corporatist fashion, as many large industries have direct pipelines into national and state capitals.

Page concludes that the old models are slowly being broken by democratic expansion and “planned growth and local autonomy,” where communities are taking positive action despite the calcification of state and federal governments. There is less governmental dependency, once fostered by the legacy of the Portuguese crown, corporatism and patronage and more self-mobilization through networks of NGOs and grass roots groups. What remains, however, is Brazil’s overarching disparities between rich and poor, “defacto social and economic segregation” that excludes the increasingly unmanageable poor, often by walling them from residential communities and apartment complexes.

One way to move rapidly into Brazilian federalism is to look at two dated but solid pieces by Graham and Selcher. The article by Selcher provides a concise look at the centralizing forces during the military dictatorship as well as the decentralizing or state government strengthening features of the current Constitution of 1988. Graham’s study looks at the effects of the 1967 predemocratization tax reform. It tries to deal with the ill effects of a nationalized system, when state autonomy was curtailed. These decentralizing reforms decreased the regressive areas of the tax structure and enhanced state and local tax autonomy. His state by state analysis shows vast differences in federal dependence and considerable horizontal imbalances. Selcher appropriately points out that the “principal concerns are tax burdens and distribution of resources, and less so the concepts of structure, governmental representation, spheres of responsibility, the purposes of policy autonomy, or administrative effectiveness” (174). He concludes that the post 1988 decentralized system will maintain many features of federal dominance through tax sharing and formula distributions and is unlikely to usher in greater federalism, that is by building subnational control. “Federalism in Brazil has become inevitably tied up in a number of competing agendas. The most fundamental of these is the clash between those in dominance who want a stronger central state to govern from the top down and those in resistance who see in decentralization a way to organize society and politics more from the bottom up” (181).

A focused look at the 1988 constitutional change can be found in Martínez-Lara’s, *Building Democracy in Brazil*. The analysis of the formal process builds on the institutional change processes prior to 1895, the conditions that led to formal reform, the sequence of constitution-writing and the sources of the ongoing constitution. Although these trappings were often overturned by “tuleary democracy” by the military, e.g. indirect elections of state governors, and that all mayors of state capitals and other designated “national security” cities were to be appointed by state governors (until 1982). Nevertheless, from February 1987 to October 1988 senators and federal deputies met through 24 committees to draft the new basic document.

Among the foci for the constituent assembly was the territorial organization of the state: federal government/federal district/territories, states and municipalities and regions. The most significant changes, as mentioned were fiscal, including greater taxing powers and a larger share of federal revenues for states and municipalities. The deputies were committed to state-level economic tradition and high-growth-cum-high inflation policy orientation. In regard to governmental institutions, the presidential system changed from highly centralized, to one with less formal but retention of some normative powers, as well as strong legislative oversight and veto powers (override of presidential veto by absolute majority). Many of its other features limited state intervention in the economy, strengthened individual liberties and group political rights, and many features that guarantee welfare state benefits. Martínez-Lara’s analysis of the ushering in of democracy leaves him to identify several federal questions as unanswered.

While the boundaries of tax levying powers were somewhat clarified, the distribution of powers among the Union, states and municipalities were not. He concludes that distribution of money exceeded a proportional transfer of responsibilities. It demonstrates the continuing power of governors and local authorities' ability to protect resources and fend off new responsibilities.

One of the best interpretive essays on Brazil's institutional development is the book chapter by Lamounier, written in the midst of the transition. Lamounier argues that the country's federal structure, political parties, and electoral procedures tip the system too far in consociational direction, in which governing tends more towards "blocking" than taking decisions. The consociational model is built on the pillars of proportional representation, a multiparty system from which ministries are selected, federation, bicameralism with two strong houses, and a rigid and detailed constitution. Corporatism also contributes, "designed to annul the conflict between capital and labor in the competitive party arena by imposing a compulsory format for interest representation subject to strong administrative controls," a Brazilian third way between capitalism and socialism. The answer has always been to seek balance by strengthening federal executive power, in periods of democracy through a "plebicitary presidency" (125). The high governance risk comes from the lack of institutional incentives to form viable parliamentary bases in the presidentialist regime. Subsequent reforms, therefore, should focus on reducing the consociational features of the electoral and party laws.

