

Federations

WHAT'S NEW IN
FEDERALISM WORLDWIDE

DECEMBER 2010 / JANUARY 2011

Focus on Africa

**Kenya hosts international
conference on federalism**

**Interview with
Ethiopian
Prime Minister
Meles Zenawi**

**OBAMA WOOS STATE AND
LOCAL GOVERNMENTS**

**PAKISTAN EMPOWERS ITS
PROVINCES**

**5TH INTERNATIONAL
CONFERENCE
ON FEDERALISM**



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THE GLOBAL NETWORK ON FEDERALISM
forumfed.org



The monolithic cross-shaped church of St George in Lalibela, Ethiopia, is one of 11 sunken rock-hewn churches that draw tens of thousands of foreign tourists every year. According to legend, angels helped King Lalibela build the churches in the 11th and 12th century after he received an order from God to create a new Jerusalem in Ethiopia.

Federations

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Federations

DECEMBER 2010 | JANUARY 2011



Prime Minister Meles Zenawi of Ethiopia agreed in 2007 that Ethiopia would host the 5th International Conference on Federalism. The conference is taking place from December 13 to 16, 2010 in Addis Ababa, the capital of Ethiopia.

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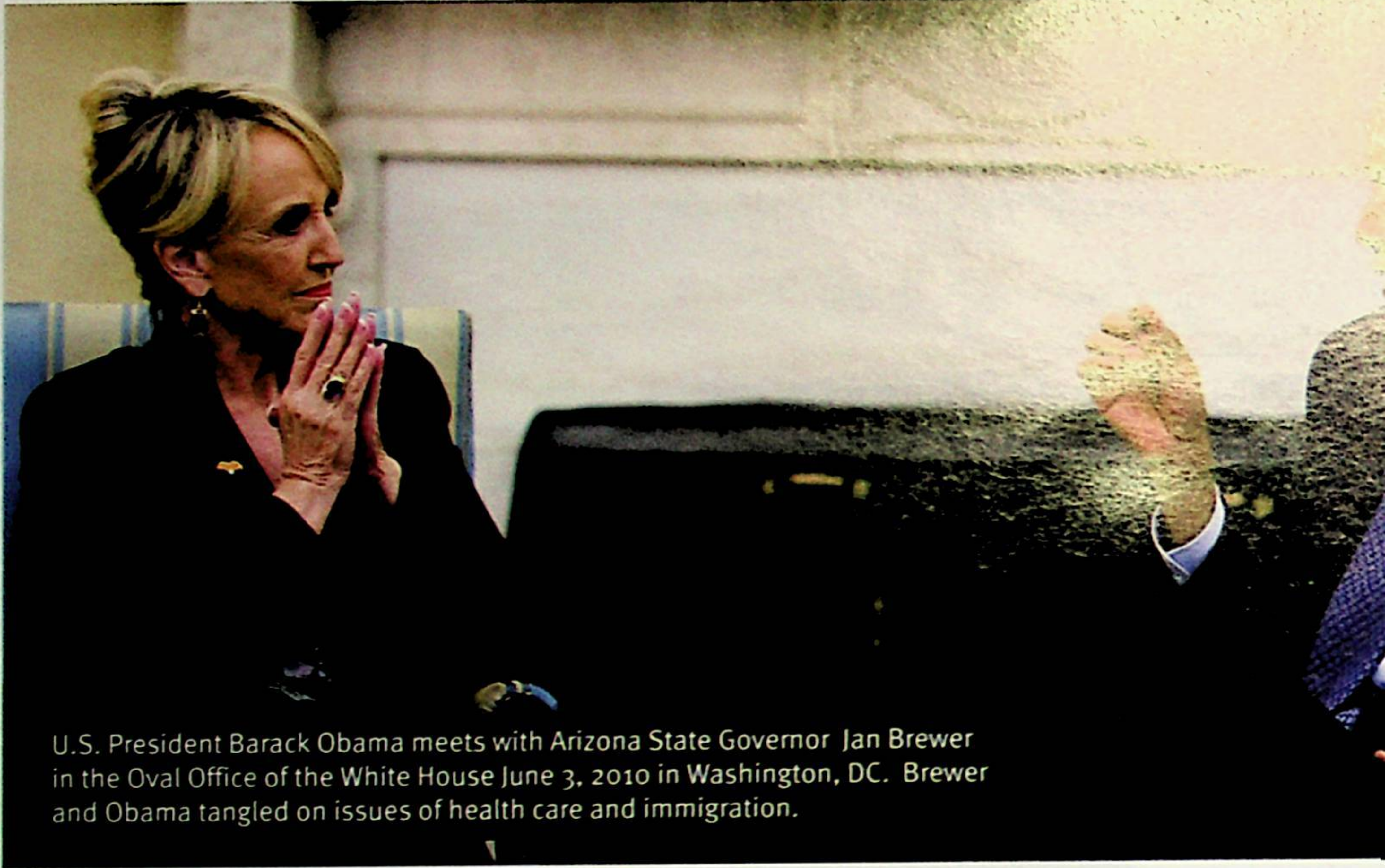
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Obama woos state and local governments with federal funds

States and cities are given money to pursue national goals.



U.S. President Barack Obama meets with Arizona State Governor Jan Brewer in the Oval Office of the White House June 3, 2010 in Washington, DC. Brewer and Obama tangled on issues of health care and immigration.

BY ALAN GREENBLATT

NO AMERICAN PRESIDENT IN MORE THAN A DECADE HAS PAID more attention to intergovernmental relations than Barack Obama. Yet Obama's presidency has triggered so much interest in federalism as a tool for confronting Washington that there almost seems to be a revolt in the making.

From the earliest days of his administration, President Obama signalled his interest in working collaboratively with state and local-government leaders, affording them much greater access to White House officials than any recent president. Nonetheless, some tension was inevitable, with Obama making clear his intention to place his stamp on nearly every major domestic issue.

There has been some discomfort among those on the centre left ("liberals" in the U.S.) as Obama takes the reins on issues such as education and health care in which, during the years of President George W. Bush, states and localities had pretty much set the agenda. But the real anger has come from

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conservatives. Since Obama became president, many states such as Alaska, Idaho, North Dakota and Texas have approved resolutions stating that the federal government has overstepped its bounds and that the states are now asserting their own sovereignty under the Tenth Amendment to the U.S. Constitution.

Tempest in a Tea Party

That amendment, which reserves all powers not specifically granted to Congress, has become just the focus of renewed academic interest in a resonant political issue. It's raised with force by the adherents of the Tea Party, an ad hoc movement that has sprung up on the American scene since Obama's presidency. Republican Governor Tim Pawlenty of Minnesota and Rick Perry of Texas have filed amendment in registering complaints about the health-care law enacted earlier this year.

American federalism, in short, has become a concern rooted in expediency rather than principle since the mid-1980s. It's become a tool for the struggle for power in Washington. Liberals expressed their disapproval of the presidency of George W. Bush as a result of the policies they favoured, such as efforts to

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WHITE HOUSE PHOTO/GETTY IMAGES

pursued at some level of government, if not the national level. Now that Democrats control Congress and the White House, Republicans have rediscovered federalism's virtues.

"States have become a staging area for policy actors that disagree with the federal role," says Paul Posner, a former federal official who now teaches at George Mason University. "The federal system becomes a way of continuing ideological wars by other means."

The influence of money

"Venue shopping" - policy actors seeking out the level of government that is most receptive to their ideas - has been an ongoing feature of American political life for more than 150 years. During the presidency of Bill Clinton, states took the lead on crafting new approaches to crime and welfare that became templates for national legislation. President Bush's concentration on war and terrorism left plenty of running room for states to address a wide range of issues, including climate change, stem-cell research and minimum wage increases.

But now, states are virtually broke, having collectively closed more than \$300 billion worth of budget shortfalls over the past three years, according to the Center on Budget and Policy Priorities.

"You had a period of rapid state innovation right across the board," says Ray Scheppach, executive director of the National Governors Association. "That's stopped mostly because of the budget impact, so the pendulum has clearly swung toward Washington."

President Obama has encouraged that swing, recognizing that states and localities were so eager for cash that they would be willing to carry out his policy goals - for a price. The share of state budgets provided by the federal government has risen more than 20 per cent during his tenure, largely due to the American Recovery and Reinvestment Act (ARRA), the stimulus law passed within a month of Obama's taking office in 2009.

ARRA does have its opponents among the states. The governors of Alaska, Mississippi, Louisiana, South Carolina and Idaho said they would not accept ARRA funds. They all later reversed their position, except for the governor of South Carolina who took the issue to court and lost in June 2009.

Like every administration - and more quickly than most, Obama's White House recognized that it needed state and local governments to carry out most of its policy programs. Former president Ronald Reagan pursued a model of federalism that gave states less money in exchange for more authority and program flexibility. Obama has pushed the opposite approach.

Obama's first stimulus package, the ARRA, relied heavily on subnational governments to carry out missions in areas ranging from education to energy. The recent health law also calls on states to carry much of the administrative load. However, both laws have left states with less control.

ARRA, for instance, prodded states to embrace the administration's blueprint for education policy. While 40 of the 50 states applied for the first round of competition for additional education grants known as Race to the Top funds, six states dropped out of the second round. According to the New York Times and the Wall Street Journal, at least 10 states changed

their own laws to become eligible for the funds. And the health law bars states from changing eligibility requirements for Medicaid - the joint federal-state insurance program for the poor and disabled - or the State Children's Health Insurance Program (SCHIP), a program designed to cover uninsured children in families with incomes that are modest but too high to qualify for Medicaid.

More than any president since Lyndon Johnson in the 1960s, Obama has used grant money to persuade state and local governments to pursue national goals. "Race to the Top deserves a gold star from a federalism perspective," Posner says. "You had a national goal that was achieved not through one-size-fits-all mandates but a clever series of carrots."

Eating Obama's carrots

Not everybody is happy about eating Obama's carrots. Republican governors have complained about many of the administration priorities they have had to carry out due to financial constraints, including unemployment coverage expansions under ARRA and the health care law.

Arizona Governor Jan Brewer stated that the federal health-care law eviscerated her budget, in effect cancelling her state's intention to abolish funding for SCHIP and change eligibility rules for Medicaid in ways that would have forced 300,000 adults off the rolls in 2011. Cancelling such plans will cost the state \$11.6 billion over the next decade, according to its own estimate. But Brewer had no choice. Proceeding with the cuts would have meant losing all Medicaid support, which would have cost the state even more.

Brewer and Obama also tangled over immigration, which has been an area that has seen fervent action at the state level because of the failure of Congress to set any new course. Brewer signed a bill earlier this year that would have required local police and sheriffs to check the legal status of anyone they stopped and had reason to suspect of being in the country illegally. The Obama administration sued to block the law and a federal judge blocked its most controversial provisions just before they were set to take effect in July.

But Obama chooses his skirmishes on federalism's battlefield carefully. He was willing to go after one governor on immigration, but unwilling to confront 14 states over the legalization of medical marijuana, something that the federal Controlled Substances Act of 1970 prohibits.

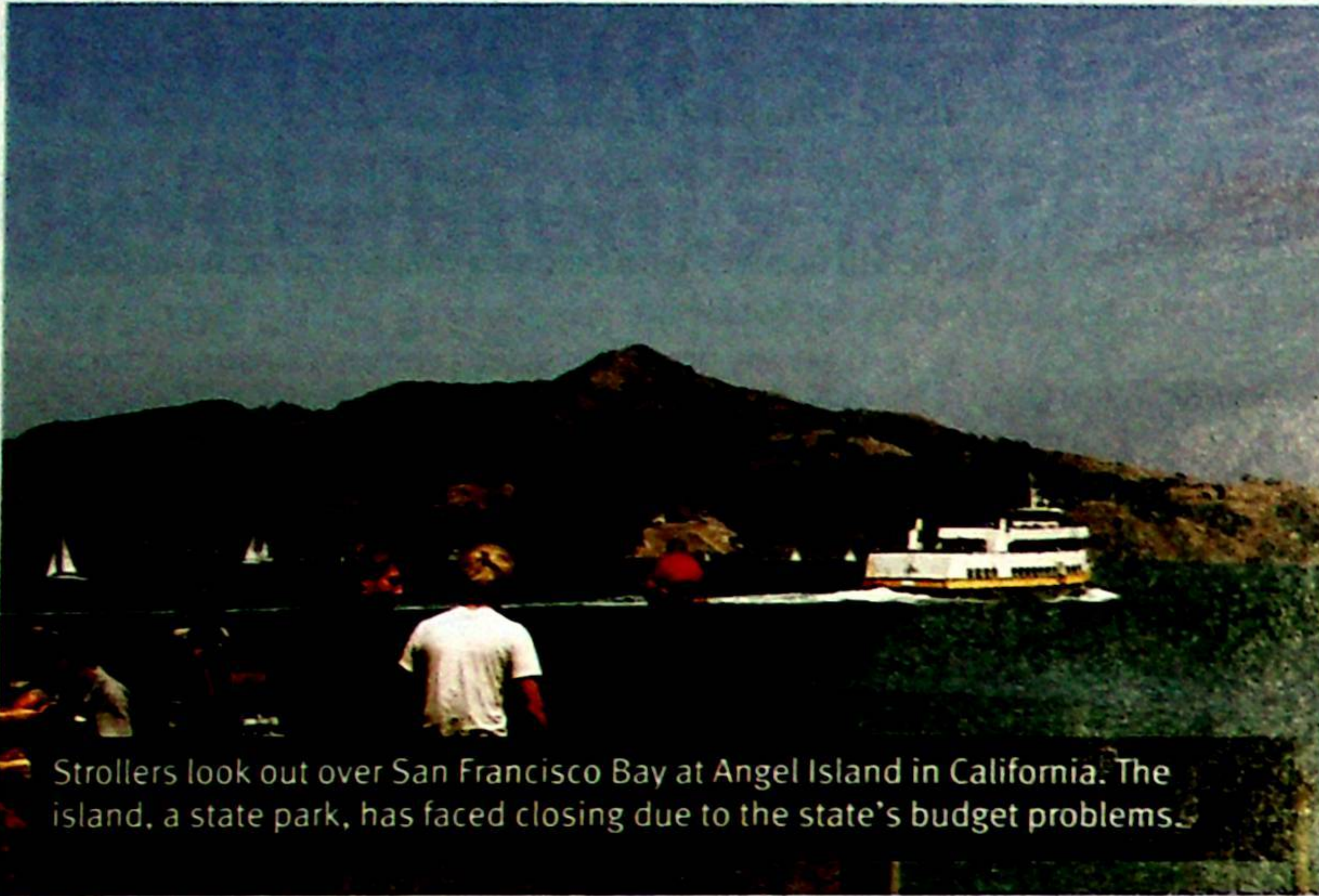
It was an unusual move for the federal government to challenge a state law in court. But the courts - which appeared mainly on course to dial back federal power during the 1990s - have looked with less favour of late on state and local authority when it comes to the Bill of Rights, the first 10 amendments to the U.S. Constitution. The Supreme Court in June threw out as unconstitutional a Chicago gun-control law, arguing that the right to bear arms for self defence was fundamental to the American conception of liberty. "We brought together 31 states in support of the individual right to bear and keep arms," said Ted Cruz, the former solicitor general of Texas.

Nevertheless, Cruz believes that the Obama administration has overstepped its authority. He's not alone. M

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Strollers look out over San Francisco Bay at Angel Island in California. The island, a state park, has faced closing due to the state's budget problems.

REUTERS/ROBERT GALBRAITH

than 20 states have sued to block the federal health-care law. "Obamacare goes further than the federal government ever has before," Cruz says. "In particular, the individual mandate to purchase health insurance goes beyond (previous) U.S. Supreme Court decisions."

More battles to come

Health and immigration have become the key battlegrounds in the nascent war between the federal government and the states, but there are others. Governors in both South Dakota and Wyoming signed laws in March declaring that federal regulation of firearms is invalid if weapons are made and used within their states. Utah lawmakers closed out their session this year with a flurry of states' rights bills regarding health, eminent domain and the "inviolable sovereignty" of the state under the Tenth Amendment. The platform adopted by the Idaho Republican Party in June calls on the state to take control of federally owned land and demands that the governor and legislature nullify federal mandates and laws "that infringe on Idaho's Tenth Amendment sovereignty."

Some of these conservatives, ironically enough, cite as their model the trend of states legalizing marijuana for medical purposes even though federal law makes it clear that possession of the drug is a crime regardless of circumstance. The Obama administration's decision last year not to prosecute most such cases was proof, they say, that states' resistance to unpopular federal laws actually works.

Perhaps the bigger irony is that Obama, who seemed likely to usher in a new era of collaborative federalism when he took office, has sparked a new states' rights rebellion. Three months after taking office, Obama sent a memorandum to heads of federal agencies saying that they should not preempt state law without congressional approval or "otherwise sufficient basis." It was an order that was hard to enforce, but was meant to send a signal nonetheless. Obama saw to it that the doors of his administration were open to state and local officials in a way that was almost unimaginable under


Bush. He has prodded departments to work more closely with each other and subnational governments on common goals, particularly in economic development at the regional level. Several agencies have come up with concrete programs for doing just that.

But Obama's attempts at fostering greater intergovernmental co-operation have been mostly at the margins. The direction of the major spending programs remains unchanged. And where there have been substantive overhauls, as in health, changes were made in ways that put policy goals ahead of the concerns of actors at other levels of government. The health-care law says that any state that does not want to run an insurance exchange does not have to do so; instead, the federal government will do so. "Certainly health-care reform was an

example where the governors feel they've been left in the dust," Posner says, "with \$25 billion in unfunded costs, according to the Congressional Budget Office, over the next 10 years." Another law that put policy first was the Dodd-Frank Wall Street Reform and Consumer Protection Act, a move to regulate financial markets with the aims of greater transparency and control of some of the practices that caused the recession.

A kind of federalism

Under President Obama, federalism has provided an avenue for his critics to complain about his policies and even challenge them in court. Even those who support his goals worry that his version of federalism will end up being just as intrusive and burdensome in its way as those of his predecessors. It's not clear, after all, how his federalism strategy will play out as federal funds start to flow less freely. ARRA funds ran out at the end of September 2010 and Obama was unable to persuade Congress to pass some \$50 billion in additional aid for states in June, due to growing concerns about the federal deficit. There were a couple of exceptions to this trend: in August 2010, Obama signed legislation to provide states an extra \$16 billion in Medicaid funding and to give school districts \$10 billion to rehire laid-off teachers or to prevent further teacher layoffs.

This situation could mean a return to federalism fuelled not by money, but by a return to federal pre-emption of state laws or the imposition of federal mandates - specific orders from Washington to state and local governments. The Obama administration has already made it clear that it views state and local governments primarily, though not exclusively, as a means for carrying out its own agenda. Referring to the most famous quote about American federalism, Marcia Howard, director of Federal Funds Information for States, which tracks federal grant money for governors and legislators, says: "Rather than states being the laboratories of democracy in and of themselves, some of them will become the federal government's laboratories of democracy." 

Declaring itself 'federal' was easy for Nepal

Nepalis now find that drafting a federal constitution is the hard part.



Forum co-founder Dr. Ron Watts meets with former prime minister of Nepal, Sher Bahadur Deuba, in November 2009.

FORUM PHOTO

BY IRINA SHMAKOVA

THE FORUM'S WORK IN NEPAL BEGAN IN 2008, just 18 months after the end of the country's 10-year civil war. The two sides of the conflict, the government and the Maoists, had signed a Comprehensive Peace Agreement, formed an interim parliament, adopted an interim constitution and elected a new Constituent Assembly charged with drafting a constitution that would create a federal democratic republic.

The Forum was invited to Nepal by the United Nations Development Programme and the Nepalese Ministry of Peace and Reconstruction to assess the knowledge gap in relation to federalism.

After consultations and requests from stakeholders, the Forum launched a three year program "Federalism in Nepal:

Supporting Nepal's Constitutional Transition," and established a local presence in Kathmandu, with funding from the Swiss Agency for Development and Cooperation (SDC). The Forum's program began assisting the country to build the capacity to develop and implement a federal democratic system.

Since then, through consultations, courses, workshops and training sessions the Forum has conveyed the knowledge of federalism and techniques of federal governance to hundreds of Nepali decision-makers and civil society members. Participants in the Forum's programs have included civil servants, Constituent Assembly members, politicians, journalists, business community and civil society representatives.

Events organized by the Forum contributed to a general understanding of what federalism means by Nepalis involved in this new system of government. They also increased the capacity of decision and opinion-makers to confidently tackle federalism-related issues in drafting the new constitution.

A highlight of the Forum's program has been the technical advice missions to Nepal by world renowned federalism

Irina Shmakova is program manager for Asia-Pacific programs at the Forum of Federations.



A participant takes notes during a Forum workshop in Nepal in October 2010.

FORUM PHOTO

experts, including Mr. George Anderson, president of the Forum; Mr. Bob Searle of Australia; Dr. Dinesh K. Srivastava of India, Mr. Hassen Ebharim of South Africa, Dr. Hashim Tewfik of Ethiopia; Dr. Carles Viver Pi-suñer from Spain and many others. The experts have offered significant comparative knowledge to Nepalis, which generated considerable interest.

