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FEDERALISM IN INDONESIA

by

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June 2001

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The current demands for a federal system are largely the product of a feeling of injustice against the central government and its abuse of local revenue distribution accompanied by authoritarian actions by members of the Armed Forces and other government officials. This had created an unhealthy undercurrent of resentment against the unitary system, which has been surfacing in different ways for the past several years.

In order to deal with this issue, the essence of federalism has been adopted in the new bill (No. 22/1999 or Regional Government) known as "wide-ranging autonomy". Therefore, the thesis recommends that Indonesia government should first concentrate on the implementation of Law No. 22/1999 (regional autonomy) and see how it works.

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FEDERALISM IN INDONESIA

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I. INTRODUCTION

A. BACKGROUND

Since the authoritarian regime under President Suharto fell in 1998, Indonesia has started to become a democratic country. Indonesians, especially scholars and political elites, want to make changes in order to make their country better. Some of them have been debating about the system of government, either federalism or unitary, that may solve some problems that occur in Indonesia such as separatism, ethnic conflict, and corruption.

Looking at the situation in Indonesia right now, there are a great many questions about efficiency, effectiveness, economic equality, and fairness of a unitary system. To answer these questions, some scholars and political elites propose federalism. This proposal has become a contentious issue among scholars and politicians because they have different point of views about federalism. On the one hand, politicians and scholars who support the federal idea think that federalism may help Indonesia because of its political, economic, and security situation; geography; and people who are in different ethnic groups, and have a different language, religion, and culture. On the other hand, politicians and scholars who oppose this proposal think that implementing federalism can create other problems such as disintegration and corruption in regional governments.

Indonesia is an archipelago country consisting of 17,508 islands. Today, the population of Indonesian is around 210 million. It is the fourth biggest population in the world after China, India and the United States. Indonesia's people consist of different ethnic groups and races, for example, the Javanese, Sundanese, Balinese, Malay, Arabic,

and Chinese. There are five religions including Islam, Protestantism, Catholicism, Hinduism, and Buddhism. As for languages, Bahasa Indonesia, the national language which is a form of Malay, has spread throughout the archipelago and has become the language for most of the written communication, education, government, and business. Many local languages are still important in many areas, however.

During the economic crisis in Asia in 1997, Indonesia suffered tremendously. There were decreases in currency, high inflation, and problems with the foreign debt. These economic impacts had negative effects on security and defense. Until now, Indonesia still has many problems that are not easy to solve such as separatist rebels in Aceh and Papua, ethnic conflicts in Borneo, and religion conflicts in Molucca.

Some people in the provinces, such as Aceh, Riau, and Papua, want to separate from Indonesia because they feel that they have not been treated fairly by the Central Government for a long time. The Central Government has only concentrated on developing some provinces, and it has seemed to ignore the other provinces that give a lot of tax money to the central government.

In addition, corruption committed by the Central Government is rampant. Now, however, the provinces that have a lot of natural resources, such as Riau, Aceh, and Papua, think that they can live without Indonesia. Therefore, some scholars and political elites think that federalism can be a solution to this problem but others think that federalism can be an opportunity for them to live separately from Indonesia.

The purpose of this thesis is to give a review for Indonesians about federalism including the definition and concept, how other countries apply federalism, what the

government should do to shift from a unitary to a federal government, and what might be the impacts of implementing federalism for Indonesia.

This thesis is important because it will provide useful information that is needed to decide whether Indonesia should shift to federalism or stay unitary. Also, federal arrangements are important fields of study because they are devices whereby nation-states can concentrate power and authority in a large, central government while, at the same time, diffusing the exercise of powers so as to give most, if not all, segments of society a constitutionally guaranteed share in the governing process. It is in this regard that federalism is unique. Federalism is also an interesting subject of study because some form of federal constitutional structure has become especially popular in this century. More than a billion people, or approximately 40 percent of the world, live in federal countries.[1] Federal constitutions have been adopted in many of the world's most powerful nations in terms of economic, technological, and military strength. Furthermore, federalism has been especially attractive in many of the geographically largest countries of the world such as Russia, the United States, Canada, India, Brazil and Australia.