A solid study of state politics and government during both the military regime and the transition is Frances Hagopian's *Traditional Politics and Regime Change in Brazil*. It is a focused look at one state, Minas Gerais, through two important time periods. During military rule a traditional political elite retained considerable power at the state level, demonstrating their venerability in Brazil. Throughout the military period state leaders continued to occupy high-level political offices, permitting patronage control, their most important political resources. Hagopian traces this elite domination through analysis of the state's political economy, bureaucratic structure, clientelism, and in the transition to democracy. She concludes that "In federal political systems with strong regional and local components and identities, moreover, the omission of elite turnover at even the state and local levels may crucially understate the degree of continuity from a pre to post authoritarian order" (210). The book also provides a focused look at state government and politics in action, although its major contribution is to explaining political continuity within Latin American federalism.

The most thorough study of contemporary federalism in English is Celina Souza's *Constitutional Engineering in Brazil*, which focuses on fiscal and political intergovernmental relations in the first decade after Brazil's transition to democracy. Institutionally, Brazil's federal democracy is consociational in style. Souza however, argues that the driving force of Brazilian federalism has always been the need to accommodate those who want central control with the demands of conflicting regional elites and to cope with regional inequalities, as is the case with the other Latin American federal countries. Initially, Souza historically traces the centralizing and decentralizing trends in the federal government, institutional and fiscal. Then she examines the political forces behind the 1988 Constitutional reform, state governments, and the role of states in the policy arena of education. This is followed by the case studies of Bahia state and two municipalities within that state. The focus is on expenditure functions and program arenas. Looking at the development of fiscal and political power, Souza concludes that, "no level of governance in Brazil has had a weak role in its political relationship with the other levels" (172). Despite various centralization attempts, both to increase state own source revenues and decrease municipal dependence on the states, each level has maintained "room for maneuver." In this most focused of studies of Brazilian federalism, the relative power of each level is in dictated as key to understanding Brazil's federal character.

The research by Mainwaring on the dynamics of the Brazilian political system identifies three central features – – fragmentation, wide presidential powers and strong federalism as defining the governing dynamics of post 1988 Brazil. Despite a constitutionally circumscribed

executive, presidents have strong powers, e.g. proactive legislative decree powers and agenda shaping powers. A highly fragmented party system and low levels of party loyalty usually puts Brazilian presidents in a situation of crossing party lines for support. The other defining leg to Mainwaring is “robust federalism,” which reinforces the dispersion of power created by party fragmentation. During periods of democracy mayors and governors have been powerful actors with meaningful autonomy vis-à-vis the federal government and with significant resources. While federalism has governance advantages in a continental-sized heterogeneous country, it disperses loyalties, encourages particularism and factionalism, and makes coalition-building difficult. The large and wealthy state politicians are also competitors for national power. States take a greater share of the tax revenue since 1988 but without added responsibilities. Moreover, state level public banks can aid state spending and undercut national economic policy. On the other hand, Mainwaring agrees with Souza and Page, that effective subnational officials can accomplish much even when there are national problems. These governing dynamics mean that there is a gap between presidential constitutional powers and weak parties within a venerable federal system.