The Forum also invited Professor Ronald Watts, one of the world's foremost experts on federalism, to participate in several missions to Nepal. Prof. Watts's consultations included high-level meetings with the president of Nepal, the prime minister, members of cabinet, party leaders, as well as extensive consultations with representatives of political parties involved in the constitution-writing process. His advice was sought on the sensitive and contentious issues debated in Nepal such as the forming of constituent units, forms of government and fiscal federalism. Prof. Watts's advice helped Nepali decision-makers to critically assess their approaches to the topics and consider the compromises that might be forged during the process of nation building.

Drafting a federal constitution

Another highlight of the Forum's program includes two to three week practitioner-oriented workshops on federal governance in India. The Forum holds such workshops in India once a year where participants from Nepal can experience the unique opportunity of learning first-hand about the process of drafting and amending a constitution and the practice of federalism in India.

Last year, the two-week workshop on federal governance in India was organized in collaboration with the Indian Institute of Public Administration. Sixteen senior representatives from major political parties, government officials, media and civil society activists participated in a series of interactive sessions with Indian academics and government officials, visited government institutions, and went on a field visit to the newly-established Indian state of Uttarakhand.

The outcome of this workshop was a group of decision-makers with increased understanding of operational realities of federalism, eager to share the knowledge they acquired

in their own organizations and apply what they learned in their day-to-day work. The event also allowed an opportunity for inter-party dialogue and generated ideas among the participants on how to move forward with the process of federalization in Nepal.

The Forum brought Professor Ronald Watts to Nepal on several technical advice missions conducted this past year, which generated a lot of genuine interest and demand for information-sharing on federalism from a variety of Nepali stakeholders.

"Two and a half years after the program began, we can confidently say that we have contributed significantly to a deeper knowledge and understanding of federalism among high level politicians, thinkers and intellectuals in Nepal," said Vickal Deep Khadka, Forum program manager at the Nepal Field Office. "This is supported by the feedback we frequently receive from program stakeholders."

The effects of the Forum's program also can be seen in the quality of the dialogue that since changed from debates over the "what" of federalism to discussions about the "how" of federalism.

Forum responds to requests


The Kathmandu office of the Forum receives an increasing number of requests for information and advice on federalism issues by key national stakeholders who perceive the Forum as being an unbiased organization which delivers high quality programs.

Over the course of its program, the Forum has received access to the highest levels of the Nepal government. Other organizations also rely on the Forum for federalism-related information.

While the political situation in Nepal remains in a state of flux, the recent extension of the Constituent Assembly's term for another year to complete its draft of the constitution brings hope that a new Nepal is forthcoming. Certainly, much remains to be done to support the design and implementation of a federal Nepal.

The hunger in Nepal for knowledge on federalism is remarkable. Requests for information and knowledge-sharing events keep coming from all over the country.

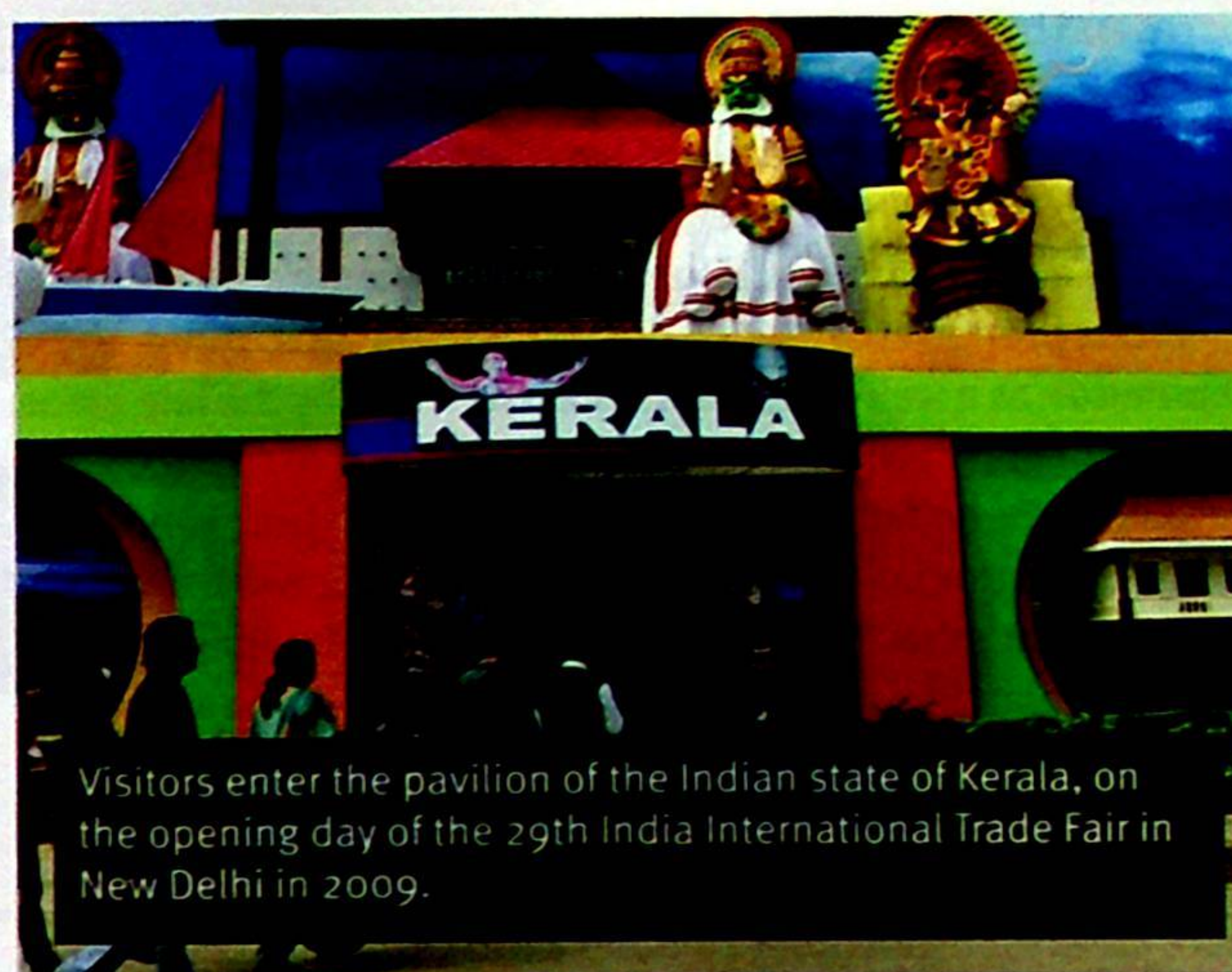
The Forum has a unique advantage in Nepal. Its expertise, extended networks, strong reputation and the ability to link key players in Nepal with key global experts on federalism enables it to provide the needed assistance during the challenging but promising transition of Nepal to a democratic federation.

As the country began a complex process of transition, federalism has become a contentious topic of political debate with so many different views among key stakeholders over the exact nature of the future federal Nepal. The challenge for many Nepalese today is how to fully understand the different varieties of federalism and to choose one. Declaring a federal republic in an interim constitution was easy: choosing which version to implement in Nepal is the hard part. 

India's states follow divergent paths

Kerala, Bihar and Gujarat pursue economic development in three different ways.

BY ASH NARAIN ROY



Visitors enter the pavilion of the Indian state of Kerala, on the opening day of the 29th India International Trade Fair in New Delhi in 2009.

GETTY IMAGES/RAVEENDRAN

THE STORY OF INDIA, SAYS AUTHOR ARVIND ADIGA, IS A narrative of two countries in one – an India of light and an India of darkness. This is a story of three Indian states and their divergent paths to economic development.

While India's overall story is a positive one, individual chapters bear closer scrutiny.

For instance, the states of Bihar and Gujarat appear engaged in a race to the bottom, while Kerala is creating an exemplary narrative of inclusion and empowerment.

In India, it is the state governments that have authority over many powers from education to hospitals to policing and building infrastructure. With all these responsibilities, the states are where the action is.

Some states in India have traditionally fared well on the major indices of economic and human development. For example, Kerala, at the southern tip of the country, fell in this category, contrary to Bihar, in the east bordering Nepal, which did not register strong growth on the human development index.

India's states are undergoing gradual but inexorable change of pace across the country. With new challengers moving up, the better performing states cannot rest on their laurels.

Kerala has started slipping in terms of state revenues to continue its ambitious health and development programs after being the delight of social scientists for its achievements in education and health.

Gujarat, on the Arabian Sea bordering Pakistan, saw its economy expand for several decades but has recently registered slower growth. But it is Bihar which by notching an 11 per cent average growth rate has surprised all. Two models are at work here – the model of getting rich first and hoping that the wealth generated by the few will trickle down to the many; and the human development model of Kerala.

India's Nobel Prize-winning economist, Amartya Sen, has immortalized the Kerala model globally. The Kerala

experience shows that even with low income it is possible to achieve longer life expectancy, lower birth rates and high literacy.

With governmental intervention in Kerala, a variety of opportunities contributed to the state's stellar performance in health care and education. Kerala, the first state to achieve a global standard in public education, saw its literacy rate reach a near universal standard. Its achievements in primary health were for years unrivalled in India.

Kerala has the lowest poverty rate in the country after Delhi. This was confirmed by measurements using the Multi-dimensional Poverty Index (MPI), developed and applied by the Oxford Poverty and Human Development Initiative for the United Nations Development Programme (UNDP).

Kerala's low poverty rate

While the poverty rate is more than 80 per cent in Bihar, it is about 16 per cent in Kerala. Kerala's unique achievement will be featured in the 20th anniversary edition of the UNDP Human Development Report.

Kerala's impressive record of overcoming poverty has been achieved despite less than impressive economic growth. Kerala has made this dent in poverty during the past 30 years or so through the successful implementation of the *panchayati raj* (three-tiered local governments). Kerala, with its innovative decentralized planning, and the *Kutambashree* (prosperity of family) project, has helped distribute the fruits of development to the grassroots level. Built around three critical components—micro-credit, entrepreneurship and citizen empowerment, the *Kutambashree* initiative has succeeded in addressing the basic needs of underprivileged women. Even during periods of very slow growth in the mid-1970s and late 1980s, Kerala was able to fight poverty in a significant way.

In many ways, Kerala is a unique state whose success is not easy to replicate. While kings and feudal lords in other parts of India consciously pursued policies to keep the populace illiterate, princely rulers in Kerala took pains to spread literacy. Over the past 50 years, Kerala led by both the Congress

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party and by the Communist party, implemented land reform, introduced comprehensive social and food-security programs, enhanced the social status and health of women, and pursued other people-oriented policies. Substantial remittances from expatriate Keralites have also helped the economy.

From pre-independence days until the 1960s, Bihar had a reputation as a well-governed state. However, by the late 1960s, rot had begun to set in.

Bihar, "the end of the earth," became a metaphor for ruthless violence, institutional decay and chronic non-governance. But today a Bihar miracle is occurring. Its 11 per cent average growth rate for the last five years is well ahead of the all-India average of just under 8.5 per cent and is only marginally lower than that of Gujarat state, the country's long-time top economic performer.

Time magazine, The Economist and the New York Times have all written glowingly of Bihar's turnaround. According to the Times, Bihar "illustrates how a handful of seemingly small changes can yield big results in India's most impoverished and badly governed regions. It also demonstrates how crucial the governments of India's 28 states, many of which are larger than most countries, will be to India's aspirations to superpower status."

The impressive performance of Bihar, population 100 million, is often attributed to the good governance since 2005 from Chief Minister Nitish Kumar of the centrist Janata Dal (United) Party. Bihar is often seen as a textbook case of how sound political leadership can improve development outcomes.

Bihar the performer

Bihar's economic turnaround is paradoxical: it was not accompanied by human development. The latest data suggest that 81 per cent of the population in Bihar lives in poverty, according to Oxford's Multi-dimensional Poverty Index. The newspaper India Today ranked Bihar 20th among India's 20 biggest states in its State of the States 2009 survey, and has done so since 2004. Bihar also occupies the 20th place in terms of primary health, primary education, investment environment, macroeconomy and consumer markets. It stands in 16th place in terms of agriculture, 18th for infrastructure and 19th for law and order.

Add this to Bihar's 11 per cent economic growth rate last year (challenged by another survey that shows only seven per cent growth) and it seems to produce a model of development in which very little trickles down to the vast majority of its people.

Much has changed in Bihar. There has been noticeable improvement in law and order. Nitish Kumar has succeeded in breaking the strong link between crime and politics. Kidnappings have dropped dramatically. School attendance has improved and primary health centres now have more doctors and medicine. Most visible is the construction of roads and other infrastructure.

According to Bihar's 2008-09 economic survey, 6,800 kilometres of road had been laid in the previous four years. Yet, road length per 100,000 people is just 111 kilometres, a far cry from the national average of 360 kilometres. Only 57 per cent of Bihar's

villages are connected by road, whereas in Gujarat the figure is 99 per cent.

While Bihar's figures are accurate, the actual change on the ground is minimal. The numbers appear impressive because of a very weak baseline. Bihar has the lowest per-capita income. Even if the state continues to grow at the current rate for the next 10 years, its per-capita income will still be below the 2007-08 national average.

Bihar's growth is largely centred in construction. But the state continues to face power shortages. What is worse, agriculture, the mainstay, is suffering and showing no sign of revival, and the migration of unemployed Bihar labourers to more prosperous states continues unabated.

Whither Gujarat?

The state of Gujarat has one of the fastest growing industrial economies anywhere in the world. The growth rate of industrial output has been more than 12 per cent in the last two years, and reached a record 18 per cent in 2004-05. The state accounts for about one seventh of India's industrial production and one fifth of its industrial investment. Gujarat's performance is due to several factors, its entrepreneurial strength, progressive policies, the political will of the government, a pro-active and efficient bureaucracy, good industrial relations and a well-developed infrastructure.

However, while the economy is experiencing healthy growth, the state's human-development index is falling.

The state was already among the top three performers in India in 1990. Under the Congress government during 1994-95, the economy grew at the rate of 13.2 per cent. In the 2009 India Today survey, Gujarat occupies 10th place in primary education and primary health and eighth in infrastructure.

The noted sociologist, Dipankar Gupta, notes that, despite "decades of growth as usual, as much as 93 per cent of Gujarat's workforce toils in the informal sector. That is why growth is not always development." People working in the informal sector are not touched by government laws and regulations aimed at benefiting them.

This analysis clearly suggests that India's march towards superpower status will be contingent on how the states perform. If anything, the good news for the country is that the "India of darkness" has begun to shed that label.

The Deputy Chairman of the Planning Commission, Montek Singh Ahluwalia, has suggested that the Hindi belt, known as "BIMARU" (sick) states, need no longer be referred to as such because of the reduced disparity between rich and poor states. The bad news is that if poorer states do not catch up quickly to their better performing counterparts, the shadow of poverty and backwardness could swell the ranks of a growing Maoist insurgency now threatening a number of central and eastern states.

For India's states, Kerala and Gujarat have become well known phenomena. Bihar's may prove to be tomorrow's success story. But, whether it is a lasting star or a shooting comet will depend on what it does for its huge population living in poverty, who, for the most part, have not benefited from Bihar's economic upsurge. (v)

GEORGE ANDERSON

Federalism and Africa



IT IS APPROPRIATE THAT THE Fifth International Conference on Federalism is being held in Africa in 2010. The subject is highly relevant across the continent and with the growing interest in sharing experiences of devolved governance – what the Addis conference is all about – the conference is very timely. We must thank the Government of Ethiopia, which has led a major federal transformation of the country, for hosting it.

While it has the suffix of an “ism”, federalism is better thought of as a general approach, an idea, or even a tool box than as an ideology. It is not for everyone, but has potentially wide application given enormous variety and adaptability to widely different circumstances. Its essence is having at least two orders of government, each of which is directly elected and has some constitutional independence. It can be decentralized or quite centralized, parliamentary or presidential, two-tier or multi-tier. Federal features can be grafted on to create hybrid forms of governance, such as the European Union.

This special issue of *Federations* gives a good sense of the past history of federalism on the continent, including the rejection of some fragile federal experiments in the early post-colonial period. Now, however, the wheel is turning and increasingly Africans are looking for political institutions that are more

responsive to their populations and more reflective of their diversity.

Ethiopia and Nigeria, the two most populous countries of sub-Saharan Africa; as well as Sudan, the fifth most populous, all now have some form of federalism. South Africa has a devolved regime with federal characteristics. The constitution of the Democratic Republic of Congo is also influenced by federalism. Kenya has just approved a new constitution in which a central element is devolution to regional governments. Tanzania has a quasi-federal arrangement because of the special status of Zanzibar. There are calls for federalism, or at least greater political devolution, in other African countries as well.

Federalism not a cure-all


Of course, federalism is not a panacea. It requires a commitment by political actors across a country to work together in sharing central governance and build a common citizenship as well as respect for the regional governments operating with some genuine independence. In this sense, the prospects of the breakup of Sudan, which will go to a referendum early next year, reflects more a failure of preconditions than of federalism as such. It is interesting that both the North and South envisage federal forms of government for their respective parts of the country, in the event of a breakup.

The increasing interest in federal and devolved forms of government is directly related to the push for more democracy and less dominance by central elites. Africans know that constitutions are only part of the story. The real

functioning of any institutional structure depends on how much real space there is for political competition and how this plays out through political parties. Nigeria, South Africa and Ethiopia all have one political party largely dominating the political scene. This means that many political issues play out within the dominant party, rather than in more open political competition.

Transition to a multi-party system

A federal arrangement can provide a helpful structure for the transition from a dominant party to multi-party regime, because opposition parties tend to take power first in the regional governments. This happened in Mexico and India, both of which were once characterized by a dominant party that held office both nationally and in all the state governments.

Well designed federal arrangements can help stabilize a country's politics, create more space for democratic competition, bring government closer to the people and provide an institutional structure for longer-term evolution. Though federalism can carry risks, it has proven itself in rich, middle-income and poor countries with very diverse conditions. A majority of the world's people who live in democracies operate within some form of federal or devolved governance. However, each country must find its own formula. In seeking to do so, it can learn from others' experiences at events such as this conference. 

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Federal systems not new to Africa

For some fractious countries,
it has helped resolve conflict.

Kabaka Ronald Mutebi, king of Buganda, one of Uganda's four ancient kingdoms, pays a visit to a district near Uganda's capital, Kampala, in 2009. The historical kingdoms were abolished in 1966, but their leaders were restored in the early 1990s.

BY J. ISAWA ELAIGWU

NINETEENTH CENTURY EUROPEANS, in their scramble for Africa, drew artificial boundaries for the countries that emerged from colonization. These boundaries created conflicts and at the same time opened the door to federalism.

The artificial boundaries cut through linguistic and cultural groups in many countries, having lasting implications for the continent's political development. Federalism, or a semi-federal form of government, was sometimes the best solution.

The imposition of artificial colonial boundaries caused two major sets of problems for the newly independent African countries.

First, it brought together unrelated ethnic and linguistic groups into one territory. The problems of integration that resulted

from this forced diversity sparked communal and political instability and bids for secession. There were attempts at separation in Angola, Democratic Republic of the Congo (DRC), Ethiopia, Mali, Niger, Nigeria, Sudan and Somalia.

Finding compromise solutions

Second, the artificial boundaries of modern African nation states also created other crises of development. After independence, the Hausa of Nigeria had some members of their families who were citizens of the Republic of Niger.

The Ewes were split between Ghana and Togo. The Yorubas straddled across the borders of Nigeria and the Republic of Benin. The Somalis found themselves in Kenya, Somalia and Ethiopia, and the same thing happened to the Masai in Tanzania and Kenya.

Africa's cultural diversity is manifested in many forms, including religions, ethnic groups, languages, geopolitical units and race. Conflicts arising from one or a combination of these factors have bedevilled many African states, some of them fuelled as well by rich mineral resources in a single ethnic region, such as Katanga in the DRC, the Niger delta in Nigeria and oil fields in Sudan. Different states have used various techniques in trying to manage these conflicts, including federalism.

A federation often arises from the desire of people to form a political union, without necessarily losing their identities. In a culturally diverse society, federalism is a compromise solution between the determination to maintain a national government based on powers shared with the constituent units and the self-determination of component units which is guaranteed by other powers of self-rule. This is achieved by providing for at least two orders of government; a constitution that distributes

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powers among levels of government; and an independent judiciary which adjudicates in cases of conflicts among these different orders.

Federalism is not foreign to Africa. Nigeria has always made use of the federal framework in dealing with conflicts, even under military rule. However, federalism has not suited all countries that have tried it. For example, some African countries changed from federations to unitary governments not long after independence. The federation of Rhodesia and Nyasaland collapsed when Nyasaland became independent as Malawi.

or regions, but President Milton Obote changed the situation in 1966 when he created a unitary government of Uganda. The French attempt to create a federation of states in West Africa also failed in 1958, when residents of Guinea voted in a referendum to reject the proposal.

These examples show that attempts at federal-type solutions to problems of cultural diversity were rejected by the first generation of African leaders, for four main reasons. First, as argued by Kenyatta, federal government was "too expensive" to operate. Second, it was often feared that federalism crystallized subnational identities and often sharply

independence of Eritrea. The referendum on independence in South Sudan scheduled for January 2011 may add another violation. Secessionist attempts in the Democratic Republic of the Congo and Nigeria, as well as civil wars in Chad, Sudan, Uganda, Rwanda, Burundi and other countries, probably call for reconsideration of the mechanisms for conflict resolution in many African countries.