B. METHODOLOGY

This thesis is organized into six chapters. Following this introduction, Chapter II explains and provides information about federalism such as the definition, idea, and issues of federalism. Chapter III uses three countries, the United States, India, and Belgium, as models that can provide Indonesia with good lessons about how federalism works and how to shift from a unitary form towards a federal form. Chapter IV will examine the situations and conditions in Indonesia related to federalism. Chapter V will

[1] Lemco, Jonathan. *Political Stability in Federal Governments*. Praeger Publishers. New York. 1991. p. 2.

analyze what might happen in Indonesia if federalism is implemented and what Indonesia should do in order to shift from a unitary to a federal form of government. Chapter VI of the thesis will conclude and give recommendations to Indonesia by offering some lessons learned.

The methodology used in this thesis research is based on use of scholarly and journalistic sources to include primary and secondary sources. Therefore, the thesis relies on these data when analyzing what the likely impacts of implementing federalism in Indonesia and what Indonesia needs to shift from a unitary form of government to federalism.

II. FEDERALISM

A. WHAT FEDERALISM IS

1. Definition

The word *federal* came into English via French from Latin. *Foederatus* means "bound by treaty" deriving from *foedus* means treaty and *fidere* means "*to* trust". Federalism was developed as a response to the ancient question of how to link separate political communities together in order to pursue effectively objectives unobtainable alone, but without submerging their own identities.[2]

Early examples of federalism can be found among the Israeli tribes in the 2nd millennium BC, the Greek city-states of the 3rd and 2nd centuries BC, and the Swiss cantons of the 13th century AD, all of which united against foreign opponents for mutual survival. In the 17th and 18th centuries, the United Provinces of Netherlands maintained a federal form of government. [3]

Modern federalism stems from the federal type of government instituted by the founders of the United States. The federalist ideas underlying the U.S. Constitution were delineated in *The Federalist Papers*, a series of articles written in 1787-1788 by Alexander Hamilton, James Madison and John Jay. The major problem of federalism, the allocation of power between central and regional governments, was only resolved in the United States by the Civil War between 1861-1865. In the late 19th century the success of the American federalist system led a number of other countries to institute federalist

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[2] Woodard, S. *The Simple Guide to the Federal Idea.* Available [Online]: http://www.eurplace.org/federal/woodard.html (15 July 2000)

[3] *Academic American Encyclopedia.* Vol.8. Grolier Incorporated, Danbury, Connecticut. 1994. p. 43.

systems. Modern governments include Australia, Canada, Germany, India, Mexico, Nigeria, Switzerland and Russia.[4]

The meaning of federalism is not a fixed point on a map but a tendency which is neither unitary nor separatist. A variety of definitions of federalism may be found in the literature on this subject, but there is broad agreement on its most basic characteristic: a guaranteed division of power between central and regional governments. According to William Riker, a definition of a federal government is

> a political organization in which the activities of government are divided between regional governments and a central government in such a way that each kind of government has some activities on which it makes final decisions.[5]

This definition emphasizes that the component units are called "regional" governments. In the conventional view, federalism is usually described as a spatial or territorial division of power in which the component units are geographically defined. These units are variously called States (United States, India, Australia, and Venezuela), Provinces (Canada), Länder (Germany and Austria), Cantons (Switzerland), and Regions (Belgium).[6]

The political system itself must reflect the constitution by actually diffusing power among a number of substantially self-sustaining centers. Such a diffusion of power may be termed noncentralization. Noncentralization is a way of ensuring in practice that

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[4] Ibid.

[5] Lemco, Jonathan. *Political Stability in Federal Governments.* Praeger Publishers. New York. 1991. p. 6.