These themes, particularly robust federalism, are expanded in Selcher’s more recent analysis of Brazil’s federal political economy in the 1990’s. He probes the effects of recognizing municipalities and shifting political power and tax resources to subnational governments. By 1997-1998, during the presidency of Fernando Henrique Cardoso, federalism was at the forefront of the political agenda because of huge state and local fiscal deficits and federal efforts to respond by imposing fiscal discipline. The previously identified fiscal decentralization led to a situation where 80 percent of the federal government’s receipts were earmarked entitlements, including mandated transfers to state and municipal levels. The states and municipalities, with their newly found resources, began to add to their workforces, increase retirement pensions, and instigate voter-friendly public works projects. In the high inflation years, states became accustomed to borrowing against inflation and allowing monetary correction (the inflation compensation index) to devour the interest payments. Moreover, Brazilian states used their powers to borrow from the Inter-American Development Bank and World Bank, as well as from private banks and their own state banks. This, of course, limited the federal government’s ability to pursue macroeconomic and currency stabilization policies, as efforts were resisted by antiquated local power structures and regional subnational groups. Cardoso has overcome these resistances by brokering deals and using presidential powers of provisional measures by decrees, in order to get a grip on the economy by controlling state and local borrowing and spending. Selcher also profiles Brazilian regional political and economic forces and the asymmetrical federalism brought on by overrepresentation of small population states.

Recent Cardoso fiscal federalism actions can be found in the short update by Vernengo. The president has promoted a “federalist mentality” by national laws that set regional floors on minimum wages and a federal fiscal responsibility law that imposes limits on state government’s spending powers. The latter law builds on previous legislation that refinanced state’s debts in exchange for sustainable budgetary equilibrium. The new law follows structural adjustment policies encouraged by the World Bank and International Monetary Fund, particularly cutting the costs of public employees and reducing wage expenditure spending by 10 percent. The federal government has also set limits on state indebtedness. It can withhold transfer payments to states if debt limit controls are not followed. Also, transfer payments to subnational governments were reduced from 2.5 percent of revenues to 15 percent. These measures, along with reductions in social spending, have helped Brazil move towards fiscal responsibility and avoid the problems of Argentina. They have the federalism impact of imposing “fiscal centralism in the name of economic stability” (1).

Up to date materials is not the only problem regarding analysis of Brazil’s federal system Selcher (1998: 26) suggests that most foreign scholarship emphasizes the national government per se and national policy issues of First World or “politically correct” interest. In

Brazil, (i.e., in Portuguese) a rich and insightful literature on the effects of federal arrangements on political dynamics has developed in academic circles and research institutes. The focus has shifted from earlier analysis largely of fiscal flows or legal issues toward the impact of federalism on politics and public policy. These issues are at the heart of a Brazilian federal analysis because Brazil has become a federal state that is increasing difficult to manage. Its political processes are characterized by fragmented local and regional interests, which lead to great difficulty in forging of a national perspective or sense of national interest in the political classes of the country.

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## **Constitutional Proposals for Pakistan**

### CONSTITUTIONAL PROPOSALS FOR PAKISTAN

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#### The Announcement of Proposals

On the 26 June and 14 July 2002, the National Reconstruction Bureau of the Government of Pakistan published its proposals for "The Establishment of Sustainable Federal Democracy" asking for public comment. The "First Package" included in its 58 pages proposals for the revised structure of the National and Provincial Assemblies and elections to them, for a directly elected and more effective Senate to counterbalance the National Assembly, for a system of checks and balances in the relationship between the Prime Minister and the President, and for a National Security Council headed by the President as a consultative body on matters of strategic importance. These would require amendment of 28 articles and one schedule in the 1973 Constitution which contains a total of 280 articles and seven schedules. The "Second Package" of 12 pages was more general in nature, setting out "A Conceptual Framework on the Establishment of Sustainable Democracy." It outlined the NRB's proposals for enhancing

federalism and devolution through adjustment to the legislative lists, improving intergovernmental relations by modifications to the Council of Common Interests and the National Economic Council, enhancing provincial taxing powers and revenues, and entrenching in the Constitution the key elements of the substantial devolution to local government implemented in 2001. This package also included outlines of the NRB approach to regulating defections of party members, to checks and balances intended to ensure accountability of office holders, the independence of constitutional offices such as the Election Commission, the Auditor General, the Supreme Judicial Council, the Joint Chiefs of Staff, the State Bank of Pakistan and the National Accountability Bureau, and to public exposure of constitutional amendment proposals before enactment. The following brief comments on these proposals are derived from my experience as a consultant to the NRB on those aspects related to federalism during the periods January 27 – February 5 and February 22 – April 2, 2002.

