

## **FEDERALISM: A FORM OF WORLD GOVERNMENT**

Federalism denotes a form of decentralised government where legally at least the component parts of the federation (states, provinces, Länder or cantons) have statehood of their own and often have historically existed prior to the federation. The central body is frequently called the federal government. The precise allocation of responsibilities and powers varies infinitely. The USA, Canada, Australia, Germany and Switzerland are examples of federal arrangements. The UK is not a federation although every so often proposals are made for varying degrees of devolution that might inevitably lead to a federal arrangement.

The European Union is not a federation because the Union institutions are supreme in the restricted fields over which the Member States irrevocably granted them jurisdiction, making the EU a supranational body. The European Court of Justice decides points of Community Law applicable in all the member states. In modern times however, there has been discussion amongst observers of the prospect that constant enlargement may well mean that a federal arrangement would be required to cope with the diversity of views and cultures at national level.

The birth of the federal state coincides with the foundation, in 1787 of the American Federation. The text of the Constitution of the United States of America approved by the Philadelphia Convention, 17th September 1787 in fact represents the first historical example of a federal constitution. In the 20<sup>th</sup> century the federal model subsequently spread around the world, especially to the countries of the Commonwealth, to a few European countries to Brazil in Latin America and to Nigeria in Africa. The principal characteristic of a federal state is the fact that in it, in addition to the functional division between legislative, executive and judicial powers, there exists a territorial division of powers between the various levels of government which are simultaneously independent and coordinated. In existing federal states, there are essentially two specified levels of government: (a) the federal state and (b) the member states. However over recent years a very strong demand has developed, particularly in western Europe, to organise also the member states on the basis of federal institutions. Unlike unitary states the central government in federal

states possesses only the necessary powers to guarantee the political and economic unity of the federation, while the other levels possess full capacity for self-government in all other spheres. In its own sphere no government level must be subordinate to the level above.

Federalism implies a wide distribution of power among many centres and thus goes a long way to providing the checks and balances required to effectively control power<sup>1</sup>. The more decentralised political power is, the more difficult its misuse will be. Furthermore the chief merit of federalism lies in its capacity to accommodate diversity. Therefore it is inferred that federalism could be considered to be the ideal system for a country which is subdivided in sufficiently autonomous and small subunits of religion, culture, language etc.

In the USA despite the system of federalism created by the framers, there were still those that feared the power of the federal government. Remembering the lessons taught by the Baron de Montesquieu, they utilized a system of separation of powers to brake up the power of the federal government<sup>2</sup>. Within the system is what is called checks and balances. Each branch of the government has the power to inspect and impose limits to the other. This ensures that no branch ever gains too much power. The national government and the state governments co-exist. Therefore, we always have to watch whether some power being asserted by the federal government is in fact allowed under the Constitution and we must also watch whether some power asserted by the states is limited in favour of federal power. Federal government has limited powers. The three federal branches can only exercise powers specifically granted to them by the United States Constitution.

The doctrine of parliamentary supremacy found in the UK is wholly inconsistent with a federal form of government, such as that which exists in the United States. In a federal system the authority of the central legislature is limited by that possessed by the legislative organs of the governmental units which make up the federation. However, despite this basic difference between the

---

<sup>1</sup> Conrad C. The federal government and us 1989

<sup>2</sup> Eisenhardt History of Law 3<sup>rd</sup> Edition 1999

American and English constitutional systems, we cannot obtain a clear picture of the functioning of federalism in the US since not all federal governmental systems are alike.

Judicial independence is also very significant to federalism. Since political safeguards seem to be inadequate to protect federalism, judicial safeguards seem more and more useful. Judicial independence is a necessary condition for judicial safeguards. Current history provides evidence that it is possible for the court to uphold federalism, not just as a referee of interstate dispute, but also as an umpire over federal government behaviour. The judicial independence is necessary to regulate the activities of the federal government and provide stability and equality. The current form though of judicial independence is not enough, since it does not have the power to constrain the federal government adequately. Improvements need to be made in order to establish an effective organ of control.

At first sight federalism is very simple. The basic idea is that relations between states should be conducted under the rule of law. Conflict and disagreement should be resolved through peaceful means rather than through coercion or war. Already the institutions in Brussels have many of the features of a system of government: an elected parliament, an executive, a legal system and a budget. It is guaranteed that by assembling the EU institutions like a government we are able to get the best out of the European Union. Perhaps the idea of a world government is an utopia, nevertheless federalism is better thought of as a direction rather than a destination<sup>3</sup>. A global democracy is plainly not on the cards, but greater democratic input into the World Trade Organisation, a more equal distribution of decision making power on economic questions between the north and the south, and a more effective protection of human rights around the world might be.

The world federation undoubtedly represents a long term objective. However it is the only perspective in which it is conceivable to provide a positive and democratic response to growing global interdependence, which has already transformed

---

<sup>3</sup> [www.wfm.com](http://www.wfm.com). Cited from the site of world federalists movement

the world into a community of destiny, and to the crisis of the national states, which are by now clearly inadequate of coping with the great challenges the world is faced upon. This explains why in all the world integration processes are under way. Europe is the continent where this process is most advanced. The European Federation will represent the first example in history of the overcoming of the national dimension of the state, and constitutes a unification model for all the regions of the world.<sup>4</sup>

World federalists recognize that many of the most serious problems facing humanity are beyond the capacity of nations to resolve on their own or by mere coalitions of power between states. A stronger form of unity is needed. Federalism.

The question whether federalism is unrealistic can be best be answered in the words of Monet. Bismarck described politics as the art of the possible. Jean Monet a century later updated this notion. Politics he said is the art of making possible what is necessary.

### **POINTS CITED:**

1. www.lls.edu.com
2. Collin's Dictionary of Law 2<sup>ND</sup> Edition
3. Dicey's, Law of the Constitution
4. Jenna Bednar's, Federalism, Judicial Independence and the Power of Precedent

KLEOPA VALENTINA

---

<sup>4</sup> Prof. Helmut Kohler, Burgerliches Gesetz, 20<sup>th</sup> Edition (Translated)