[6] Lijphart, Arend. *Patterns of Democracy. Government Forms and Performance in Thirty-Six Countries.* Yale University Press, New Haven and London. 1999, p. 187.

the authority to participate in exercising political power cannot be taken away from the federal or the state governments without common consent.[7]

Daniel J. Elazar focusing on "noncentralization" of power sees federalism as

> the fundamental distribution of power among multiple centers, not the devolution of powers from a single center or down a pyramid. "None of these multiple centers in the federal system" is 'higher' or 'lower' in importance than any other, unlike in an organizational pyramid where levels are distinguished as higher or lower as a matter of constitutional design.[8]

In addition to a division of power and noncentralization of power, federalist theorists often identify several secondary characteristics of federalism: a bicameral legislature with a strong federal chamber to represent the constituent regions, a written constitution that is difficult to amend, and a supreme court or special constitutional court that can protect the constitution by means of its power of judicial review.[9]

Mc Lean says

> the term federalism suggests that everybody can be satisfied (or nobody permanently disadvantaged) by nicely combining national and regional/territorial interests within a complex web of checks and balances between a general, or national, or federal government on the one hand, and a multiplicity of regional governments on the other.[10]

He also says that federalism is very convenient, increasingly popular, always ambiguous, and sometimes a dangerous concept, which purports to describe a method of arranging territorial governments, and accommodating differing territorial interests that,

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[7] *The New Encycloœdia Britannica*. Vol.4. 15th edition. 1998, p. 712.

[8] Lijphart, Arend. *Patterns of Democracy. Government Forms and Performance in thirty-six Countries.* Yale University Press, New Haven and London. 1999. p. 187.

[9] Ibid.

[10] McLean, Ian. *Concise Dictionary of Politics.* Oxford University Press, 1996. p. 179.

at one and the same time, avoid both the perceived overcentralization of unitary systems and the extreme decentralization of confederation.[11]

Federal enthusiasts in the political world often offer federalism as a way of avoiding territorial conflicts. In practice, people have been willing to fight and die to support or oppose the principle of federalism. This is because federalism usually becomes a "live" political issue in two highly dangerous circumstances: when a region wishes to secede from an existing federation; or when an attempt is made to replace a loose confederation, or alliance, with a more centralized federation.[12]

As a form of government in which power is divided between a central government and several ally independent regional governments, the central government is responsible for matters of mutual concern to all regions, such as foreign affairs, defense, and currency, while the regional governments are entrusted with authority over other matters, such as education.[13] In all modern federal systems, the authority of the central and regional governments is specified in a written constitution, and conflicts of authority between the two are decided by a judicial authority.

The essential element of federalism is the distribution of powers between the federal government and the component states. This can take several forms. The powers of the federal government may be enumerated and the rest left to the states, as is true in Switzerland, Australia, and the United States. The powers of the states may be enumerated and the rest left to the federal government, as in Canada. Or the powers of

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[11] Ibid.

[12] Ibid., p. 180.

[13] *Academic American Encyclopedia*. p. 43.

both governments may be listed, as is done in India. Basically, a federal system seeks to unite in a general governmental system several component units that desire some degree of unity without sacrificing their own identity or autonomy in local affairs.

2. The Federal Idea

The federal idea is broadly a concept of government by which a sovereign people, for their greater progress and protection, yield a portion of their sovereignty to a political system that has more than one center of sovereign power, energy and creativity. No one of these centers or levels has the power to destroy another. Under the constitution, for example, there are two principal centers or government: power-state and federal. "As a practical matter, Rockefeller states that local government, by delegation of state authority under the principle of 'home rule', is a third such key center of power." [14] The federal idea, then, is above all an idea of a shared sovereignty which at all times is responsive to the needs and will of the people in whom sovereignty ultimately resides.

The federal idea is complex and subtle. It involves a balance of strengths. It puts into play a sharing of powers not only among different levels of government but, on each level, a separation of power between the legislative, executive, and judicial branches of government, and it clearly signifies more than mere governmental structure. It demands faith in, and an environment for, the free play of individual initiative, private enterprise, social institutions, political organizations, and voluntary associations, all of which operate within a framework of laws and principles affirming the dignity and freedom of man.[15]

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[14] Rockefeller, Nelson A., *The Future of Federalism.* Harvard University Press, Cambridge, 1962. p. 6.