### The Context: Why the Interest in Strengthening Federalism?

Why at this time has the Government of Pakistan been interested in enhancing the federal character of its Constitution? The answer lies in Pakistan's history since it was created in 1947. It has had four nominally federal constitutions: the interim constitution of 1947 based on the Government of India Act of 1935, the Constitution of 1956 devised by the Constituent Assembly, the Constitution of 1962 imposed by the military, and the 1973 Constitution drafted after the secession of East Pakistan (Bangladesh). The 1973 Constitution was subsequently frequently amended, and was suspended in 1999 when the military regime of General Musharraf took over. A characteristic of all these post-independence constitutions has been their quasi-federal character. While nominally federal, the distribution of legislative and executive authority was highly centralized, and the federal government collected over 90 percent of the combined federal and provincial revenues. Moreover, the repeated abrogation and suspension of constitutional rule and the frequent imposition of direct military rule (in 1958-62, 1969-73, 1977-88 and 1999-2002) have meant that in practice the central bureaucracy and the military establishment have dominated. Thus, while a federation in name, Pakistan has de facto had a centralized regime. Indeed, this central government dominance was a major factor in the secession of East Pakistan (Bangladesh) in 1970-1. Throughout its history, a further destabilizing factor has been the situation where one constituent unit has held a majority of the population. From 1947 until its secession in 1970-1, it was East Pakistan that contained a majority, and since then, of the four provinces remaining, Punjab has comprised 56 percent of the federal population. In addition, in contemporary Pakistan the differing demographic composition of the provinces, the chronic disputes regarding the allocation of federal revenues and development funds, the distribution of water from the Indus River system, and the distribution of federal posts in the civil service and the military have all been sources of strain that have pointed to the need for a more genuinely federal organization of the state.

The most recent imposition of military rule occurred in October 1999 following a period of widespread deterioration in democratic governance, massive rise in corruption and the national debt, and disregard for the federal character of the Constitution. Ostensibly the military takeover was a response to the Prime Minister's dismissal of the Army Chief of Staff, but it arose from the underlying struggle between the civilian and military power centres. The stated objective of the military regime included "strengthening the federation", "removing provincial disharmony", "restoring national cohesion", "devolving power to the grass roots level", and "restoring a sustainable federal democracy" that would not revert to the status quo ante.

When the military take-over was challenged in the Supreme Court of Pakistan, its ruling of 12 May 2000 upheld the take-over on grounds of 'necessity' given the corruption and shortcomings of the party politics of the previous civilian regime. It also ruled that General

Musharraf could amend the Constitution to achieve his stated objectives. At the same time it added the qualifications that amendments could be made only if those stated objectives could not be achieved under the existing Constitution, and that the salient features of the 1973 Constitution, i.e. independence of the judiciary, federalism, and the parliamentary form of government blended with Islamic provisions, could not be altered. Finally it decreed that elections must be held and constitutional government restored within three years, i.e. by October 2002.

It has been within this context that the National Reconstruction Bureau of the Government of Pakistan has prepared the proposals published in June and July 2002. Earlier during 2001 it undertook a massive reorganization to create a multi-levelled local government system aimed at devolving power to the grass roots level. The newly published proposals of June and July 2002 for amending the Constitution are ostensibly intended to provide the framework for a "sustainable federal democracy".

The Thrust of the NRB proposals relating to federalism.