Clause prevents domination

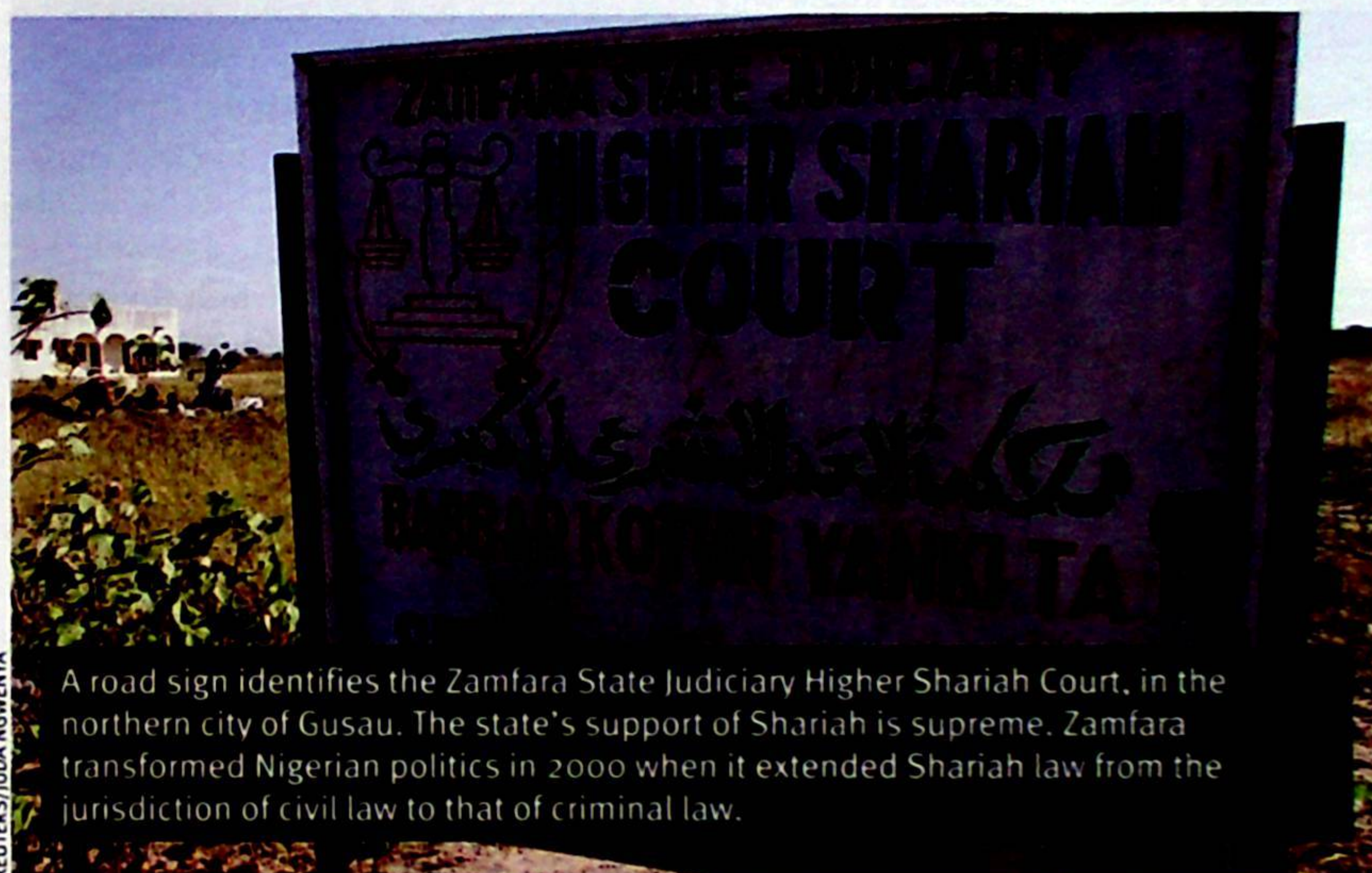
In Nigeria, the adoption of a federal-type solution to conflicts arising from diversity has been so successful that many Nigerians believe that without federalism, the country would have disintegrated. For example, when the constitutional crisis erupted over Shariah law, which many claim must govern all aspects of a Muslim's life, Nigeria's federal structure provided a compromise.

Each Nigerian state that wanted a Shariah as well as a customary court could establish them. At the Appeal Court level, three judges were asked to serve as a panel to adjudicate such religious issues - one each from the common law, Shariah and Customary law courts. This gave Nigeria a chance to avoid a religious confrontation. Similarly, in response to Nigeria's cultural diversity, the Nigerian Constitution contains a federal character clause, which carries provision for the prevention of domination in the public domain of one ethnic or regional group by another.

Another federal country is Tanzania, which was formed by the union of two sovereign countries, Tanganyika and Zanzibar. It is not clear what the prospects are for this model of federation in Africa.

There are other crisis-prone countries for which a federal structure may be attractive. Sudan adopted a federal compromise under President Gaafar Nimeiry in 1972. This gave relative autonomy to the South. Sudan relapsed into another bout of civil war when Nimeiry imposed Shariah and other laws, which the South perceived as discriminatory.

Sudan's current president, Omar al-Bashir, struck another federal compromise in 2004-05 that ended the civil war with South Sudan, providing autonomy for the government based in Juba in the



A road sign identifies the Zamfara State Judiciary Higher Shariah Court, in the northern city of Gusau. The state's support of Shariah is supreme. Zamfara transformed Nigerian politics in 2000 when it extended Shariah law from the jurisdiction of civil law to that of criminal law.

REUTERS/JUDA NGWENYA

First generation leaders resisted

And the Cameroons adopted a federal constitution when Western Cameroons joined the Republic in 1960, but this was changed in favour of a unitary one in 1972.

The last colonial constitution of the Gold Coast (now Ghana) was partly federal, but the party of its first prime minister, Kwame Nkrumah, mobilized against federalism because it considered that federalism was divisive. The "Majimbo" constitution of Kenya had federal features, but it was changed to a unitary constitution by the party of its first Prime Minister, Jomo Kenyatta, because the party's leaders considered that federalism was too expensive. Uganda also had a constitution at independence that recognized asymmetrical relations between the centre and the provinces

divided the loyalty of component units. Third was the concern by the new leaders of these countries at the time of independence that consolidation of power at the centre was essential and they were therefore not ready to share powers and functions with subnational units. Fourth, irredentist movements seeking a united homeland were not satisfied with federal solutions that still left their own ethnic group divided among different countries.

Since achieving independence in the 1960s, many African countries have experienced various forms of conflicts and crises. There was an agreement of the Organization of African Unity for the mutual respect of all colonially inherited boundaries. This agreement has been breached by the recognition of the

South, and promising power-sharing in Khartoum to provide southern representation in the central government. The situation has become complicated by the discovery of crude oil in large quantities in the South. A further complication is the civil war in Darfur. Although Darfur is Muslim in population, it does seem that, even if South Sudan becomes independent, the country may not achieve relative peace until Darfur has autonomy over its affairs.

Another country that recently embraced a federal-type solution to problems of diversity is Ethiopia. Ironically, Ethiopia had rejected federal-type relations with Eritrea in 1962, making an autonomous Eritrea a province under a unitary Ethiopian government. However, under the Ethiopian Constitution of 1995, Ethiopia became an "ethnic federation" of nine regions or states, and two chartered federal cities – Addis Ababa and Dire Dawa. The Ethiopian constitution recognizes the right of communities to be multi-religious, multi-ethnic and multi-linguistic, and even grants the regions the right to secede. It is fascinating to speculate about whether Eritrea would have remained part of Ethiopia if it had been within a federal framework.

South Africa, with its coincidence of ethnic, class, racial and religious divisions, was expected to be an important candidate for a federal-type solution. However, its history of the misuse of federalism by the apartheid regime, including the creation of ethnic homelands, frightened the African National Congress during the process of creating a government that was not based on race.

Including federal features

The ultimate effect was that during the transition to democracy, the ANC felt that adoption of federalism would reinforce these apartheid-era homeland governments. Eventually, South Africa opted for a version of a federal government that has become more centralized in practice under African National Congress governments. The country has three orders of government – central, provincial and local. While the central government is very strong, the regional governments have substantial autonomy.

Today, Nigeria, Tanzania, Ethiopia and South Africa are the only African countries that are overtly federal or have governments with federal features. Sudan is attempting to implement a federal system. The Transitional Federal Government of Somalia is in control of only a fraction of the country. Comoros has a federal constitution but since independence in 1975 has had 20 coups or coup attempts and only one peaceful transition of power. However, it does seem that federal-type solutions might have some attraction for some other African countries.

Over the years, the Democratic Republic of the Congo has demonstrated the fragility of its central government and its inability to exert authority over the country. Given its problems of integration, a federal-type compromise could be useful in national integration.

Chad appears to be stabilizing after its civil war, but the conflicts arising from diversity in the process of nation building seem to persist. Chad could be another candidate for federalism.

Subnational units seek authority

Uganda is another prospect for a federal-type solution to conflicts of integration. With its history of strained relationships between the central government and subnational units, the unitary Constitution of 1995 has not resolved the problem of subnational claims to autonomy.

While Uganda's 1995 Constitution allowed the return of traditional rulers, it provided no political functions for them. The Baganda, particularly, feel short-changed by the constitution and have been mobilizing other groups to support a federal constitution.

However, a majority of African leaders opted for a unitary solution to problems of state and nation-building. The fragility of central governments in Africa and the struggle to consolidate authority, as well as the costs of running a federal system, seem to have worked against the adoption of federalism in many countries.

Federalism is a paradoxical elixir in the political world. While it provides for the security and survival of a country, it also safeguards the self-determination of subnational units, which can undermine

the process of nation-building. Fears of many African leaders about separatism make the federal solution unattractive to them.

In countries in which different ethnic groups form only small minorities, the unitary solution may work satisfactorily. However, in multi-ethnic states such as Nigeria, which have strong regional identities, the federal solution has been so attractive to leaders that commitment to federalism has nearly taken on an ideological dimension.

Mutual benefits

In Tanzania, the federal union of Tanganyika and Zanzibar seems to be working out well. Again, loud demands for the break-up of the federation were heard from Zanzibar not too long ago.

And while the Sene-Gambian federation, founded by Gambia and Senegal in 1982, ended in 1989 when the much smaller Gambia withdrew.

Essentially, federalism is not an elixir for solving all political problems arising from cultural diversity.

Many problems involving sharing of resources, justice, fairness, political participation and economic development transcend the form of government.

While the form of government may assist efforts aimed at solving these problems, they are not preconditions for success. Federalism may provide a structural basis for the distribution of powers and resources in a country, but it does not solve all political problems.

Amidst the growing self-awareness of groups around the globe, with greater demands for participation, the federal compromise may yet be an appropriate cure for some of the problems of the nation state, while only serving as a temporary pain reliever for others.

As the necessity for regional cooperation becomes more compelling, the African Union seems to be trailing the European Union's example.

Perhaps some useful lessons could be learned from the European experience, including the Union's strengths and weaknesses.

Finally, federalism responds to local situations and the problems it is designed to solve. (D)

African countries decentralize

Governments make use of many types of decentralization – without going federal.



Townsppeople wait in line with jerry cans at a water distribution point in Yaounde. While Cameroon's central government has given greater control over water and sanitation to its regions, a UN report published in 2009 suggests its water sector is highly fragmented and underfunded.

AFP/GETTY IMAGES

BY DELE OLOWU

AFRICA HAS BEEN CALLED the most centralized continent, in terms of how power is concentrated in its capital cities.

Recently Africans have started to react to the centralizing impulse, and there has been a wave of decentralization in many African countries.

Many central governments are now willing to delegate work to regional

authorities. Some are prepared to go further and assign financial and human resources to their regions, also letting them decide how to carry out the work.

There are three main types of decentralization used by African countries: deconcentration, devolution and federalism.

Most governments prefer deconcentration, which involves the transfer of responsibilities to staff working in the regions – rather than transferring decision-making, finance and

management to local units with some degree of autonomy.

The movement toward decentralization was sparked by pressure for two other goals – democratization and development. This pressure usually came from within the government, from the public and from international donors.

Decentralization provides a simple solution to excessive concentration of power in the head of government, the ruling party or the central government.

Resisting decentralization

It was argued, in a 2009 study by Norbert Kersting of the University of Stellenbosch in South Africa, that Africa is the most centralized continent

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in terms of public-sector fiscal and human resources.

This is said to be a throwback to the period of decolonization of the late 1950s and early 1960s, when Africans reacted against the decentralized systems set up by departing colonial powers. The newly independent African countries wanted to build a new nationalism and national unity, rather than reinforce their citizens' identification with region, tribe or local language.

Later, in the wake of the liberal reforms of the 1980s, there was a new impetus towards liberal economic and democratic political reform, as well as devolutionary and democratic decentralization.

This came at a time of economic and fiscal crises that led to the adoption of structural adjustment programs and of the political liberalization accompanying the fall of the Berlin wall in the 1990s. This wave of decentralization hit many countries in Africa.

Comparing unitary systems

A comparison of decentralization in five countries - Botswana, Cameroon, Ghana, Tanzania and Mozambique - gives a useful top-down view (see chart on page 15). Different in size and population, all have unitary central governments and all are multiparty democracies.

Although all five countries have adopted new decentralization policies aimed at promoting devolution, all of the countries except Tanzania actually practise deconcentration for most basic services that local authorities generally manage: basic education, basic health, and water and sanitation.

Eight major conditions affect all these countries' attempts at decentralization: local factors, democratization, government ambivalence, avoiding rural decentralization, late completion dates and the importance of donors, managing human and

DECONCENTRATION

A type of decentralization that transfers responsibilities from central government officials in the capital city to those working in regions, provinces or districts (to either local or central government staff)*

DEVOLUTION

A type of decentralization that transfers decision-making, finance, and management to quasi-autonomous units of local government*

FEDERALISM

A federal political system, one that has "two (or more) levels of government, thus combining elements of shared rule (collaborative partnership) through a common government and regional self-rule (constituent unit autonomy) for the governments of the constituent units."**

* adapted from the World Bank Decentralization Thematic Team SOURCE: http://www.ciesin.org/decentralization/English/General/Different_forms.html

** Ronald L. Watts

financial resources and mobilizing new institutional actors.

Local factors can make or break decentralization. Even within the same country there are wide differences in experience and implementation of decentralization, as, for example, in mainland Tanzania and in Zanzibar. Such differences are seen between the English-speaking and French-speaking parts of Cameroon as well.

Prosperity makes it easier for the state to begin ambitious decentralization programs, while poverty presents a continuing challenge.

Democracy spurs changes

Democratization can provide pressure for decentralization. Decentralization has accompanied democratization in each of the five countries. In Cameroon, Ghana and Mozambique, decentralization was granted to appease a growing and restive opposition to unitary, one-party rule, which lasted from independence to the 1990s.

Sometimes, governments have shown ambivalence after making their choices. Many countries have wavered between devolution and deconcentration. With the exception of Tanzania, there seems to be a consistent preference for deconcentration, even though formal policies favour devolution.

In addition, countries do not always follow through on their commitments. In December 1995, the Cameroon National Assembly approved a new constitution that legalized political parties, adopted multiparty democracy and "declared Cameroon decentralized and heralded steps for actualizing decentralization." President Paul Biya signed it into law in January 1996. So far so good.

However, not much happened until 2010, when there was a transfer of some powers and resources from nine central government ministries to the country's 14 city councils and 360 local councils. According to the minister responsible for

Who decentralized what and how

COUNTRY	BOTSWANA	CAMEROON	GHANA	MOZAMBIQUE	TANZANIA
BASIC EDUCATION	Deconcentration	Deconcentration	Deconcentration	Deconcentration	Devolution-except teachers
BASIC HEALTH	Devolved but moving in direction of deconcentration or agency	Deconcentration	Deconcentration	Deconcentration/Centralization	Devolution
WATER & SANITATION	Deconcentration/Agency	Deconcentration	Privatization	Deconcentration	Devolution

Sources: <http://data.un.org/CountryProfile>; Population Reference Bureau, 2009; Qualitative analysis of Country Reports 2009

decentralization, while a total of 23,072,000,000 CFA francs (about US \$50 million) was to be transferred, not all of this took place because of delays in awarding contracts and making payments and disputes over the use of resources transferred. A second transfer of payments is scheduled for 2011.

Cities are often given priority, to the detriment of the countryside. Some countries, such as Botswana and Mozambique, have resolved this problem by adopting an official policy that promotes devolution in the cities while continuing with deconcentration in the rural areas, since the rural areas are not regarded to be sufficiently advanced for devolution. The logic of urban devolution and rural deconcentration is appealing: urban areas have the funds to carry out devolution and city-dwellers often take part more eagerly in local government issues.

However, central governments spend most of their transfers on the cities and not on the rural communities that need them most. And they have failed to encourage these cities to mobilize their own resources. Cities with economic and financial clout can generate some of their own resources, especially through taxes and fees on vehicles and real estate.

Delays in completion

Governments also frequently have difficulty finishing the task. Both technical and political capacities are required for initiating and sustaining decentralization, at both national and local levels. Decentralization has been delayed because of the complexity of the task, lack of political will, and the time

and training needed to empower local politicians and train civil servants,

Also, donors can be effectively involved. For a variety of reasons, donors have an interest in supporting decentralization reforms. They believe that progress in decentralization would have a favourable impact on the attainment of the Millennium Development Goals (MDGs). These goals were targets in government services agreed to by most of the Millennium Summit governments in September 2000. Five of the eight services spelled out in the goals are ones delivered by local governments.

Improving basic services

Progress in decentralization has led to marked improvements in basic services – in health in Mozambique, in basic education in Tanzania and in both services in Botswana.

Managing resources can also prove to be difficult. Two of the countries, Tanzania and Ghana, have clearly articulated transfer and grant systems that show the factors involved in calculating central government transfers to local governments.

But even here, financial transfers from the central government are still problematic. All local governments are still dependent on the national government and discretionary authority for spending by local government scarcely exists in either of the two countries.

Angola, with a much more recent decentralization program, has made more effective use of the financial transfers for local development than Tanzania.

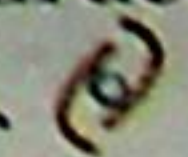
The Ghanaian government has increased the level of central

government transfers from 5 per cent to 7.5 per cent. Mozambique, however, has cut these transfers in half, from 3 per cent to 1.5 per cent. In Cameroon, local governments collect money and send it to the capital. The central government then disburses funds to local councils, with no council knowing exactly what it is meant to receive.

Over time, improved human-resource capacity of local governments shows in their increasing ability to successfully deliver services. These services can be delivered alone, as in Botswana and Tanzania; or in collaboration with national government field agencies, as in Mozambique and Cameroon; or with private agencies as in Ghana.

Yet the national governments are reluctant to recognize this maturing by local governments or even accord them greater discretionary authority in managing their own human resources.

New institutional actors can also assist in decentralizing. They have done so in all five countries. A variety of institutions are now involved in local governance: local private and not-for-profit organizations, associations of local government and other civic and community-based organizations, including faith-based organizations, women and religious leaders.

Unfortunately, these organizations are still left out of policy discourse on decentralized governance, even though they have demonstrated an extraordinary capacity to network, partner and co-produce with decentralized agencies of government. 

Creating a regional civil service in Ethiopia from the ground up

Training, funding and evaluation are key to delivery of necessary services.

BY HASHIM TEWFIK

ETHIOPIA – UNLIKE THE UNITED STATES, Switzerland or Germany – was not founded by pre-existing state or regional governments. Instead, the country's new constitution proclaimed the regional governments. The nine new regional states, created in 1994, had faced difficult tasks when they were created. Regional governments could be elected fairly quickly, but basic government services could not be delivered until civil servants were trained.

In 1995, to fill this gap, the federal government created the Ethiopian Civil Service College to train skilled professionals for all regional states as well as the central federal government. The initial goal of building human-resource capacity was met: by 2009, the College had graduated 6,310 public servants with degrees and 8,028 with diplomas, from all nine regional states.

In addition to the Ethiopian Civil Service College, the Ethiopian Management Institute has also played an important role in building the capacity of regional governments not only by providing short-term training for civil servants, but also by helping the regional states to set up their own management training institutes.

But capacity building in Ethiopia is much more than training civil servants: it is an integral part of the country's long-term strategy for development, also for its private and non-profit

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REUTERS/IRADA HUMBATOVA

Ethiopia's Prime Minister Meles Zenawi shovels concrete during the inauguration of the Abay Bridge in Dejen, some 200 km northwest of Addis Ababa, in 2008. The \$33 million bridge spans the Blue Nile, linking potential agricultural areas in the north with markets as well as neighbouring Sudan.

sectors. For example, a government program, Agricultural Development Led Industrialization, has been described by the Ministry of Finance and Economic Development as "achieving poverty reduction through accelerated growth, mobilizing the necessary human and insti-

and human resources could be transferred to the districts from regional states and zonal administrative units.

The two main instruments for decentralization at the district level were a system of block grants and the redeployment of public employees to the

adopted in 1994 the federal government recognized the lack of capacity as well as the institutional constraints on basic governmental functions, such as policy making, service delivery and regulation.

According to a study by Getachew Hailemariam and Richard Common, core public management systems at the federal and regional levels were hampered by outdated civil-service legislation and working systems. There was an absence of a medium-term planning and budgeting framework. Existing financial and personnel management controls were ineffective. The civil service had neither adequate wages nor appropriate grading systems. There was poor capacity for strategic and cabinet-level decision-making; and there was an insufficient focus on modern managerial approaches to service delivery.