[15] *Encyclopedia Americana.* 1999 p. 77.

A federal system seeks stability without rigidity, security without inertia. It encourages innovation and inventiveness governed by principle, and guided by purpose.[16] It assures responsiveness more thoughtful than mere reflex and liberty that does not lapse towards anarchy. In short, it seeks to hold the delicately precarious balance between freedom and order upon which the liberty, peace, and prosperity of the individual decisively depend.

3. Underlying Philosophy

The political philosophy behind *The Federalist* papers was not "democratic" in the modern sense. Pessimistic about human nature, the essayists believed that the people, if unstrained, seldom judge or determine correctly. "But what is government itself, but the greatest of all reflections of human nature?" Madison asked in No.51. "If men were angels, no government would be necessary." Just as the people could not be trusted, so was it impossible to win their support for the Constitution or the government it proposed merely by an appeal to reason. "A thing that rarely strikes his (man's) senses will generally have but little influence upon his mind," Hamilton wrote in No.27; he felt that a viable government must appeal to the "passions" of man as well as his reason.[17]

Despite fears of unbridled democracy, *The Federalist* papers defended a republican form of government. The fact that "the whole power of the proposed government is to be in the hands of the representatives of the people," declared Hamilton," is the essential, and, after all, only efficacious security for the rights and

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[16] Rockefeller, Nelson A., *The Future of Federalism.* p. 7.

[17] *The Encyclopedia Americana.* International Edition. Vol 11, Grolier Incorporated. 1999. p. 80.

privileges of the people." "So, too did *The Federalist* express confidence that in a well-constructed government men could be trusted to govern themselves wisely."[18]

Just as there is a "degree of depravity in mankind," in Madison's words, so there are also "qualities in human nature which justify a certain portion of esteem and confidence. A republican government presupposes the existence of these qualities in a higher degree than any other form."[19]

4. Basic Distinctions in Systems of Government (Federalism, Unitary and Confederation)

In the true federal state, both levels of government derive their powers directly from the constitution and neither is able to eliminate the other's jurisdiction. In this way a federal state is distinguished from a unitary state with territorial sub units, such as counties, department, districts, that receive all their powers by delegation from a central government. At the other extreme, a federal system of government should be distinguished from a confederation, or league of states, in which the central government receives all its powers from the member states and has no autonomous powers of its own.

A federal government is to be distinguished from a confederacy, in which the central government is dependent on the regional government, and from a unitary system, in which the regional governments are dependent on the general government.

The basic distinction in federalism, unitary, and confederation are[20]:

- Federalism is a political system in which there are "local" (i.e., subnational) units (state, local, province) of government as well as a

[18] Ibid.

[19] Ibid.

[20] Jenkin, Jodi. American Government 100 Federalism. Available [Online]: http://www.geocities.com/CapitolHill/Lobby/3913/federalism.html(15 July 2000)

national government, that can make final decisions with respect to at least some governmental activities and whose existence is especially protected. Examples: United States, Germany, Canada, Australia, Belgium (after 1993), India, Indonesia (1949-1950), and Switzerland.

- *Unitary* Government is a political system that subnational governments have no authority except as it is granted by the national government. National governments can create or abolish subnational units. Examples: France, Great Britain, Belgium (before 1993), Indonesia (1945-1949 and 1950-now), and Sweden.
- *Confederation* is a political system in which a "National" government only has powers granted to it by subnational units. The interrelationships are "diplomatic"; whereas in the federal system there is a non-absolute subordination of the parts to the principles and sentiments of a " single nation". Examples: U.N., British Commonwealth, European Union, and the United States (1861-1865).