In what way is it intended that these constitutional reforms will redefine relations between the federal and provincial governments and the role of local government? The stated aim is to establish a more genuinely federal relationship by a much needed measure of devolution to the provinces. (Package of Proposals No. 2, pp. 3-4). To this end a number of constitutional changes are proposed. One is an adjustment to the Concurrent Legislative List whereby a substantial portion of the items on the previous list would be converted into areas where federal authority would be limited strictly to framework legislation and otherwise all legislative and executive authority would lie with the provincial governments. The effect would be to devolve most of the social services and other service oriented functions to the provinces.

In the area of intergovernmental financial arrangements it is proposed to devolve taxing powers to the provinces so that instead of the provinces depending, as they currently do, for up to 83% of their revenues upon transfers from the federal government, they would be able to meet at least 40% from their own revenue sources.

Such intergovernmental institutions as the Council of Common Interests and the National Economic Council would be modified to reduce the dominance of the federal government on these bodies and make them more genuinely collaborative bodies.

To protect the extensive reforms to local government implemented in 2001, they would be given "constitutional cover" by entrenching their basic features in the Constitution.

To reduce the dominance in Parliament of a single province, Punjab with 56 percent of the federal population, the Senate with the four provinces equally represented in it, would be given much greater political leverage. The possibility of correcting the imbalance in the size of the provinces by reorganizing their boundaries was rejected as too disruptive to be achieved effectively in the short time remaining before the October 2002 elections. Instead, therefore, it is proposed that there be an effort to provide a counterbalance to the domination of Punjab in the National Assembly, where representation is based on population, by changing the method of appointment and powers of the Senate. The previous Senate was indirectly elected by the provincial legislatures and its influence was limited because differences between the two houses were resolved at joint sittings where the much larger size of the National Assembly gave it a dominant role. It is now proposed that the Senate be directly elected, that normal legislation require separate assent by the Senate, and that differences between the two houses be resolved, not by joint sittings, but by a Mediation Committee in which the two houses are equally represented (Package No. 1, pp. 20-24).

One area which will remain uncorrected, however, is the role of the federal government in the appointment of governors in the provinces and in the exercise by governors of their discretionary authority. In fact, it is proposed that a governor's discretionary power wherever provided in the Constitution shall be subject to the previous approval of the President (Package No. 1, p.30), a clearly quasi-unitary provision.

A liberal-democracy or a religious state?

Do these proposals represent movement towards a liberal democracy or a religious state? The new proposals for constitutional amendment would make no change to the Islamic provisions already embodied in the 1973 Constitution or added to it by subsequent amendments, particularly in 1985. The Preamble to the Constitution, article 2A added in 1985, the provisions for a Federal Sharia Court (articles 203A-J) and the Islamic Provisions (articles 227-231) remain untouched, neither reinforced nor reduced. The current proposals all relate to changes in secular aspects of the Constitution. There remains the issue of how far the proposals would contribute to movement towards a liberal democracy. Development of a "sustainable federal democracy" is the avowed aim. But two factors will affect the degree to which this may be achieved. One is the weakness of the foundations for it in the civil society of Pakistan. There is an active politicized press and there are vigorous political parties, but their past history has tended to the politics of personal aggrandisement and corruption, thus undermining the operation of democratic institutions and genuine respect for the rule of law and tolerance. The second is that the effort in the new proposals to produce a set of checks and balances between the president and the prime minister in order to avoid the previous excesses of party politics under a dominant prime minister. This may, however, in the current highly charged politicized situation lead to irreconcilable tensions between them.

The military-democratic balance

The fundamental issue that arises from these proposals is whether the process that has been adopted can produce a "sustainable federal democracy", especially when the foundations for it in civil society are still relatively weak. First, although the National Reconstruction Bureau has devoted much time in its own private deliberations with a number of international consultants in developing in careful detail its proposals for constitutional reform, the deadline of the October 2002 elections has left very little time for public comment and discussion. The first document released at the end of June calls for public comment by 31 July 2002, which allows a mere month. The second document which refers to proposals linked less directly to election arrangements, does not set a precise deadline.