Creating a civil service

Consequently, starting in 1996, the government embarked on a comprehensive civil service reform program to create a fair, transparent, effective and ethical civil service.

In order to realize these objectives, the government created enabling legislation, developed operating systems and trained staff in the following areas:

- expenditure control and management, with a focus on accounting, auditing, budgeting, procurement and cash management;
- human resource management, with a focus on information systems, development of professionals in human-resource management, job classification and grading, human resource planning, recruitment, selection and transfer;
- top management systems, with a focus on building the capacity of staff



A child cries as he is vaccinated as part of an anti-measles campaign outside the border town of Moyale, Ethiopia.

REUTERS/ANDREW HILLAVELIS

tutional capacity for the longer term and improving the basic conditions under which the majority of Ethiopians live."

The first phase of devolution of power from the central government to regional states began in 1991 with the adoption of the transitional period Charter and Proclamation No. 7.

Shifting power

This district-level decentralization marked the beginning of the second phase of devolution in 2002-03. By shifting decision-making closer to the grass-roots level, the program aimed to ensure local community empowerment.

To decentralize at the district level, regional constitutions first needed to provide a legal framework so finances

districts. These moves reinforced the autonomy of district governments and created an enabling environment for effective service delivery.

According to a joint study made by the government of Ethiopia and the World Bank in three regions (Amhara, Oromiya and Tigray) between 2005 and 2008, 46,330 planning and supervision teams were mobilized at regional, zonal and district levels. Staff hired or assigned in this period included 924 information officers, 1,036 customer service officers or case managers, 1,159 public-complaint handling officers and 135,064 managers to help rural residents in the development and democratization process.

After the new government took over in 1991 and the federal constitution was

at federal and regional governments to undertake planning, management and performance evaluation, strengthening of delegation and accountability of line ministries;

- service delivery and quality of service, with a focus on best-practice development, establishing complaint and redress mechanisms; and
- ethics, with a focus on developing a code of conduct, strengthening the capacity of mass media and ethics education.

The first phase of the reform took place between 1996 and 2000. Achievements included the promulgation of a new civil service law, a code of ethics, a financial-management proclamation, complaints-handling procedures and a service-delivery policy. Still, these measures fell short of addressing the institutional and capacity constraints in the civil service.

The reform's second phase, Ethiopia's National Capacity Building Program, aims at creating a systematic combination of human resources, working systems and institutions to realize its development objectives. It has 14 interdependent subprograms. Every public institution engages in civil-service

reform and develops and implements its own capacity in line with the existing capacity-building programs.

A new Ministry of Capacity Building was established in 2001 to co-ordinate and provide strategic guidance to the national capacity-building program. Counterpart capacity-building bureaus were also created in the regional states to undertake work in their respective jurisdictions.

The Ministry tracks the "capacity gaps" in the country that would hinder the progress of the nation's development strategy. It also co-ordinates the implementation of reform programs and projects.

Building capacity everywhere

In addition, there are five capacity-building institutions that are directly accountable to the Ministry: the Federal Civil Service Commission; the Ethiopian Civil Service College; the Information and Communication Technology (ICT) Development Agency; the Ethiopian Management Institute; and the Justice, Law System and Research Institute.


As a result of step-by-step implementation of the capacity-building programs, significant progress has been made in civil-service and justice-system reform,

improved democratic governance and decentralization.

A 2005 World Bank study reported that "Ethiopia has (taken) major strides in improving its human development indicators in the past 15 years, achieving significant increases in the coverage of basic education and health services in a short period of time."

Key capacity challenges

Since the start of the devolution process, one of the most difficult challenges confronting both federal and regional governments has been the problem of capacity. Both orders of government suffer in varying degrees from a serious lack of educated and skilled personnel, financial and material resources, and technological facilities.

Regional governments have limited taxing power from which to finance their constitutionally allocated functions and services; therefore, they are still heavily dependent on federal transfers. Despite the redeployment of personnel and the transfer of funds in block grants from regional governments to district governments, they are still suffering from inadequately educated personnel, insufficient funding for basic services and a shortage of technological and other material resources. 

Demographics and History

Ethiopia is the third largest country in Africa, occupying an area of approximately 1,098,000 square kilometres. Its population is 73.9 million according to the Ethiopian Statistical Agency, (88 million according to the CIA's 2010 World Factbook). Eighty-five per cent of Ethiopians are rural, mostly engaged in subsistence, rain-fed seasonal agriculture.

Ethiopia's 2009 Gross National Product of US \$900 per capita (CIA World Factbook) makes it the 12th poorest country in Africa. However, for the years 2006 to 2008, Ethiopia's economy registered an impressive growth in GDP of more than 11 per cent each year and for the year 2009 an estimated growth rate of 8.7 per cent (CIA World Factbook).

Ethiopia is home to more than 80 ethnic communities with different languages. Except in a few urban areas such as the capital city Addis Ababa, most of Ethiopia's ethnic communities are concentrated in distinct geographic areas. No one ethnic community in Ethiopia has a majority of the population. Most of Ethiopia's ethnic communities are divided between Islam and Orthodox Christianity.

In its recent history, Ethiopia has had successive highly centralized governmental systems, under both the reign of Emperor Haile Selassie (1930-1974) and a military dictatorship (1974-1991), yielding a legacy of armed conflict, civil strife, recurrent famine and abject poverty. As a result of the culmination of national liberation movements, spearheaded by the Ethiopian Peoples' Revolutionary Democratic Front (EPRDF), the military dictatorship was overthrown in 1991.

The collapse of the dictatorship paved the way for a major political and constitutional transformation: the devolution of political power among Ethiopia's ethno-linguistic communities.

PM Meles explains his vision for Ethiopia

INTERVIEW WITH PRIME MINISTER MELES ZENAWI

BY SHAWN HOULIHAN



MELES ZENAWI HAS BEEN prime minister of Ethiopia since 1995, prior to which he was its president from 1991 to 1995.

During those 19 years he won four elections, enacted a new constitution, transformed Ethiopia into a federal state, witnessed the peaceful secession of Eritrea from Ethiopia, and engaged in a short war with Eritrea. In that time he went from being among Africa's young lion leaders, to one of its most senior, steady and experienced heads of government.

He is welcome in Barack Obama's White House, close to Tony Blair, the former British prime minister; and he speaks for Africa at all international conferences dealing with climate change.

For his Ethiopia, the glass is more than half full. Although Africa's twelfth poorest nation, Ethiopia has registered impressive 10 per cent average growth in GDP from 2006 to 2009.

Naysayers said 20 years ago the country would fall part. Instead it is booming. All this has been accomplished in a very troubled region where in contrast to many of its neighbors, Ethiopia's political and economic experiments are emerging as a success story.

In the following interview, Prime Minister Meles credits Ethiopia's success to its federal, democratic system, which he says "accommodates the ethnic and religious diversity of the country" very well.

He sat down with the Forum's Africa director, Shawn Houlihan, and granted the following interview on the eve of the Fifth International Conference on Federalism.

Prime Minister Meles Zenawi of Ethiopia addresses a United Nations meeting on Sudan at UN headquarters in New York City in September 2010.

UN PHOTO/JOHN MCILWAIN

“...the new Ethiopia is based on the free will of its peoples to live together and work together. The new Ethiopia is an expression of the mosaic of cultures, languages, religions – it’s a composite.”

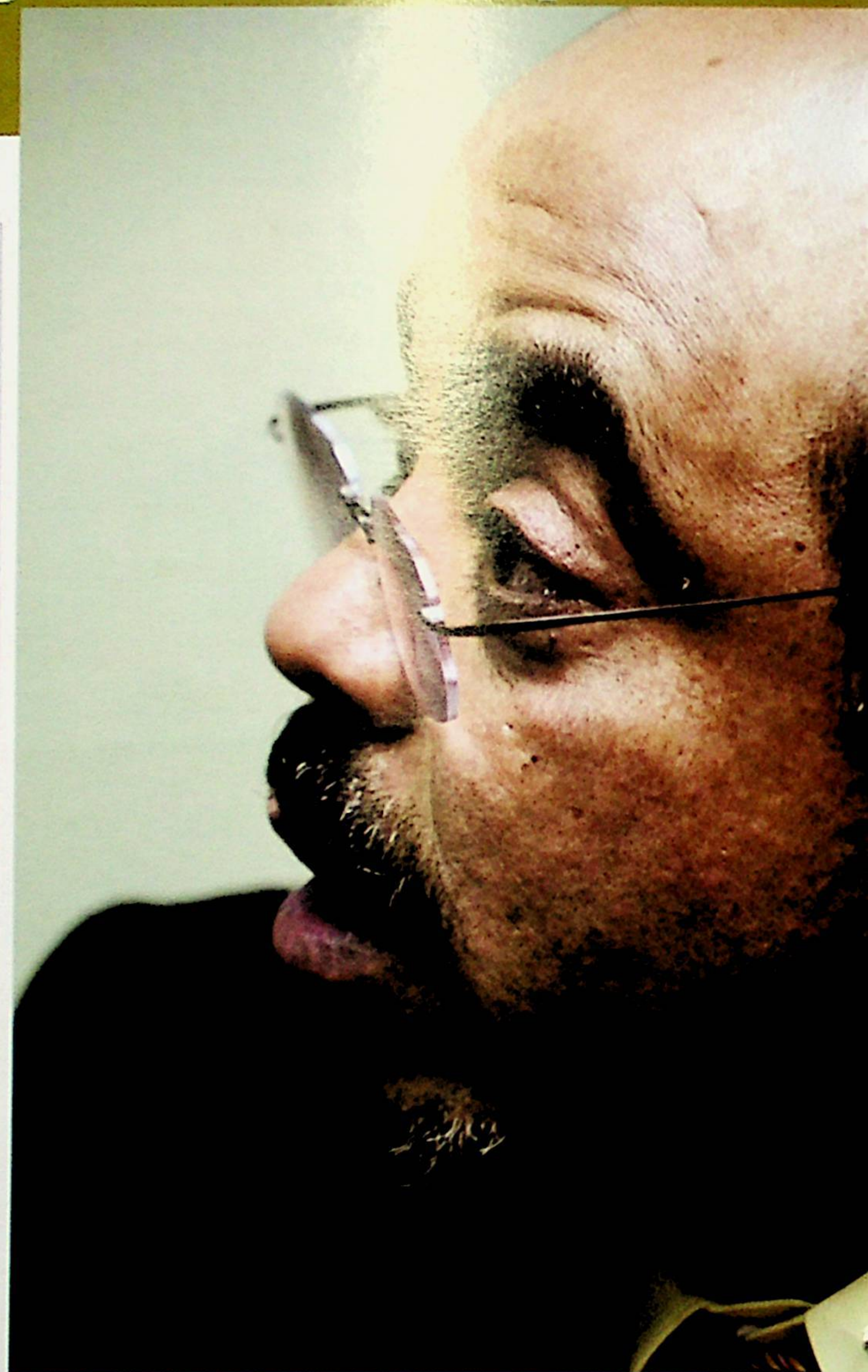
FEDERATIONS: Mr. Prime Minister, it’s been almost 20 years since the fall of the Derg military regime and 15 years since the federal constitution of 1995. You, more than anyone else, have presided over this major transition. What are your reflections on the design and actual workings of Ethiopia’s federal system over the past 15 or 20 years?

PRIME MINISTER MELES: As you probably know, when the Derg military regime collapsed in 1991 many people drew parallels with what was happening in the former Yugoslavia and former Soviet Union – I think with legitimate cause. Because what was happening in Ethiopia had many parallels with what was happening in former Yugoslavia and former Soviet Union. The possibility of disintegration of the Ethiopian entity was more than a theoretical possibility. Among other things, in Eritrea there was a very strong desire on the part of the people of Eritrea to establish their own independent state, and many feared that this would have a knock-on effect on the rest of the country. We were moving out of a command economy into a market economy and we were moving from a one-party system to a multi-party democratic system.

And so the prognosis was not all that encouraging; everyone expected us to disintegrate like the former Soviet Union and Yugoslavia. That didn’t happen. I think the primary reason that did not happen was that we were able to design a system that would could accommodate diversity adequately, and this for the first time in our history. That system is the federal democratic system. And so over the past 20 years I think we have proved the skeptics wrong, we have proven that Ethiopia is here to stay, but to do so on a new basis, on the basis of a federal system, of a democratic system, a system that accommodates the ethnic and religious diversity of the country adequately. So I think that’s the key achievement of the past 20 years.

FEDERATIONS: As you mentioned, one of the main drivers was to manage diversity, and one of the innovative aspects of the new system is a significant emphasis on ethnic composition of the federation. What impact has that had on national unity and on the sense of Ethiopian identity?

PRIME MINISTER MELES: Again, to go back to 1991 there were about 17 armed ethnic-based organized groups. That was one of the reasons people expected us to completely disintegrate. So the issue of identity in terms of ethnic identity and how it expresses



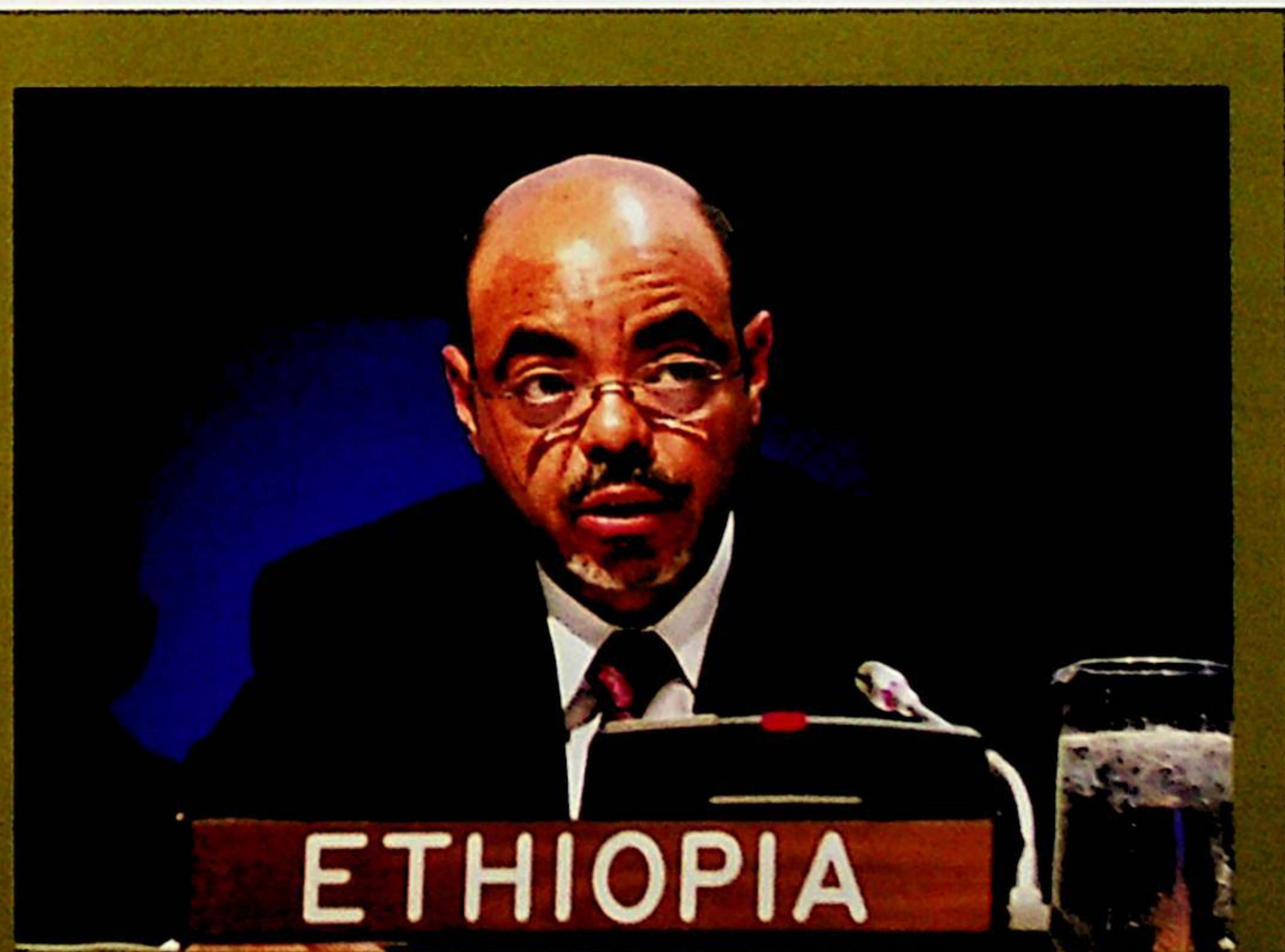
itself in the political process, the issue of religious tolerance and equality, were the issues uppermost in the minds of people at that time. And so when the federal system was designed, it could not, but be designed to make sure that these issues which were uppermost in people’s minds would be addressed and accommodated adequately in the new Ethiopia. And that’s what we did. As it happens, the various ethnic groups in Ethiopia live in specific geographic locations, so there is a large element of coincidence between ethnic groups and regional geographic divisions. We made it possible in the constitution for people to be on top of their own local affairs, to manage their local affairs

in an autonomous fashion, to use their own language, develop their own culture and to participate in the common federal political activities on an equal basis. This is what some people call "ethnic federalism."

It goes beyond that and allows every ethnic group in Ethiopia - if it so wishes - to secede. And so the new Ethiopia is based on the freely expressed will of its peoples to live together and work together. The new Ethiopia is an expression of the mosaic of cultures, languages, religions - it's a composite. And we are now creating, revitalizing the Ethiopian identity on a new basis, on a more diversified, on a more equitable basis for all of the component parts of the Ethiopian identity.

FEDERATIONS: Under your leadership, Ethiopia has become a "development state" - that is, the economy, while "mixed" in terms of promoting both the private and public sectors, is run with a relatively strong role for government. How does that reconcile and work within a federal system where states are meant to have significant autonomy?

PRIME MINISTER MELES: What the federal government does is set the national framework for development and that national framework for development is articulated on the basis of consultation at all levels of government. And so we have a common framework. Within that common framework the various regions are free to devise their own development strategies.



Prime Minister Meles addresses the launch of the Global Strategy for Women's and Children's Health, "Every Woman, Every Child" in New York City, September 2010.

The development strategies in various regions will be very different. If you take one of these regions, Harar, it is essentially a city state and so agriculture is not that important in that region. On the other hand, nationally agriculture happens to be the driver of economic growth. And so in Harar they have to devise their own strategy that reflects their own specific circumstances. In the pastoralist areas - in the Somali region and Afar region,

for example - the key issue is going to be how to promote and develop pastoralist agriculture. That's quite different than the rest of the country because in the rest of the country we don't have pastoralists.

When it comes to education, again the education program in the pastoralist areas will obviously have to be different from the education programs in the non-pastoralist areas. Among other things, we need to have mobile schools at the elementary school level. We need to have mobile schools in the pastoralist areas because the people are mobile. In the non-pastoralist areas there is no need for mobile schools. There are many such variations that need to be developed in each region, but they all adapt to the same national framework.

The other point that I think needs to be highlighted is that unlike other development states - let's say like South Korea and similar countries - the approach here is for massive grassroots mobilization. You can't have massive grassroots mobilization on the basis of a national uniform plan. It has to vary not only from region to region but also from village to village because the circumstances in each village are unique. So the national plan, the national framework, is just that; it is a framework on which basis every village will have to write its own story, but a story that will have to adapt into the national development program.

FEDERATIONS: Would you draw a linkage between Ethiopia's robust economic growth of the past several years and the development of its federal system to this point?

PRIME MINISTER MELES: I think the two are interlinked. The fact that we now have a system that allows us to accommodate diversity, and accommodation of diversity has been an Achilles heel of Ethiopia because it has exposed us to all kinds of instability and violence. That has made it possible for us to concentrate on development, because we have achieved relative peace, much more solid peace than we have had for centuries. So we have been able to concentrate on development.

The fact that we have a system that accommodates diversity means that every group, every village, as I said, is able to design its own plan within the national framework and therefore is able to maximize the impact of its own local assets, much more so than any centralized plan could ever achieve. And so the decentralization that is essential to federalism has made it possible for people to release their own energies, maximize the impact of their own assets in the overall framework of our plan.

So federalism has been key to the progress we have made in the economic field. The progress that we have made in the economic field has also played a key role in consolidating our democracy because now the people of Ethiopia are rebuilding their country. We call it the Ethiopian renaissance. It's the building of Ethiopia, the rebuilding of Ethiopia on a new basis. It's a joint project that every ethnic group is participating in equally and it's a joint project that everyone is benefiting from adequately.

As you probably know, we have the most equitable economy in the whole of the continent. The measure of equity in any economy varies, but one of these measures is the Gini coefficient. We have the lowest Gini coefficient in Africa. And so the fact that people are contributing and benefiting on an equitable basis makes this joint project of federalism something that everybody supports and has contributed to its consolidation.

FEDERATIONS: Ethiopia is a case study to be compared to other new federal or even non-federal countries that, especially since the cold war, went through major transitions. But in Ethiopia it was the institution of a federal system that took place after centuries of highly centralized feudal and military regimes. Looking back, what are the benchmarks you can remember or highlight in your mind that indicate that the regional states have matured and become equal members of the federation?