5. Federalism and Decentralization

The primary federal characteristics of noncentralization and decentralization are the building blocks for the construction of the fivefold classification in Table 2.1. The first criterion is whether states have formally federal constitutions. This criterion yields an initial distinction between federal and unitary systems. Each of these categories can then be divided into centralized and decentralized subclasses. Finally, an intermediate category of semifederal system is needed for a few democracies that cannot be ambiguously classified as either federal or unitary.

The various political systems that call themselves federal differ in many ways. Certain characteristics and principles, however, are common to all truly federal systems.

B. ISSUES IN FEDERALISM

The end of an empire, especially since World War II, has been accompanied by the extraordinary theoretical popularity of the idea of federalism-as-panacea. Federalism has been prescribed and applied as a remedy for a great variety of political, economic, social, cultural, and other ailments and at all levels of organizations, from metropolitan

areas, to Europe (by the European Union Movement), to the world (by the United World Federalists, among others). It was a principal topic of discussion at one of the triennial congresses of the International Political Science Association, held in Geneva, in 1964.

Federal and decentralized: Australia, Canada, Germany, Switzerland, United States, (Belgium after 1993)
Federal and centralized: Venezuela, Austria, India
Semi-federal: Israel, Netherlands, Spain, Papua New Guinea, (Belgium before 1993)
Unitary and decentralized: Denmark, Finland, Japan, Norway, Sweden
Unitary and centralized: Bahamas, Barbados, Botswana, Colombia, Costa Rica, Greece, Iceland, Ireland, Jamaica, Luxembourg, Malta, Mauritius, New Zealand, Portugal, United Kingdom, France, Italy, Trinidad

Table 2.1 Degrees of Federalism and Decentralization in Thirty-Six Democracies, 1945-1996[21].

It must also be noted, however, that federalism is not necessarily appropriate everywhere. In addition, Gilles Lalande has stressed that

> the federal structure is not well suited to countries where majority rights are fundamental or where sovereignty is seen as one and indivisible, that is, where a concern for unity overrides considerations of diversity (as in Italy in the 19th century or in Algeria or Chile today).[22]

The balance of power and of citizens' allegiance between the two levels of government is a dynamic element in the politics of a federal state. In some federations, the forces of centralization, especially when fostered by a single unified political party,

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[21] Lijphart, Arend. *Patterns of Democracy.* p. 189.

[22] Lemco, Jonathan. *Political Stability in Federal Governments.* Praeger Publishers, New York. 1991. p. 2.

may be so strong as to negate the autonomy of a local level of government. In others, the forces of decentralization may be such that they lead to a break up of the federal states, as in the cases of the British West Indian Federation and Yugoslavia.

1. Strengths and Weaknesses

Lemco argues that federalism provides the best government possible for a nation of considerable ethnic and regional disparity. A centralized federal government that protects the national interests and the governments of the constituent units that protect local and regional interests are the most responsive administrative forms for a society of great diversity.[23]

Some strengths of Federalism are that it divides the authority between national and state governments, giving no one government too much power, all levels of government - federal, state, and local- have the power to pass a law that directly influences the people, and it retains state traditions and local power while establishing a strong national government capable of handling common problems such as national defense.[24]

A federal administrative and political structure is often appropriate to a nation of great heterogeneity but it would be a mistake to regard federalism as a panacea for all the ills of a diverse society. The imposition of a federal structure may not solve all of the problems of a heterogeneous society.

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[23] Ibid., p. 1.

[24] *Federalism.* Online. Available [Online]: http://www.geocities.com/SouthBeach/Seaside/8123/page6.html, 15 July 2000.