The processes required to obtain public support for constitutional reform are a matter of particular interest to political scientists. Elsewhere, in civilian regimes effective constitutional reform has usually required extensive public discussion. Where a military regime is proposing reforms to establish a more "sustainable federal democracy" in a context where elected assemblies have been suspended, the dilemma is how to obtain genuine public comment and public support. It is one thing to assume that the "silent majority" will support the proposals, but how can the views of the "silent majority" be substantiated? The very real danger is that the proposals are likely to become vulnerable to the vociferous protests of the threatened politicians and politicized media, and as a consequence lose their wider credibility. Certainly without overt and substantial public support, constitutional proposals, no matter how carefully thought out and drafted, are unlikely to achieve the sought for sustainability.

A related issue is how to safeguard a sustainable federal democracy in Pakistan. The NRB proposals emphasize the importance of checks and balances, an important feature of many federal democracies. But the form of the checks and balances proposed in these proposals lend themselves to the intimation that this is to be done by enshrining the army in politics. True the Supreme Court in its earlier judgement in 2000 validating the military take-over did in

passing observe that if previously there had been a better balancing of the roles of the Prime Minister and the President, prime ministerial corruption might not have deteriorated to the point where a military take-over became necessary. But although the official proposals are referred to as essentially parliamentary in form, the president would be given discretion to appoint anyone from parliament as prime minister whether he or she commands a majority at the time, discretion to dismiss the prime minister or cabinet or parliament, discretion to appoint provincial governors with powers similar to the president's in relation to the elected chief ministers and provincial parliaments, and chairmanship of the National Security Council which, although described as a consultative body, would wield considerable influence through its composition comprising the president, the prime minister, the four provincial chief ministers, the chairman of the Joint Chief of Staff and the three service chiefs. Potentially, as *The Economist* of 6 July 2002 has already noted, these presidential powers could transform Pakistan's Westminster prime-ministerial system into a presidential one in all but name. These presidential powers together with the proposals that would outlaw from standing for election politicians convicted of corruption (a proposal aimed at the leaders of the three most popular party) are the aspects of the new proposals upon which the old political parties and the media in Pakistan have immediately focussed their criticism and vociferous opposition. Ultimately, much will depend, therefore, on whether the elections in October yield a supportive pro-Musharraf majority in Parliament or one that is hostile. If it is the latter, the reforms are unlikely in the long run to be sustainable.

## **2002 Committee on Federalism and Federation**

### Committee on Federalism and Federation

This Research Committee was organized in 1983. It is devoted to exploring scholarly knowledge about federations and federal arrangements in a comparative perspective. Its members are from six continents and include political scientists, lawyers, economists, political geographers, and political sociologists from many federal and nonfederal countries. Knowledge about federalism is researched and exchanged about specific countries as well as cross-national phenomena.

As an active committee, it meets virtually every year. Every third year it holds a committee conference, such as the 2001 Javea conference, to exchange papers and to organize its work agenda. The next year it meets jointly with another organization, the International Association of Centers of Federalism (a group of research centers). The 2002 joint meeting was held in Innsbruck, Austria in November. The third year of the cycle the Committee meets and sponsors panels as a part of the World Congress of Political Science. The July 2003 meeting is scheduled for Durban, South Africa.

Several publications have been produced as a result of these meetings, for example:

C. Lloyd Brown-John (ed.), *Centralizing and Decentralizing Trends in Federal or Non-Federal Countries* (Lanham, MD: University Press of America, 1993).

Bertus De Villiers (ed.), *Evaluating Federal Systems* (Dordrecht: Martinus Nijhoff, 1997).

Robert Agranoff (ed.), *Managing Diversity: Asymmetry in Federal Countries* (Baden-Baden: Nomos, 2000).