PRIME MINISTER MELES: Not all states are equally capable but most of these states have now reached a stage where they can plan and implement the vast majority of development programs. It was absolutely not like that when we started. For example, when we look at the education programs, only higher education is under federal authority. The rest of the programs are under state authority. We have had massive improvement in education in this country and this has come about largely because the states have done so. Healthcare programs, including tertiary health, are under state authority. The federal government provides the framework and it has some referral hospitals, but the rest is under state authority. Here again we have made massive progress and again because the states were capable of designing and implementing these projects.

The whole agricultural development program of this country is under state authority. The federal government only provides support to the states; it's the states that carry out the agricultural development program. Agriculture has been the driving force of our economy. The states have been critical in making that achievement possible. Some of these states in particular are now capable of managing their affairs without much federal government assistance. Some other states, in particular the pastoral areas, need assistance, technical assistance, from the federal government to design and implement some of their programs but even they have made a lot of progress. So I think the institutional capability of the federal system has now reached a very significant level. Not only the states but even the districts have built up their capacity to design and implement their own programs.

FEDERATIONS: Since 1991, Ethiopia has been governed at all levels by a single dominant party – the EPRDF (Ethiopian People's Revolutionary Democratic Front) – a coalition of regional parties headed by you. What is the relationship between this reality and the development federalism system to this point and how do you see this issue evolving over say the next 10 years?

PRIME MINISTER MELES: About five of the nine states of the federation are run by parties that are not members of our coalition, but over 85% of the population lives in states that are run by the EPRDF. This has had its own, in my view, positive impact on the consolidation of our democracy. The fact that we have one party, albeit one front composed of different parties who are in coalition with each other, has provided a certain unifying ethos to our federalism without stifling our diversity, because the EPRDF is itself a coalition and it's a coalition based on the states themselves. So in the Oromia region, which is the biggest region in our country, we have a group member of the EPRDF that carries out all of its activities using the Oromo language because it is an Oromo organization. And so you have the diversity in-built. The diversity in the states is also reflected in the diversity of the ruling party itself which is a coalition of various parties.

The diversity of our system has not been stifled by the fact that we have a common umbrella organization. On the other hand, the fact that we have a common umbrella organization running many of the states has created a certain sense of common purpose. This means that we have this unique circumstance that has allowed us to have unity on the basis of diversity and go through a transition, a very difficult transition. Because it could go either way; you could go too far toward unity and stifle diversity, or go too far toward diversity and the centrifugal forces would take over and it becomes the end of federalism. The current arrangements, I think, have very fortunately made it possible for us to not only design but also implement federalism in an effective manner.

FEDERATIONS: When the Forum of Federations asked you to host the 5th International Conference on Federalism you did not hesitate to accept. What do you hope to accomplish by hosting the conference?

PRIME MINISTER MELES: We would hope to convey the message to Ethiopians that federalism, while it is a new thing for us, it's not really a new thing to the rest of the world, and that there's a lot that we can learn from the experience of other countries that will help us to consolidate our own federalism.

To other Africans we hope to convey the message that, given the extreme diversity of many of our countries and the move towards democratization across the continent, federalism – a federal democratic system – could be and is likely to be a very useful alternative for many African states. And that the experience of the rest of the world and the experience of federalism in Ethiopia could help African countries to design their own systems according to their own requirements.

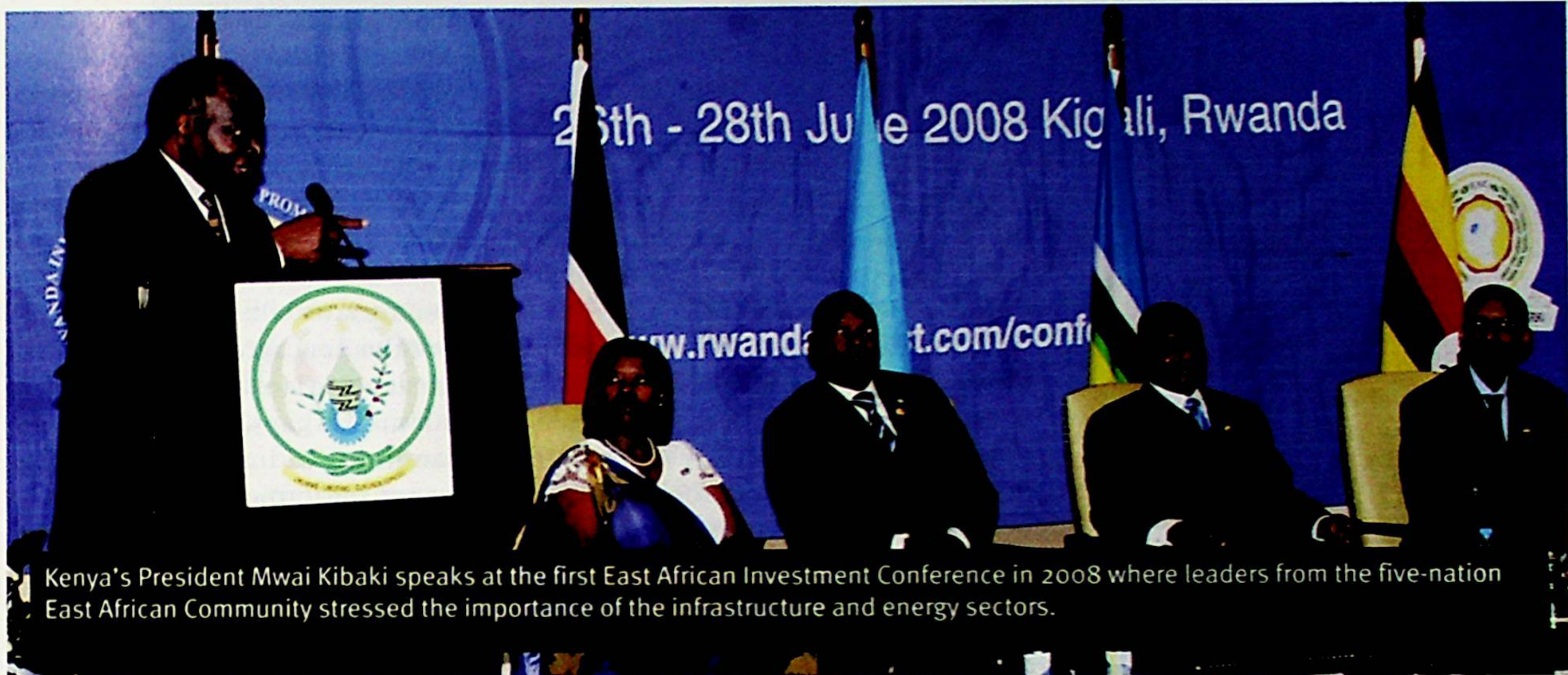
To the rest of the world we hope to convey that there is a lot of experimentation happening in the political sphere in Africa including in the area of federalism. And therefore the states with experience in federalism have their own allies and partners in Africa from which they can learn something but to whom they can contribute a lot through sharing their experiences.



Prime Minister Meles announces at the 4th International Conference on Federalism in India that Ethiopia would host the next international conference in 2010.

East Africa now has a common market, but political integration is far off

Five countries revive the East African Community – with some changes.



Kenya's President Mwai Kibaki speaks at the first East African Investment Conference in 2008 where leaders from the five-nation East African Community stressed the importance of the infrastructure and energy sectors.

BY LUCAS BARASA

ON THE EVE OF JULY 1, 2010, LEADERS of the five East African Community member states lifted champagne flutes and toasted their fellow countrymen, ushering in a new era for the region.

The five presidents had added another feather to their caps by transforming the East African Community into a common market.

There was cause for celebration. With a combined Gross Domestic Product of \$66 billion U.S. and an estimated population of 133 million, the Eastern African Community (EAC) is in a tight race with the Southern African Development Community (SADC) to become Africa's most advanced economic bloc.

Agreement by the five countries, Burundi, Kenya, Rwanda, Tanzania and Uganda, to the East African Common Market Protocol was a clear indication

that the political will is sufficiently strong to see the common market take off – a rare sentiment for the continent. A previous East African Community, founded by Kenya, Uganda and Tanzania in 1967, had collapsed in 1977.

Customs union came first

The launch of the Common Market comes five years after the founding of a Customs Union between the five countries, which had provided for the free movement of goods. The Common Market takes the integration process one step further by allowing the free movement of capital and labour across borders.

Initially, there was talk of fast-tracking towards a complete economic and political federation, but that move was shelved, in part because Tanzania rejected the proposal to accelerate the East Africa political federation, whose final aim was to have a federal president

and parliament by 2013. The reason given was that more time was needed for Burundi and Rwanda to address the issues on political and economic integration.

The Customs Union, which focuses mainly on consumer goods, concentrates on two main pillars: establishment of a free trade area and a single customs territory. The customs union had a five-year transition period, from Jan. 1, 2005, to Dec. 31, 2009.

After this period elapsed, the leaders moved to the second stage, to the establishment of a common market, after which will come a monetary union and, finally, a political federation, is foreseen. After the pomp and fanfare by the leaders, the common market was slow in bringing about the free flow of goods stipulated in the protocol.

Some goods still face so-called non-tariff barriers, which are invoked by member states to side-step the rules set out in the Customs Union Protocol,

Lucas Barasa is a journalist with the *Daily Nation* in Kenya.

which requires them to abolish trade barriers.

David Nalo, the permanent secretary for the Ministry of the East African Community in Kenya, acknowledges it will take time before the community's 133 million residents fully enjoy the benefits of a Common Market.

"The ushering in of the East African Community (EAC) Common Market Protocol on July 1, 2010, by the five EAC partner states has raised more questions than answers amongst members of the public, the media and private sector," Nalo concedes.

For example, apart from Rwanda, no member state has yet fully lifted work permit regulations.

And the parties have not agreed on the specific instances that would allow citizens of the region to set up businesses without restriction.

On another thorny issue, namely land, member countries failed to agree on whether citizens from the region may be allowed to own land in any of the other member countries. In certain countries, such as Kenya, some people cannot even own land in other parts of their own country.

Although the member states adopted the full liberalization of capital controls, as part of the Common Market agreement, it was agreed that it only be implemented in phases.

Stealing the thunder

All the caveats and asterisks have stolen the thunder from the Common Market, which was previously expected to hit the region with a bang, the way it did in Europe.

In fact on the ground, what is happening today is more or less similar to what happened when the Customs Union took effect in 2005, many investors in the region contend. The day the Customs Union was unveiled, member states had to charge the same level of duties and apply common rules of origin and tariffs on international trade - but thus far nothing else has changed.

Still, the symbolism of the event remains a powerful indication that the region's political leadership was prepared to move regional integration beyond the elimination of tariffs.

Nalo says there was a misconception that borders were to be eliminated as of July 1, 2010.

"On the following day, many people tried to cross borders into the neighbouring countries thinking that restrictions were no longer there," he added.

"This was never to be because there are rules that still have to be observed for security and other reasons."

It will take time before Burundians, Kenyans, Rwandans, Tanzanians and Ugandans can move freely across the borders. The countries are notorious for adopting international laws and protocols at a snail's pace, followed by further delays in getting the provision through the countries' parliaments.

Even the signing of the Common Market Protocol, which was scheduled to take place earlier, was postponed after Tanzania raised concerns about the treaty, forcing technocrats crafting the agreement to engage in more consultations.

Clearing hurdles

Some of the anticipated hurdles to clear for the Customs Union and Common Market to take effect can be blamed on customs officials of the member countries, officials who thrive on a culture of control rather than on enhancing the flow of goods and services easier.

In fact, the five member states have a long way to go before achieving the standards met by successful regional blocks like the European Union, Mercosur in Latin America and ASEAN (the Association of South East Asian Nations), which have efficient borders with minimal barriers.

Problems aside, optimism about the success of the East African Community remains high. For example, the member countries have agreed on a five-year transition period, to give member states enough time to change their laws and regulations, bringing them in line with the Common Market Protocol.

The member states are expected to complete auditing of the laws that need to be changed, by Dec. 31, 2010.

Some ministries have already taken steps to harmonize their rules and regulations, in line with the protocol. Kenya's

Minister for Immigration has also acted by exempting citizens of the EAC from paying any form of entry fees into Kenya.

This, Nalo says, is proof that Kenya is serious about integration in the region. Tanzania and Uganda are also starting to remove regulations considered to be an impediment to the free movement of goods and services.

Uganda already has developed a Common Market Implementation Plan, which identifies the role of various ministries, departments and agencies in implementing the Common Market Protocol.

Eriya Kategaya, Uganda's Minister for East African Community Affairs, explains that his country is also aware that some laws will need changing to reflect the new agreement. "Some of the areas being looked at are education, labour market gaps, infrastructure, the streamlining of immigration procedures and the formulation of a policy to support small and medium-size enterprises," says Kategaya.

He lauds the integration process for liberalizing many service sectors, among them business services, communication, distribution, education, financial services, travel and tourism.

Helping some sectors

However, the minister says, some sectors will remain unchanged until 2012 or even 2015, such as legal services, some retail services and computer-related services. The decision to delay the liberalizing of such services was taken because some member countries might want to continue supporting the sectors until the 2015 deadline.

Gervase Akhaabi, a member of the East African Legislative Assembly, a joint body set up in 2001 between the five countries, says the EAC has benefits for everyone and member countries should seize the opportunity. As for difficulties still experienced by traders at border points, Akhaabi blames some member states for failing to implement preliminary rules and regulations that had been agreed upon to make the introduction of the Common Market Protocol smooth.

"As a result, it will take a bit of time for goods and services to move in the region smoothly," the legislator says, although

he cautions that some laws will have to remain in place, for security and public order reasons.

Even Tanzania, the most skeptical member country, is slowly embracing economic integration.

"Tanzanians sometimes think they are a little behind and need to catch up with the rest first, but ...while that is understandable, the country cannot (make) progress if it remains closed. The message is beginning to sink in," he adds.

Tanzanian President Jakaya Kikwete has been constantly urging his citizens to seize opportunities offered by the EAC, saying the creation of the trade bloc has numerous benefits for the country.

Further changes could come through the strengthening of the East African Legislative Assembly.

The Assembly, or EALA, as it is commonly known, has four distinct functions, namely enacting laws that govern the trade bloc, approving the budget of the community, overseeing the implementation of projects and programs and representing partner states.

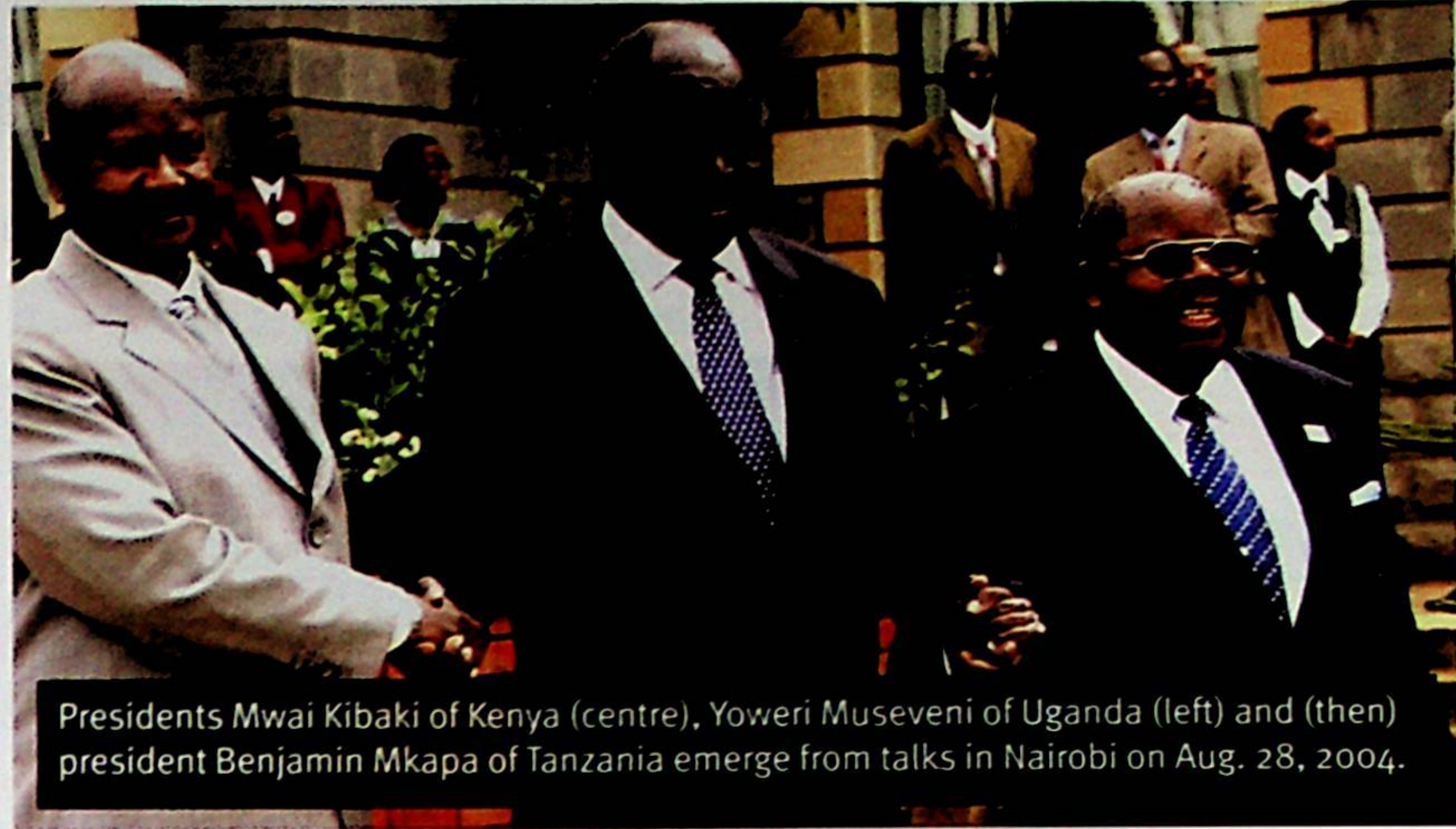
It has 52 members, 20 of whom are female. It is composed of nine members elected by each partner state, ex-officio members who are either ministers or assistant ministers responsible for the EAC affairs, the secretary general and the counsel to the community.

To ensure the EAC remains a success, the regional leadership has tried to avoid mistakes made by their predecessors that led to the collapse of the former trade bloc in 1977.

Calist Mwatela, a former East African Legislative Assembly member, claims there is more commitment from the EAC leadership in the current set-up compared to the previous body.

In the old first-generation EAC, he says, differences in ideology among member states clouded the common good, which was integration. On the economic front, for example, each country adhered to its unique economic model, making it difficult to share experiences and learn from each other.

"While Tanzania's policies leaned towards socialism, Kenya went for capitalism and Uganda a mixture of the two, creating disharmony in the execution of



Presidents Mwai Kibaki of Kenya (centre), Yoweri Museveni of Uganda (left) and (then) president Benjamin Mkapa of Tanzania emerge from talks in Nairobi on Aug. 28, 2004.

REUTERS/KENYA PRESIDENTIAL PRESS OFFICE

policies and implementation of projects in the community," says the former legislator, who is now an Assistant Minister for Education in Kenya.

Economics aside, EAC founders, President Jomo Kenyatta of Kenya, President Julius Nyerere of Tanzania and President Idi Amin of Uganda all had different political ideologies on how to further integrate and develop the region.

Mwatela adds that the three countries also fell victim to the Cold War.

Unlike the former EAC, which encouraged the establishment of government-owned organizations – known as parastatals in Africa – the current one fosters private enterprise.

Forming institutions

The regional governmental organization has already formed several institutions to help smooth the integration process.

These are the Lake Basin Commission, formed to co-ordinate the sustainable use of Lake Victoria by member countries; and the Civil Aviation Safety and Security Oversight Agency, formed to harmonize civil aviation safety and security regulations in the region.

Others are the Lake Victoria Fisheries Organization, created to manage the fisheries resources of Lake Victoria and ensure sustainable use for the benefit of member countries; the Inter-University Council for East Africa, formed to facilitate contact between universities in the region; and the East African Development Bank, whose main objective is to promote development among

the five member countries. Akhaabi and his colleagues also want member countries to increase funding for the secretariat to enable it to fulfill its mandate.

"The secretariat is underfunded and we sometimes rely on expertise from member states, running the risk of serving the interest of a single state rather than the EAC," adds Akhaabi, the current member of the East African Legislative Assembly.

The EAC's secretariat has a budget of \$60 million U.S., half of which comes from donors.

The former EAC also had common institutions that provided integrated services like customs, post and telecommunications, aviation, railways and harbours, but under the current arrangement, each country is responsible for its own such services.

However, since the Customs Union came into effect in 2005, exports from Uganda to Kenya and from Tanzania to Kenya have increased by 15 per cent and 30 per cent, respectively.

Many Kenyan companies, including the Equity Bank and the Kenya Commercial Bank, have also expanded their footprints to other EAC countries. And Tanzania is also benefiting by hosting the EAC's headquarters.

Analysts consider that, because of political differences among the countries, overlapping membership in various trading blocs and certain fears, it could take some time yet before a true political federation can be contemplated and achieved. (9)

South Africa's federal features are nominal

Strong national identity means country leans toward unitarism.



Nomvula Mokonyane, premier of South Africa's Gauteng Province (right) and South African President Jacob Zuma (centre) hold South African flags to celebrate the launch of an HIV counselling and testing campaign outside of Johannesburg in 2010.

REUTERS/PETER ANDREWS

BY THABO MOHLALA

SOUTH AFRICA CONFOUNDED critics and political pundits when it adopted a constitutional model that helped it avert what could have been a nationwide racial conflict.

With the country's intense racial polarization, it was somewhat of a miracle that former political foes could narrow their differences and commit to an inclusive constitution containing the features of both a federal and a unitary nation state.

The historic white parties (the defunct National Party and the Democratic Party) were averse to a unitary form of

nation state and called for federal elements to be written into the country's constitution as a mechanism to restrain impending black majority rule.

Similarly, federalism was seen as an alien political structure by the African National Congress (ANC) and other black liberation organizations, which considered it an attempt to preserve white minority privileges.

Implementing ANC agenda

The result of this political arrangement was a three-tier form of nation state comprising local, provincial and national governments. Both local and provincial governments exercise some autonomy through their own elected

bodies but still remain under the shadow of the national government.

The subsequent peaceful free elections after the end of rule by white South Africans, which the ANC won handily, served as tangible affirmation that the country was firmly on a democratic path. The first democratically elected president, Nelson Mandela, also set the tone by adopting reconciliation and national unity as broad themes of his government.

But as the ANC continued to cement its hegemony through a series of electoral victories, the Thabo Mbeki administration charted a different political course that clearly deviated from Mandela's policies of reconciliation. The politics of consensus and inclusivity, hallmarks of the Mandela government,

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were jettisoned as the ANC relied more on its numerical strength to stamp its authority and implement the so-called "transformation agenda." This worried the opposition and some analysts who saw the ANC gradually becoming an untouchable political force.

numerous communities. In some parts of the country, residents complained about lack of consultation and accountability, and also felt alienated as the ANC "parachuted" mayors or councillors into their areas.

In 2002, the ANC changed a constitutional clause to allow for floor-crossing

The Protection of Information Bill could send journalists to jail up to 25 years for refusing to name their sources. The Media Appeals Tribunal would have the power to sanction journalists for misconduct. The bills would make it more difficult for journalists to obtain certain "state privileged information."

The DA and the Inkatha Freedom Party (IFP), both advocates of federalism, say the ANC's numbers in parliament give it carte blanche to water down the federal elements in the constitution, adding that this might give rise to authoritarian tendencies. (While the ANC does not have the necessary two-thirds majority in parliament to change the constitution, the ANC could get it with the support of members of smaller parties.)

The two parties say the ANC has usurped powers of the provinces and local governments and centralized power in the executive, leaving no means by which the public can interact with government.

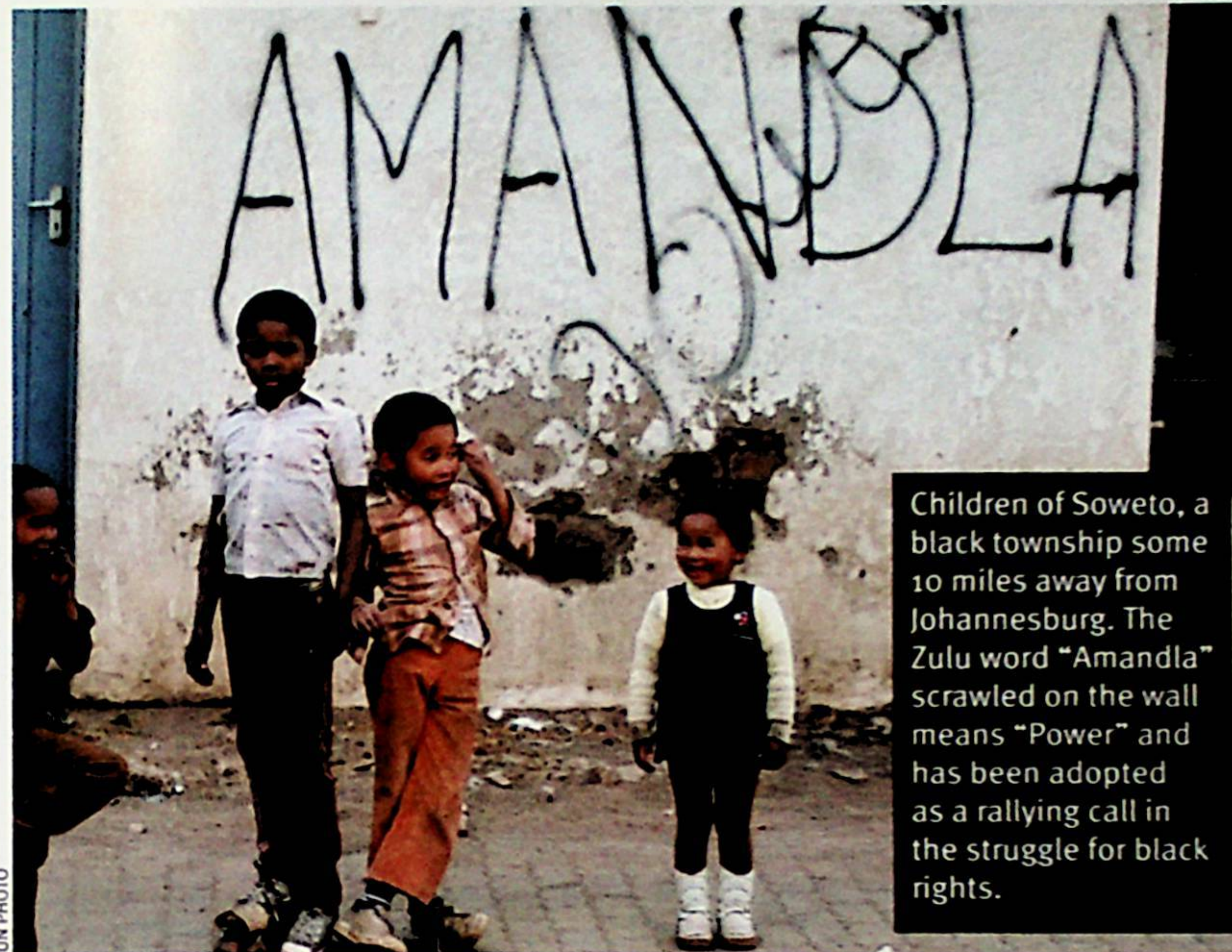
Parties formed 10-year coalition

Relations between the ANC and the IFP were tense in the last years of apartheid, from 1980-1994. Militants of both parties committed acts of violence against each other. However, the ANC participated in a coalition government with the IFP in KwaZulu-Natal from 1994 to 2004, where the ANC won the provincial election.

Although the province never descended into a bloody turf war after the ANC defeated the IFP in the 2004 elections, the atmosphere remained poisoned. The IFP leader, Mangosuthu Buthelezi, whose party is losing support, attributes this to the ANC's quest for political hegemony at all cost.

In the Western Cape, the DA survived several attempts by the ANC to unseat it. But the party consolidated its support by first winning the city of Cape Town in 2004 and then the province in 2009. The party's record on service delivery in the province is hailed as the best compared with other ANC-led metropolitan areas and provinces.

However, the party still finds it particularly difficult to shrug off accusations that it remains a "white minority party"



Children of Soweto, a black township some 10 miles away from Johannesburg. The Zulu word "Amandla" scrawled on the wall means "Power" and has been adopted as a rallying call in the struggle for black rights.

Several key developments lent weight to these concerns. For example, the ANC used its majority in parliament to frustrate a full inquiry into a controversial arms deal in which the then chief ANC whip was arrested and imprisoned in 2001. That same year another ANC member of parliament was fired as head of the ANC group on the parliamentary public accounts committee. He had been seeking to extend the arms deal inquiry.

Ground to a halt

The party also adopted a controversial "cadre deployment" policy, through which it appoints its members to key government positions, notwithstanding their lack of experience and expertise. The ANC implemented this policy despite the fact that local government is a critical administrative layer that interfaces with ordinary residents.

As a result, delivery of basic services, including water, electricity, roads, housing and health, ground to a halt in

in government by elected politicians, first at the local government level, then in 2003, at the provincial and national levels. Scores of so-called "chequebook" politicians crossed over to the ANC, further reducing the influence of the already weak opposition in parliament - a practice that was banned in 2009.

There have been reports the ANC is considering reducing the number of provinces. This and other issues were discussed at the party's recent national general council. But political observers say the motivation for this was not based on the need to cut costs associated with operating the current nine provinces, but as a political ploy to regain Western Cape province, currently held by the Democratic Alliance (DA) as well as to weaken the apparent growing support of the DA.

Somewhat ominously, the party seeks to adopt a so-called "secrecy bill" - the Protection of Information Bill - and create a Media Appeals Tribunal.

that continues to neglect traditionally black townships. Its political detractors point to the recent incident, in the black township of Khayelitsha, where the DA installed toilets for individual households without enclosing them.

But the party's admirers point to its relative success in governing the Western Cape Province as tangible proof of federalism and democracy in action. However, observers warn this is premature because the party's support is only limited to the Western Cape.

Aware that it needs to grow its support nationally, the DA announced a political pact with a smaller party, the Independent Democrats, at its recent federal congress. But with the latter's support drawn mostly from mixed-race or "Coloured" South Africans, it remains to be seen how far this alliance would go in attracting more votes beyond the Cape.

Leadership struggles

Another small party that might be wooed into a coalition by the DA is the Congress of the People (COPE) - an ANC splinter party - which drew 1.3 million votes in its maiden electoral campaign in the 2009 general election. However, COPE is caught up in its own energy-draining leadership squabbles, thereby ruling itself out of the DA's political pact to take on the ANC.

With the IFP losing substantial support, particularly in its traditional stronghold in KwaZulu-Natal, and the majority of the black electorate still voting along racial lines, the project for federalism would be a hard sell.

While many admire the peaceful manner in which the ANC won the country's successive elections, some political analysts are worried that such a strong dominance of the political space poses a serious challenge for democracy in South Africa. They contend this could have a negative impact on consolidation of the country's nascent democracy.

They argue that dominant parties often develop a tendency to marginalize opposition voices as well as to ignore wishes and interests of the electorates. They say that dominant parties, if not kept in check through a strong

opposition, could morph into a de facto one-party state.

But opposition parties also came in for a roasting because of their inability to gain much of a toehold. It is argued that if the opposition can get its act together, it could easily exploit the widening ideological cleavages between the nationalist and socialist elements within the ANC, which clearly affect the party's unity. Instead, the opposition spends considerable time navel-gazing and squabbling for leadership positions.

Determining federalism's future

The success of federalism depends largely on the political strength of parties that advocate for it. For now, both of its advocates lack sufficient political clout to influence its adoption. And with the ANC now clamouring for a "developmental state," something likely to resonate with a majority of black voters, the prospects for federalism appear slim.

Three political experts agree it could take a while before federalism could become a reality. Prince Mashele, director of the Centre for Politics and Research, said the only way this could happen is when opposition parties could package their manifestos so that they appeal to more voters than the ANC.

Mashele does not believe a link can be made between the service delivery protests that swept the country in recent months and a call for federalism. "If anything, the protests are based on the simplest materialist calculus. Protesters do not reject the present system of governance, but rather, they are trying to draw the government's attention to tackle their socio-economic problems," he said.

Daniel de Kadt, a political scientist and researcher at the Helen Suzman Foundation, also discounts the prospects for federalism in the prevailing political climate. De Kadt argues that there is no political incentive for federalism to exist procedurally. He said where federalism is practised, there is generally an "origin" that explains why a country has a federal and not a unitary government, adding that South Africa has a history of unitarism that dates back to 1910.

Raising taxes centrally

"In the U.S. independent states came together to protect themselves from foreign aggression by raising taxes centrally," de Kadt said. "In India a unitary state began to allocate authority downwards in an attempt to 'hold together' an ethnically and linguistically diverse country that seemed incapable of holding at the centre. In South Africa, we have a fairly unified state with a strong national identity."

As for whether federalism has a future in South Africa, de Kadt says it can only become a real possibility when the political landscape changes in such a way that elites perceive a federal system as being in their best interest. "This can only occur if we finally see a split in the ANC," he says "In sum, at this point, South Africa tends towards unitarism and what federal features there are appear largely nominal."

Justine Sylvester, of the Institute for Democracy in South Africa (IDASA), considers that although the country's constitution retains features of federalism, because of the ANC's dominance, these features are somewhat diluted. Sylvester says federalism may very well be the future for South Africa's democracy.

"But again, you would need a highly participatory, engaged citizenry with a strong democratic political culture. Given our socio-economic challenges as they are, this will take (a) long (time)," Sylvester says.

"Politically, the ANC speaks of a 'developmental state' that is seen as interventionist in, say, the economy and other areas of citizens' lives. This is in response to the slow pace in transforming the economy and this resonates strongly with the majority of the poor.

So it is unlikely that one will see the ANC pushing for federalism anytime soon. Moreover, we would need a far more effective and efficient public service, strong regulation (of) private funding of political parties as well as electoral reform," Sylvester concluded. ☺

Regional integration draws support

Africans are eager for economic merger, but shy away from political union.



Goodluck Jonathan (in dark hat), the President of Nigeria and chairman of the Economic Community of West African States, stands with other dignitaries at the beginning of a Community meeting on Guinea Bissau in Abuja.

BY DELE OLOWU AND REMI AJIBEWA

AFRICA HAS THE LARGEST NUMBER of regional organizations of any continent, with several countries belonging to more than one.

After almost 50 years, there is a sharp debate on their success in actually integrating each region of Africa.

Some observers point to achievements in implementing economic and infrastructural agreements, as well as in conflict prevention. Others list failures, including ambiguous legal frameworks and lack of co-ordination as well as their being obstacles to the movements of goods, persons and services, high tariffs and low intra-African trade.

Most regional African organizations were founded between independence in the early 1960s and the late '90s.

After the formation of the European Common Market in the late 1950s,

countries in other continents tried to follow in Europe's footsteps. Efforts at regionalism in Africa focused initially on the regrouping of African countries.

The first move towards economic co-operation among African countries came from the Pan-Africanist inspired vision of Dr. Kwame Nkrumah, the first President of Ghana, at a conference of independent African states held in Accra in 1958. With support from then President Abdel Nasser of Egypt, he proposed political integration but this generated pointed disagreements with other heads of state for ideological and political reasons.

Political will lacking

Nonetheless, the result of this effort was the creation of the Organization of African Unity (OAU), the precursor of the Africa Union (AU).

For the most part, interest in support of integration has been matched neither

by political will nor by systematic action. The accompanying table (see page 27) shows the proliferation of integration schemes that has resulted in overlapping membership and duplication of mandates.

Despite this disappointing record, the promotion of regional integration remains an important economic and political goal on the continent. On the economic front, the ability for countries to present themselves as a united and credible group provides more opportunities for international trade, while also encouraging new investment.

Non-economic reasons for forming regional organizations include the nurturing of new and fragile democracies, promotion of stability, management of conflict, and development of joint security arrangements against external threats.

In time, the deepening of integration within a sub-region has minimized the potential for hostilities between neighboring countries and helped in institutionalizing structural conflict prevention initiatives.

Dele Olowu is a former professor of public policy and public administration who has taught at several African universities and at the Institute of Social Studies, The Hague. He is currently the director of Africa Europe Foundation, based in the Netherlands.

Dr. Remi Ajibewa is head of the political affairs and international cooperation division at the Commission of Economic Community of West African States (ECOWAS).

However, there are also political and economic challenges. Africans must deal with a global system that separates rich from poor countries. It must also contend with falling living standards in developing countries; and over-dependence of the region on the advanced economies, especially those of the former colonial government masters.

There is also the barrier of attachment to the primacy of national sovereignty and national security, making it difficult or impossible to protect human rights because of the inability to interfere within any domestic jurisdiction.

Add to that the inadequate and run-down intra-regional transportation links; and corrupt officials at border crossings and there is more than enough for several regional organizations to cope with.

Support from the UN

With the assistance of the UN, especially the United Nations Economic Community for Africa (UNECA) in Addis Ababa, African countries agreed to create regional organizations as a means of collective self-reliance for sustainable socio-economic development, and as building blocks of an African Economic Community.

Within the different sub-regions in Africa, as of 2010, eight regional organizations were recognized by the African Union. These are:

- Community of Sahel-Saharan States (CEN- SAD),
- Common Market for Eastern and Southern Africa (COMESA),
- East African Community (EAC, see following article),
- Economic Community for Central African States (ECCAS),
- Economic Community of West African States (ECOWAS),
- Intergovernmental Authority on Development (IGAD),
- Southern Africa Development Community (SADC), and the
- Arab Maghreb Union (AMU).

These blocs were to promote co-operation and integration, leading to the establishment of an economic and monetary union for economic growth

and development in their respective areas. The treaties called for phased elimination of tariff and non-tariff barriers on intra-community products; the establishment of a common external tariff; fiscal and monetary harmonization; the creation of a single monetary zone and close co-operation in areas of economic activity.

In pursuit of these objectives, the organizations adopted a comprehensive set of regional programs for market and monetary integration, physical and product integration, and close political integration. However, these treaties have not been sufficiently implemented at the national level.

African integration has faced a series of challenges. In the past few years, a number of countries have experienced democratic reversals. This has occurred in Guinea, Guinea Bissau, Somalia, and Niger.

Also, steep food prices triggered violent protests in Liberia. There was also an increase in shipment of narcotics in transit to Europe through some post-conflict states (Guinea, Guinea Bissau and Liberia) which poses perhaps the most severe threat to democracy and to development in Africa.

Exporting abroad

Coupled with the high level of poverty is the problem of small domestic markets. Over 80 per cent of Africa's exports go outside the continent. Intra-regional trade accounts for just 10 to 12 per cent of global trade. The regional blocs' industrial sectors remain underdeveloped.

Most member states are largely export dependent and rely on just two or three primary commodities such as cocoa, coffee and cotton as their main exports.

Also, there has been a lack of investment in infrastructure at national and regional levels, which has kept economies weak and susceptible to external pressures, including in more recent times, the soaring price of crude oil in the world market, which has harmed all but the few oil-exporting countries.

Africa as a whole has weak public policy management capacity at national and regional levels, which has left most

African nations with a huge debt burden. Despite years of structural adjustment, economic reforms and lately the Heavily Indebted Poor Countries initiatives, debt repayments still absorb a high proportion of export earnings, leaving little for domestic programs.

Finally, none of these organizations would be more effective if they were merged with one another, as their objectives are all similar - essentially economic - with the notable exception of ECOWAS - have been able to move beyond economic to social and political goals.

Accelerating integration

In the effort to accelerate regional and continental integration, African countries have recently developed Minimum Integration Programs, and proposed the creation of three pan-African financial institutions: the African Central Bank, the African Monetary Fund, and the African Investment Bank.

Of the eight regional organizations, only ECOWAS and COMESA are at an advanced stage along the road toward minimal political integration. CENSAD, AMU, ECCAS and EAC have made much less progress in this direction.

The only real movement towards federalism has been through consensus-based specific policies of each region that make the linkages to the countries—policies such as migration, passport policies and energy. Proposals for federal political unions - which have been proposed in some regional organizations - have been postponed.

The vision of ECOWAS is to move by 2020 from an "ECOWAS of states" to an "ECOWAS of people." One of the channels of realizing the vision is a monetary union.

ECOWAS has adopted 10 key macroeconomic convergence criteria, comprising four primary and six secondary criteria, to monitor progress.

The free movement of commodities, capital and people is essential for regional integration.

ECOWAS has proven to be the success story and poster child of sub-regional organizations.

One of the largest achievements of ECOWAS, and arguably the best so far, is the realization of free movement. It remains the only region in Africa where a citizen of one country does not require a visa to visit another. In fact, steps have been taken to implement passport-free travel, which is vital in building the Community.

Progress in the energy sector is also remarkable. Member states can undertake large projects that will create jobs and generate wealth. One example is the US \$500 million West African Gas Pipeline that now runs from Nigeria to Ghana, also supplying Togo and Benin. Another such project is the West Africa Power Pool, which will integrate the national power systems of ECOWAS and is expected to reduce the cost of electricity supply and increase supply reliability for the interconnected utilities.

Progress has been made in agriculture and rural development, which constitute a crucial sector for regional integration and economic growth.

Again, ECOWAS has been a model of sub-regional effectiveness. A recent major achievement was the adoption by heads of state in January 2005 of the ECOWAS Agricultural Policy. This will provide the basis for sustainable food security and promotion of trade in

agricultural produce, thus aiding in the eradication of poverty in the region.

There are many expectations for an ECOWAS common currency. The take-off date was postponed from 2008 to 2010. Whenever it is launched, a common currency will mean a common monetary policy, and the currency has to be credible and stable, based on solid, predictable, and sustainable economic performance by member states as well as upon some co-ordination of their monetary policies.

Finally, ECOWAS seems to demonstrate that if institutions that promote democracy and good governance are strengthened there will be considerably less need to worry about conflict prevention, resolution or management. The Economist magazine recently commended the organization for its success in conflict management in the region, exemplified by how it handled recent coups in Guinea and Niger.

Lack of capacity

That Economist article, however, also underscored the main weaknesses of ECOWAS. First, it functions best when working in tandem with bigger international bodies because implementation remains a major problem for several of

its initiatives. Regional implementation capacity, like national public-sector management capacity, is weak, including that of its key regional bodies such as the African Union or the African Development Bank.

For instance, free movement in the sub-region is impaired as much by poor transportation as by illegal roadblocks and harassment, as well as improperly maintained roads. Also, its most serious challenge remains financial and economic development: many of its 15 member nations are heavily reliant on former colonial governments and increasingly on China.

It also means that ECOWAS must rely on its richest member, Nigeria, whose economy is several times larger than those of the others. However, Nigeria still faces many political and management problems including maintenance of its infrastructure and security.

To turn things around, ECOWAS and other regional organizations and their partners must invest heavily in improving national and intra-regional transportation infrastructure. Still to be developed are a healthy private sector and strong national and regional public services. (E)

Africa's key sub-regional organizations

	CEN-SAD	COMESA	EAC	ECCAS	ECOWAS	IGAD	SADC	AMU
FULL NAME	Community of Sahel-Saharan States	Common Market for Eastern and Southern Africa	East African Community	Economic Community of Central African States	Economic Community of West African States	Intergovernmental Authority on Development	Southern Africa Development Community	Arab Maghreb Union
FOUNDED	1998	1994	1967	1983	1975	1996	1980	1989
OBJECTIVES	Economic/Social	Economic	Economic	Economic	Economic	Economic/Political	Economic/Political	Economic/Political
MEMBERS	28 in Sahara, Central and West Africa	19 in Eastern and Central Africa	5 in East Africa	11 in Central Africa	15 in West Africa	7 in East Africa	15 in South Africa	5 in North Africa
ECONOMIC PROGRESS:								
FREE TRADE AREA	In progress	Established	Established	Created/In force	Established	In progress	Launched	No progress
CUSTOMS UNION	No progress	Launched	In full force	Proposed for 2010	In progress	No progress	Proposed for 2010	No Progress

SOURCE: UNECA 2010

Africa conference sets many precedents

BY CARL STIEREN

FOR THE FIRST TIME, THE International Conference on Federalism is being held in Africa. Ethiopia is hosting the conference in Addis Ababa, from Dec. 13-16. The previous four conferences took place in Asia, Europe and North America.

This International Conference on Federalism has a number of firsts. It is the first such conference held in Africa. It is the first conference to have a gender focus. It is also the first conference to examine how federalism can contribute to economic development and democratization.

About 500 senior politicians, top civil servants, scholars of federalism and journalists will be gathering in the Ethiopian capital to celebrate the achievements of federal governance and to discuss the challenges associated with federal systems of government.

Prominent in the conference will be African perspectives on the achievements and challenges of federalism. One significant development took place in 1991, when Ethiopia opted for a federal democratic system after the overthrow of the centralized military regime that had ruled the country since 1974.

Ethiopia took one further step in basing its regional governments on language and ethnicity. Following in the footsteps of such countries as India, Nigeria and Belgium, Ethiopia divided its territory into regional governments based on cultural and linguistic states.

During the past 50 years, other countries have attempted to introduce federal or decentralized forms of government. Recently such African countries as Uganda and Kenya have begun to experiment with devolution (see article on page 13). Power is now also being devolved to the supranational level (see articles on pages 19 and 25).

Carl Stieren is the associate editor of *Federations* magazine.



The theme of the 5th International Conference on Federalism is *Equality and Unity in Diversity for Development*. This focus reflects the need for a sustainable type of development in African and other non-Western countries that are federal or are in the process of federalizing or decentralizing.

The choice of the theme follows a tradition of choosing topics relevant to the host country as well as to federal, federalizing and decentralizing countries in the region and around the world.

The mission of the 5th International Conference is to provide a forum for exchange of experiences and mutual learning among experts and those practising federalism, so they can better serve their societies.


During the three days of the conference, participants from all federal and decentralized countries as well as countries seeking federal or semi-federal arrangements are encouraged to share their experience. The aim of the conference is not so much to debate theories of federalism but instead to consider theoretically-informed but experience-based case studies of as many countries as possible. These case studies will then generate discussion on best practices and possible solutions for specific problems, challenges and questions.

In addition to considering the experiences of other countries, the international conference also provides a forum for sharing Ethiopia's national experience and for learning from regional examples therein. Starting months before the conference, local events were organized in all of Ethiopia's regional states. Specific target groups such as youth, women, business people, farmers and herders assembled in different regions of the country to discuss issues relating to their specific experience with federalism.

At the conference participants shall discuss the conference theme in the following subject areas:

- Federalism and the Democratization Process
- The Impacts of Regionalization and Globalization on Federations
- Unity in Diversity through Federalism
- Federalism and Conflict Prevention, Management and Resolution Mechanisms
- Fiscal Federalism and Equitable Development

For each topic, there will be three different questions for discussion to be considered sequentially in three small group work sessions. The questions will relate to the main theme of the conference, *Equality and Unity in Diversity for Development*. Each question will be considered from three different perspectives with one case study each from Ethiopia, Africa and the rest of the world. The work groups will then gather in an all-group plenary to share their results.

And participants will return home with the knowledge of how other countries deal with their problems. 

Pakistan empowers its provinces

Politicians, civil society agree to restore democracy, strengthen federalism.



Former Punjab education minister Mian Imran Masood (right) speaks about Pakistan's constitutional changes at a Forum event in April 2010.

FORUM PHOTO

BY CYRIL ALMEIDA

PROVINCIAL AUTONOMY, A LONG-STANDING DEMAND of the four provinces of Pakistan, has received a boost from the 18th Amendment to the country's Constitution, an unprecedented attempt to reverse what many called the sweeping centralization of the Pakistani state.

Given the profusion of political parties in parliament in Islamabad and the checkered history of democracy in Pakistan, the adoption of the 18th Amendment is a miracle of sorts. It is quite remarkable that a parliament in which no single party has anything approaching even a simple majority was able to unanimously pass a constitutional amendment.

The bill that contained the 18th Amendment was introduced into parliament by the government on April 2, 2010,

and became law a mere 17 days later when it was signed by President Asif Ali Zardari.

One of the precursors to this constitutional miracle was built years ago. In 2005, in Jeddah, Saudi Arabia, former prime ministers Benazir Bhutto and Nawaz Sharif signed a "Charter of Democracy" calling for a joint program of reforms approved by Bhutto's Pakistan People's Party (PPP) and Sharif's Pakistan Muslim League - Nawaz (PML-N). From exile in London in May 2006, the two former prime ministers issued a more detailed charter with constitutional provisions as well.

Beyond the political level, however, the 18th Amendment has ushered in sweeping changes in the fabric of federalism in Pakistan that amount to a clear-cut strengthening of provincial powers at the expense of the central government.

However, the ultimate impact of the changes depends on the extent to which the provinces are able to rise to the challenge of the new powers they have been vested with and the overall ability of the country to keep itself afloat financially.

Cyril Almeida is assistant editor and columnist at *Dawn*, Pakistan's oldest and most widely read English-language newspaper.

The 18th Amendment, which has modified more than 100 sections of the 280-article Constitution, includes the following broad areas of reform:

- Reversing the powers that the former military president, General Pervez Musharraf, had appropriated for the presidency at the expense of the prime minister and parliament.
- Amending the procedure for appointment of judges to high-level judicial posts, a process that had been marked by controversy and a tug-of-war between the Zardari presidency and the Supreme Court, led by Chief Justice Iftikhar Chaudhry.
- Strengthening of provincial autonomy.
- Other measures that include an expansion of fundamental rights.

As for provincial autonomy, two major changes have been introduced: the list of governmental powers shared by the central government and the provinces – the Concurrent Legislative List – has been abolished and a joint dispute resolution body, the Council of Common Interests (CCI) has been strengthened.

Provinces' demand met

The abolition of the Concurrent List met a long-standing demand of the provinces. Provincial legislative powers are a residual power under the 1973 Pakistani Constitution: there is a federal list, which is the exclusive domain of the central government; a concurrent list, in which the provinces and the central government have the power to legislate, but where federal legislation overrides provincial legislation; and all other

matters fall under the residual power of the provinces.

Sixty-seven subjects fell under the Federal List and 47 under the Concurrent List before the 18th Amendment. The Concurrent List, a legacy of the British imperial era, was designed to give the provinces a semblance of ownership in certain areas while still allowing the central government to demonstrate "leadership." Provinces could legislate in the specified areas unless the central government found a pressing reason to impose uniformity in the laws across the provinces.

Some Pakistani jurists have speculated that the Concurrent List was a peculiarly imperial creation, meant to show that Indians (pre-Partition, before Pakistan was founded in 1947) enjoyed certain legislative prerogatives while retaining the safety valve of

central authority, when and where it was deemed necessary to be imposed.

As the 1935 Government of India Act became the temporary constitution of Pakistan after the Indian Independence Act of 1947 and has remained the foundation of the three Pakistani constitutions to date, the Concurrent List continued to exist.

An analysis of the Concurrent List in the 1973 Constitution suggests that the opposition by the provinces to its continued existence had less to do with the content of the list than the fact that it justified the existence of a larger central government, which the provinces found threatening.



Pakistan's Prime Minister Yousaf Raza Gilani (right) greets President Asif Ali Zardari, the widower of former Pakistani prime minister Benazir Bhutto, after Zardari's election in September 2008.

The Amendment was hammered out by a special 26-member Parliamentary Committee on Constitutional Reforms consisting of members from across the political spectrum, that met behind closed doors 77 times over a nine-month period. The committee's main purpose was to reverse the powers that had accrued to the presidency under General Musharraf, for which there was unanimous support among politicians. The provincial autonomy-enhancing reforms were piggy-backed on the existing consensus, making the passage of a wide-ranging 18th Amendment possible.

Of the 47 subjects in the Concurrent List, No. 5 was Marriage and divorce; infants and minors; and adoption; No. 20 was Drugs and medicines; No. 24 was Environmental pollution and ecology; and No. 42 was Tourism.

None of these subjects were of particular interest to the parties demanding provincial autonomy. The calculation appears to have been that a central government with such legislative powers was necessarily a larger central government, and hence a threat to provincial rights in other areas by virtue of its sheer overall size.

Even so, the gains for the provinces have been significant. The federal ministries of labour, health, education, environment and population welfare, among others, stand to be disbanded or downsized after the end of the transition period under the 18th Amendment on June 30, 2011, and the responsibilities of those ministries will be transferred to the provinces.

However, the gains of the provinces must be measured against what powers have not been transferred.

After the 18th Amendment, the Federal Legislative List Part-I, the exclusive domain of the central government, contains 59 items. This can be contrasted with the earlier constitutions of 1956 and 1962, which had a total of 49 subjects in which the federal government enjoyed pre-eminence.

Fighting to a draw

There is also a legislative area in which the central government and the provinces have effectively fought each other to a draw: the Federal Legislative List Part-II. This list is the domain of the Council of Common Interests, a constitutional body within which the provinces and the central government meet to resolve disputes concerning specific issues.

The list of subjects falling in the domain of the Council of Common Interests has been expanded from eight to 18, effectively increasing the space for "national" treatment of certain subjects. The CCI has also been strengthened – a permanent secretariat is to be created and meetings will be held every quarter to deal with provinces' grievances more quickly.

The changes to the Council of Common Interests can be described as an improvement for the provincial position. Other than for a brief period of activity in the 1970s, the CCI has remained an ineffective body, meeting infrequently and being dismissed as an inconvenience by the central government.

Giving the CCI new life has long been a demand of the provinces, especially since it has the task of resolving central government-province and inter-provincial disputes about water. A more effective council, even if it includes more subjects than the pre-18th Amendment version, is likely to ease friction between the provinces in critical areas as water sharing.

Reflecting the complexity of the Pakistani federation, even where the changes have enhanced provincial autonomy, they may not necessarily prove to be in the interest of the general public.

Varying legal provisions

Take the example of the new provincial area of "Marriage and divorce, infants and minors, adoption." With four provinces

and an Islamabad Capital Territory, there could now effectively be five separate marriage laws in Pakistan.

Consider an example of an inter-provincial marriage. A man from Balochistan marries a woman from Sindh in the province of Punjab. Which province's marriage laws will apply to the couple? Given the low literacy rates in the country, the added complexity involved in dealing with such situations could have severe consequences on the rights of individuals.

Consider also the possibility of religiously conservative parties coming to power in one of the provinces, as happened in the North-West Frontier Province, now known as Khyber-Pakhtunkhwa, under General Musharraf. Multiple marriage laws may make it difficult for women in particular to understand the ramifications of signing a marital contract under one provincial code as opposed to another.

On balance, however, there was little in the Concurrent List that necessarily implied a threat to the rights of individuals. Indeed, a possible flexibility in the political system comes in the retention of a "soft" Concurrent List: in areas of criminal laws, criminal procedure and evidence, both the central government and provinces will continue to be able to legislate.

Finding financial solutions

The real challenge appears to lie in another area: finances.

In December 2009, the provinces and central government signed the seventh National Finance Commission Award, a five-year agreement under which the revenues collected by the central government are divided among the provinces and the central government. The tax structure in Pakistan is highly skewed towards indirect taxes, such as sales taxes and customs duties, which are collected by the central government, while the provinces' revenue-generation capacity is low. As a result, the NFC award is critical to the operations of provincial governments.

While the seventh NFC is generous to the provinces from an historical perspective, there is a crucial caveat: the latest award is based on a significant improvement in the abysmally low tax-to-GDP ratio, a long-standing problem. Failing the implementation of structural reforms that will improve the tax-to-GDP ratio, the provinces' finances will remain under a cloud of uncertainty, jeopardizing their ability to plan for the future and forcing them to turn to the central government for handouts.

Further complicating the murky fiscal position of the provinces is that the 18th Amendment was passed several months after the seventh NFC was finalized. Since the 18th Amendment has transferred many jurisdictional areas to the provinces, the provinces are demanding that their share of revenue collected by the central government be increased, commensurate with the provinces' added responsibilities – a position that a financially strapped central government is loath to accept.

While the 18th Amendment has unquestionably increased provincial autonomy in the Pakistani federation, whether the provinces will be able to take advantage of their new position depends mainly on the central government's ability to keep Pakistan financially afloat. (6)

Spanish court strikes down parts of Catalonia's draft constitution

Court ruling angers Catalonians.

BY VIOLETA RUIZ ALMENDRAL

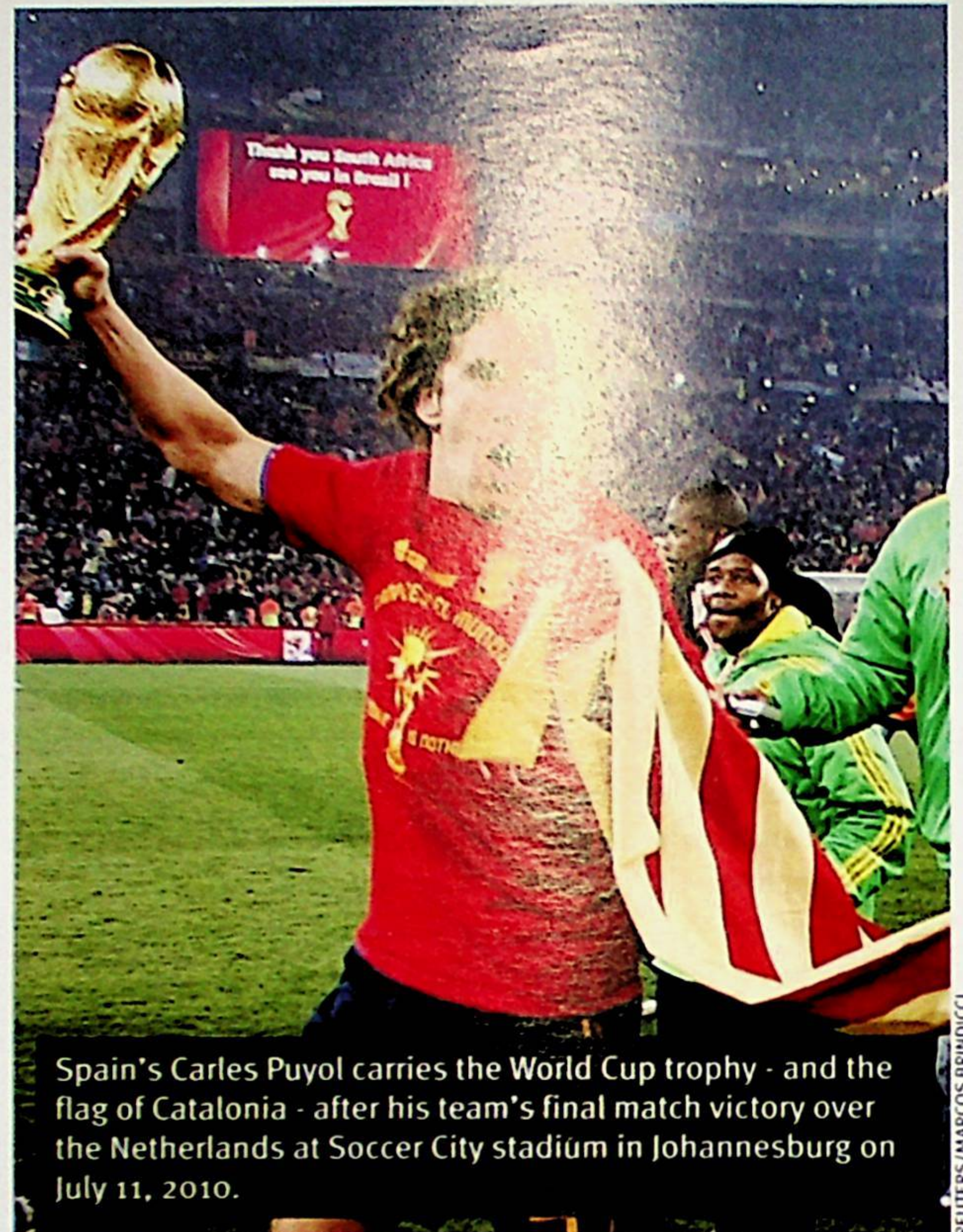
SPAIN COMES AS CLOSE AS POSSIBLE TO BEING a federal country without officially being a federation. With its 17 regions – known locally as autonomous communities – accounting for about 50 per cent of public spending, the country is more decentralized than many federations.

In theory, the Constitution approved in 1978 is flexible enough to allow the regions to increase their powers, even in an asymmetric way, in which one or more regions obtain more powers than the others. However, the actual decentralization process has led to equal levels of devolution among the regions, with the sole exception of the Basque Country and Navarra, which have a greater degree of autonomy than the rest.

Instead of state constitutions, such as those in the United States, each of Spain's regions has a Statute of Autonomy that sets out its powers. In general, each statute serves as the supreme law of that region. A statute has a legally complicated double status: it is both the supreme law of a region and a law passed by both the regional government and the Spanish parliament.

It is also subject to the Constitution and to the scrutiny of the Constitutional Court, as are all other laws. This dual nature explains why a revision of a statute needs to be approved by the central parliament in Madrid and the regions. In the case of the "fast lane" regions (the seven regions, including Catalonia and the Basque Country, that accepted greater autonomy much earlier than the other 10 regions), revision of a statute must also be approved by a referendum in the region.

Violeta Ruiz Almendral, a professor of tax and finance law at *Universidad Carlos III* in Madrid, is a former board member of the Forum of Federations.



Spain's Carles Puyol carries the World Cup trophy - and the flag of Catalonia - after his team's final match victory over the Netherlands at Soccer City stadium in Johannesburg on July 11, 2010.

REUTERS/MARCOS BRINDICCI

Formally, Catalonia has the same powers as the other regions, but it has traditionally played a leading role in the devolution process. It was the first region to enact a Statute, and most other regions followed its model, and even literally copied the Catalan law. Significantly, all regional financing models have been led by Catalonia, as this region has gained greater autonomy to raise its own taxes, a pattern that was then extended to the rest of the regions. This became the standard practice in order to avoid, as much as possible, any asymmetry among common-system regions (all those except the Basque Country and Navarra).

Playing a leading role

In 2005, Catalonia decided it wanted to have a new Statute of Autonomy that expressed its will for greater autonomy and clearly reflected the region's distinct identity, such as its language. The Catalonians who drafted this new Statute had five major aims. The first was to give legal expression to their political identity and distinctiveness, including the definition of Catalonia as a nation – a controversial issue in Spain. The second was to enact a bill of citizens' rights and duties. The third aim was to prevent what they called the Spanish central government's intrusion into exclusive Catalan powers. The fourth was to change their justice system, and the fifth was to establish mechanisms allowing for Catalan participation in the European Union and in Spanish policy-making processes. As has happened many times before, other regions followed suit

and started their own processes to change their Statutes, in most cases, copying the Catalan model.

After the due Constitutional process, the Statute was approved by the Catalan Parliament, then by the Spanish Parliament in November 2005 and finally by the Catalonians via a referendum in 2006. The People's Party (PP), the only party in the central parliament that had opposed the new Statute, filed a challenge before the Constitutional Court, maintaining that 113 of the Statute's 223 articles were unconstitutional. In the following months, the Spanish Ombudsman and five regions (Aragón, Baleares, Valencia, Murcia and La Rioja) also challenged the Statute.

Unprecedented ruling

On June 28, the Spanish Constitutional Court ruled that part of the Catalan Statute of Autonomy is unconstitutional. The decision to strike down a Statute of Autonomy is unprecedented in Spanish democracy, but this is also the case for other elements surrounding it as the Court ruled with only 10 of its 12 members – one had passed away and another had to withdraw – amid one of the worst political conflicts in recent history. The Court was divided and had been unable to agree on a ruling in the past five years. Finally, the much anticipated ruling was approved by a majority of six to four.

When the approved Statute of Autonomy for Catalonia was voted on in a referendum, fewer Catalans than had been expected came out to vote. The final turnout (49 per cent) was 10 percentage points lower than for the vote on the first Statute in 1979 (60 per cent) and for the 1978 referendum on the Spanish Constitution (68 per cent).

But much has changed since then and support for the Statute and for greater autonomy has been growing in Catalonia. Several days after the ruling was announced in late June 2010, the largest demonstration ever held in Catalonia took place, with estimates ranging from 100,000 to 1.5 million people in the streets.

With the political turmoil caused by the ruling, it would be reasonable to think that most of the Statute was in fact annulled. In fact, the opposite is true; of the 113 articles deemed unconstitutional by the People's Party, only 14 were annulled (totally or partially), and a further 23 have been reinterpreted by the Court (which means they are valid as long as they are interpreted in the way proposed by the Court), which leaves most of them, 74, untouched (see chart on page 34).

Key articles struck down

To Catalan nationalists, however, the number of articles rejected is not the issue. Many claim the articles struck down by the court were among the key articles of the Statute, including a kind of "line in the sand" drawn to mark the limits of the Spanish government's powers, which many Catalonians say were steadily encroaching on Catalan powers.

Many constitutional scholars agreed that the ruling did not change that much of the Statute; others disagreed. Of course, the statement that nothing much was changed refers only to the number of articles declared unconstitutional.

The ruling, of almost 1,000 pages, is by far the longest in the Court's history.

The list of annulled articles is interesting, as is the list of articles that were declared valid. For example, the duty to know the Catalan language (Articles 34 or 50.5) was merely softened by adding that it does not imply a prohibition to use the Spanish language or an obligation to use Catalan.

As for fiscal federalism, most provisions of the Statute stand. This is partly explained because the current financing model of the regions, which came into effect in January 2010 through a central government law, has closely followed some of the provisions of the Catalan Statute, which once again has paved the way for fiscal federalism reform, but in a way that has also benefited the other regions. The Court only softened some sections dealing with fiscal federalism, such as the obligation of the central government to invest in Catalonia or to transfer certain taxes, a duty clearly defined in the wording of the Statute, but according to the Court's ruling, is under the authority of the central government and cannot be decided unilaterally by each region.

But the legal consequences do not end with Catalonia, as other Statutes have also followed the same structure as well as employing similar definitions of what "shared power" means. This is the case for Valencia, Aragón, Illes Balears, Andalucía, Castilla y León, Extremadura and Castilla La-Mancha. The Valencian and Andalusian Statutes are by far the most similar to the Catalan Statute, and they will need to be revised, because the legal impact of the ruling extends to similar Statutes.

Political pacts saved other statutes

It is particularly remarkable that in all those other cases the Statutes were approved thanks to political pacts entered into by the two main parties: the Socialist party (PSOE) and the People's Party (PP). In particular, in the case of Andalucía, the PP endorsed several provisions that were an exact copy of those of the Catalan Statute, and that the same party (on a national level) had deemed to be unconstitutional.

The most copied clauses are: the intention to establish a bilateral relationship between the region and the central government – thus bypassing the multilateral model that seems to be preferred in the Constitution; the intention to create a Catalan system of justice; and setting out in the Statute the various rules on how the Spanish government must finance the region. All of the articles containing these clauses have been annulled or reinterpreted by the Court.

The political consequences of the ruling are far greater than the legal problems, and are just now being unravelled. As the Socialist government does not have a strong enough majority in Parliament, it has undertaken to soften the ruling's legal consequences by passing the necessary laws confirming further devolution. The challenging of the Statute has also substantially undermined the credibility of the Constitutional Court, which was once an accepted umpire of intergovernmental relations. Until the Court's ruling, reforming the Statute was a political process seen by many Catalonians as an alternative to

two impossible options: the reform of the Constitution (highly unlikely given the make-up of the Spanish parliament) and independence. Today, nationalist political leaders in Catalonia say they are unable to provide a moderate alternative to independence, which some Catalans believe had formed part of the original Statute. The moderate governing coalition led by the Catalan Socialist Party faces an election in November, and the region's extreme nationalists could make gains in the wake of the court decision.

Catalonia faced tough prospects for the elections in November 2010. Voters seem to blame the government of Catalonia for the partial annulment of the Statute, despite all the regional government's best efforts. And finally, the conservative People's Party does not seem to have capitalized much on this issue, according to opinion polls. The political gains stemming from reforming the Statute have been meagre for all parties, at best.

Resolving underlying issue

The underlying and larger issue that needs to be resolved is how to balance some regions' greater demand for autonomy with the current model of the country as a whole. This might be easier to do than the political disputes suggest, even without reforming the Constitution, which was designed with enough

flexibility to accommodate a potentially asymmetrical federal system. Spaniards may be more willing to proceed in that fashion than the disputes of the politicians suggest.

On July 11, Spain won soccer's World Cup for the first time. Polls showed that practically everyone in Spain was watching when its team won and celebrations broke out, with thousands singing and cheering in the streets while waving the Spanish flag, even in Catalonia.

The Spanish squad, whose best players are members of the team from Barcelona, the capital of Catalonia, played well and showed strong team spirit. In the closing minutes of the final match, the ball was passed around among players from regions representing Spain's different political leanings. The ball went to Fabregas, from Catalonia; who then passed it to Torres, from centrist Madrid; before it was taken by Fabregas again, who passed it to Iniesta, from the moderate region of La Mancha; who then scored the winning goal. With that goal Fabregas and Puyol of Catalonia celebrated the victory by running about with a Catalan flag. Nobody seemed to mind.

This has been interpreted by some to mean: "Catalonia needs Spain, Spain needs Catalonia. We play better when we play together. But most of all, we can only win if we play together." (4)

The court held the following articles to be unconstitutional

Political form of Catalonia: Catalonia is defined as a nation in the Preamble of the Statute (Preamble)

Language: Catalan is defined as the preferred language of the region (Article 6)

Intergovernmental relations and shared authority:

- Laws from the central government affecting Catalonia must be evaluated first by Catalonia's Council for Statutory Guarantees (Article 76)
- On matters for which there is a power shared between the central government and Catalonia, Catalonia will be able to establish its own policies (Article 111)

Ombudsman: The Catalanian Ombudsman is to oversee Catalonia's Public Administration, excluding the central government's Ombudsman (Article 78)

System of justice: Catalonia is to have its own system of justice, basically meaning it will be able to appoint its magistrates and set up its judicial system (Articles 95, 97, 98, 99, 100 and 101)

Banks and similar institutions: Catalonia has shared authority over regional savings banks, as well as over other credit institutions (Articles 120, 126)

Fiscal federalism:

- Catalonia will participate in the equalization funds to the extent that the rest of the regions take on a similar fiscal effort (Article 206)
- Catalonia will have authority over the financing of municipalities, including the establishment and regulation of local taxes (Article 218)

Australia turns to COAG to take on hot-button issues

Intergovernmental body takes on festering disputes.

BY PHILLIP GONZALEZ

COAG, AUSTRALIA'S OFTEN-MALIGNED MULTI-LEVEL government body, will soon be dealing with some hot issues as the country turns to it to better manage intergovernmental conflicts and implement economic reform.

The Council of Australian Governments (COAG) was set up in 1992 by then prime minister Paul Keating and the premiers of the states. It also includes a representative from the Australian Local Government Association.

COAG's job it is to "initiate, develop and monitor the implementation of policy reforms that are of national significance and which require co-operative action by Australian governments," according to the COAG website.

Emergencies over emergency rooms

One item of high priority to Australians is hospital wait times for surgery and for hospital emergency rooms. To deal with this, the federal government persuaded COAG in April 2010 to approve a plan for the federal government to take control of the public hospital system away from the states and gave funding instead to local hospital districts.

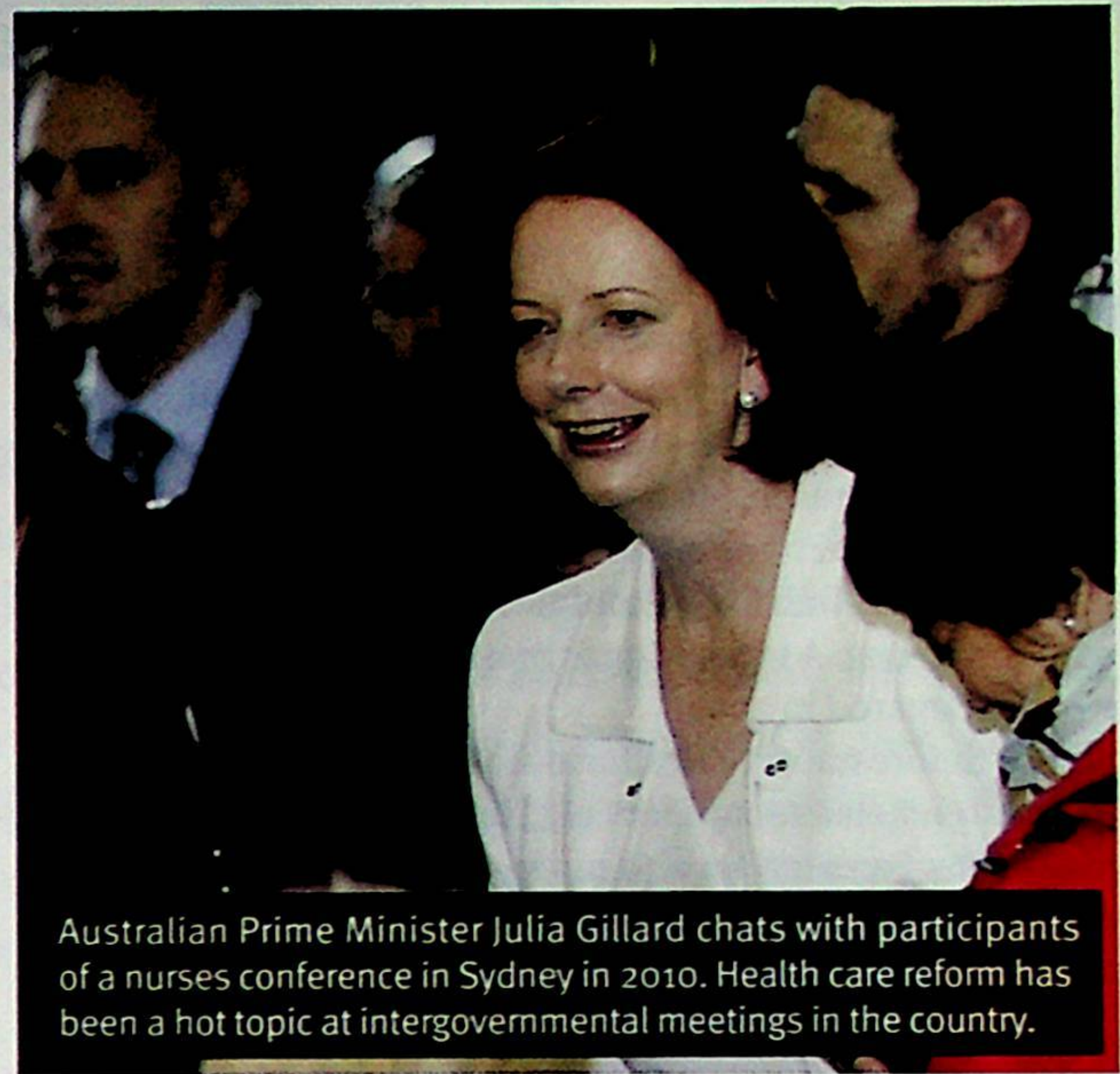
Another key issue for Australians, especially in the southeast, is water. The country's major river basin, the Murray-Darling river system, spans four states. It can no longer supply the demands from farmers in the state of New South Wales, and has no water left to meet requests to feed a new pipeline for the four million inhabitants of Melbourne, the capital of the state of Victoria.

The Murray-Darling water issue could resurface at a COAG meeting expected in December 2010.

COAG reached an agreement on the hospital matter in April 2010 with all states except Western Australia. Meanwhile, the re-assignment of authority over hospitals will now be presented to the state legislatures, where opposition to it is expected to be significant.

The Murray-Darling water issue and the hospital controversy are up for decision in a shifting political environment.

Phillip Gonzalez is a support officer in the governance programs division of the Forum of Federations. He hails from Melbourne, Australia.



Australian Prime Minister Julia Gillard chats with participants of a nurses conference in Sydney in 2010. Health care reform has been a hot topic at intergovernmental meetings in the country.

AP PHOTO/BOB GRIFITH

Prime Minister Julia Gillard of the Australian Labor Party now holds 76 seats and a one-seat majority in the House of Representatives after forming a coalition with two independent members of parliament and the Australian Green party as a result of national elections in August 2010.

Gillard became prime minister in June after her party removed her predecessor, Kevin Rudd, who had lost popularity because of opposition to his proposed 40 per cent Resource Super-Profits Tax and the defeat in the Senate of his proposal to reduce greenhouse gases.

Liberal Senator Marise Payne, the shadow minister for COAG, had strong criticism for Rudd's leadership of COAG, a body which was meant to become more effective at implementing multi-level government decisions.

"The COAG reform agenda laboured for three years under Kevin Rudd's all-process, no-results approach and since the election, there have been vague proposals for regional spending reform, national disability strategy and online gambling reforms, while existing reforms have languished," she said.

Business calls for end to over-regulation.

Business leaders have also been calling on COAG to help bring about reform. One major business demand is for COAG to reduce the number of regulations they must deal with from various orders of government.

Katie Lahey, the Chief Executive of the Business Council of Australia, called on COAG to act. She said COAG's agenda "needs to have a sharper focus on a smaller number of reform priorities with the greatest potential to drive productivity growth in the near term."

In a period of uncertainty and shifting sands in Australia, COAG has the opportunity to fill the breach - as long as its political creators reach the consensus needed to get the job done for all Australians. ☺

Protecting Amazon forest made difficult by anomalies in Brazil's electoral system

BY MARCELO LEITE

Although a majority of Brazilians oppose deforestation of the country's 4.2 million square kilometres of Amazon rainforest, anomalies in the 1988 Constitution could enable lawmakers representing a minority of the population to pass legislation undermining the rainforest.

Almost one-fifth of the rainforest has been felled, mostly for cattle ranching. A staggering 27,772 square kilometres of trees were decimated in 2004.

But deforestation rates have since decreased and are projected to reach a record low of 5,500 in 2010 – thanks mostly to the 1965 Forestry Act and more recent amendments which require landowners to preserve between 20 and 80 per cent of their land in so-called “legal reserves.”

However, a proposition by Communist congressman Aldo Rebelo risks watering down some of the toughest provisions in the act. The Rebelo measure includes what has been described as a “disguised amnesty” for Amazon scofflaw landowners who clear-cut as much as 20 per cent more of their land than they were entitled to by law.

The bill has triggered a landslide of public opposition, especially in the southeastern and southern states, where much of Brazil's population is concentrated.

The bill may succeed for two reasons. First, the Brazilian senate – the upper house of congress, with three senators


elected by each of the 27 states – is dominated by members of the federation from regions whose economies are still based in the agricultural sector.

Of the 81 senators in the chamber, there are 60 from these regions: the north with its seven states, the northeast with nine and the midwest with four.

Second, there is an additional distortion. In the house of representatives, voters in the nation's agricultural northern region hold up to 13 times more power to elect a representative than in São Paulo, the most developed and populous state.

The distortion is based on two provisions of the 1988 constitution. First, no state can have fewer than eight representatives in the lower chamber; and, second, no state can elect more than 70 representatives. So with its 30.3 million voters, a candidate in São Paulo needs a minimum of 431,000 votes to be elected. But in the northern state of Roraima, with its 272,000 registered voters, a candidate for the house of representatives can be sent to Brasília with only 34,000 votes.

As a result, the more agricultural north, northeast and midwest, with just 43 per cent of Brazil's population, holds a one-vote majority in the House of Representatives.

The bill is likely to be brought to a vote after newly elected President Dilma Rousseff settles into office. 

Marcelo Leite, a former Nieman Fellow at Harvard University (1998), is a reporter with the Brazilian daily *Folha de S. Paulo*.

Switzerland's environmental stewardship ranked second in world

BY CAROLINE ZUERCHER

An international study by Yale University has placed Switzerland second to Iceland among 263 countries in terms of the measures it has taken to protect the environment.

The Yale ranking, called the Environmental Performance Index, is based on 25 performance indicators covering both environmental public health and ecosystem vitality.

The central government in Bern sets the environmental standards in Switzerland, while the 26 cantonal governments implement the environmental programs to meet these standards.


“We're a classic example of federalism,” said Nicolas Schmitt, a research fellow at the Institute of Federalism in Fribourg, Switzerland. “Article 74 of the Federal Constitution provides that the federal government enacts the general standards (for issues such as the environment) and the cantons are responsible for their implementation.”

The cantons are only free to decide how to implement the federal standards. In Schmitt's view, such a development was inevitable: “This is one of those powers which, over time, have

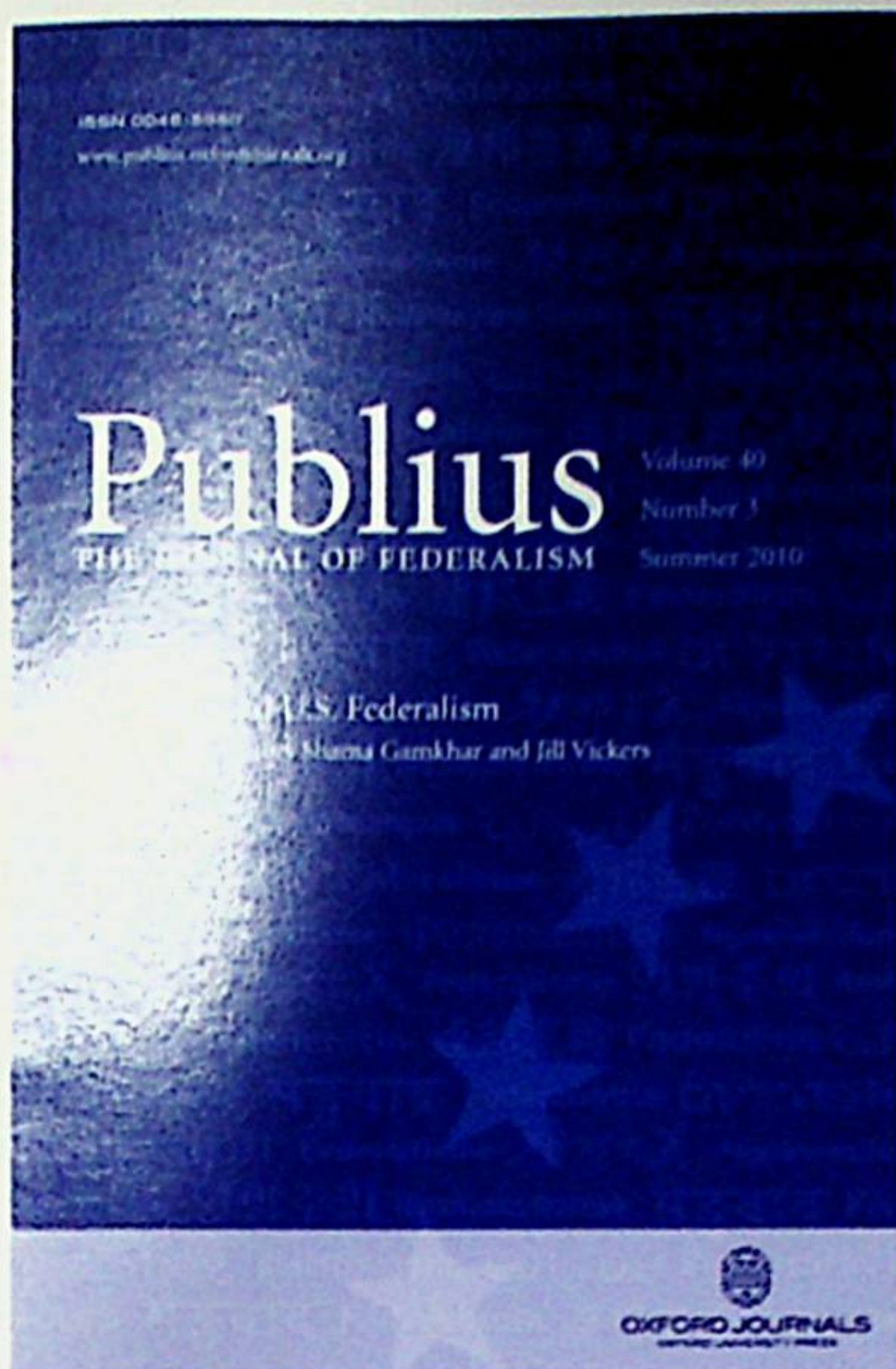
been transferred to the federal government because the field is too large for the cantons to do it.”

There is also some competition among the cantons: in a bid to catch up with the more advanced environmental programs undertaken by the German-speaking cantons, the French-speaking cantons of Vaud and Geneva, plus the Italian-speaking canton of Ticino are now interested in creating zones in urban areas where the most polluting vehicles would be prohibited.

For Switzerland, the Yale ranking is something to be pleased about, starting with the federal Department of the Environment, Transportation, Energy and Communications – the department responsible for the environment in Bern.

But Adrian Aeschlimann, the spokesperson for the country's Federal Office of the Environment, remains cautious: “We are honoured, certainly, even if last year, we were in first place. But it is a bit difficult to explain this rating, as the method used by the American researchers is still being refined.” 

Caroline Zuercher is a journalist based in Geneva, Switzerland.



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Special Issue Co-Editors: Shama Gamkhar and Jill Vickers

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