There are also four critical ways in which the federal concept operates as stated by Rockefeller. First of all, the federal idea fosters diversity within unity. It reaches from ocean to ocean, the great social, economic, and political problems can vary profoundly. By all such devices, the federal concept recognizes diversity and achieves unity. Secondly, the federal idea permits and encourages creativity, imagination, and innovation in meeting the needs of the people. By providing several sources of political strength and creativity, a federal system invites intensive leadership, on all levels, to work towards genuine solutions to the problems of a diverse and complex society. Then, the federal idea is a pluralistic idea. It gives scope to many energies, many beliefs, many initiatives, and enlists them for the welfare of the people. It encourages diversity of thought, of culture, and of beliefs. Finally, the federal idea is characterized by a balance which prevents excesses and invites the full, free play of innovation and initiative. This balance is essentially achieved by: the division of powers between the national and state governments, the separation of legislative, executive, and judicial authority, the absence of monolithic national parties, the competitive action of commercial enterprise, and, above all, the freedom of individual initiative, rooted in a basic and enduring belief in the dignity of the human person.[25]

2. Federalism and Ethnic Autonomy

Federalism tends to be used in two kinds of countries, those which are relatively large and plural societies. In plural societies, federalism performs the special function of giving autonomy to ethnic minorities. Charles D. Tarlton suggests that "the special

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[25] Rockefeller, Nelson A., *The Future of Federalism.* Harvard University Press, Cambridge, 1962. p. 10.

function of federalism can be analyzed by distinguishing between congruent and incongruent federalism."

Congruent federations are composed of territorial units with a social and cultural character that is similar in each of the units and in the federalism as a whole. The component units are "miniature reflections of the important aspects of the whole federal system." Conversely, incongruent federations have units with social and cultural compositions that differ from one another and from the country as a whole.[26] Comparing the political boundaries between the component units of the federation and the social boundaries among groups like ethnic minorities is another way of expressing this difference. In incongruent federations these boundaries tend to coincide, but they tend to cut across each other in congruent federal systems. By creating relatively homogeneous smaller areas, incongruent federalism can make a plural society less plural.

The British colonial rulers of India drew the administrative divisions of the country without regard for linguistic differences, and the impositions of federalism on these divisions led to a mainly congruent type of federalism in the early years of independent India. However, a complete transformation to an incongruent federal system based on linguistic divisions took place in the 1950s. Due to India's extreme linguistic diversity, this incongruent linguistic federalism has not managed to accommodate all of the smaller minorities, but on the whole, it has succeeded in making language "a cementing and integrating influence" instead of a "force for division."

[26] Lijphart, Arend. *Patterns of Democracy.* p. 195.

Finally, the new Belgian federalism is the result of a determined effort to set up a federation that is as incongruent as possible. Here the political and linguistic boundaries coincide completely, making the federal system a purely incongruent one.[27]

3. Cameral Structure, Degrees of Federalism, and Central Bank Independence

There is a strong empirical relationship between the bicameral-unicameral and federal-unitary dichotomies. All formal federal systems have bicameral legislatures, whereas some nonfederal systems have bicameral and others unicameral parliaments. As the degree of federalism and decentralization increases, a shift from unicameralism to bicameralism takes place and then the strength of bicameralism increases.[28]

An institutional connection-between central bank independence and federalism-is fruitful because the higher the degree of federalism and decentralization, the higher the independence of the central bank. The five central banks with the greatest independence all operate in federal systems: Germany, Switzerland, the United States, Austria and Canada[29]

4. Classification of Federal Constitutions

The federal constitution is a contractual arrangement that provides for the division of power or the distribution of legislative authority between two levels of government: the central government and the constituent units.[30] The division of powers is quite specific as written but differs radically across different federal regimes. Certain fields, such as foreign affairs, always come under the jurisdiction of the federal authority. Other

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[27] Ibid., pp. 196-197.

[28] Ibid., p. 213.

[29] Ibid., p. 240.

[30] Lemco, p. 6.

fields, such as education, social affairs, and fiscal administration, are often delegated to both levels of government.

One of federalism's greatest strengths is its flexible constitution. The flexible constitution is but one means, however, whereby the rights of constituent groups can be protected and conflict mediated. Federal harmony depends on "the size, number, and internal homogeneity of the provincial (constituent) units, the distribution of legislative and executive responsibilities and financial resources, the machinery of intergovernmental consultation and cooperation, the way regional groups are represented in the institutions of the central government and the flexibility of the political institutions in adapting to changing needs.[31]

Whether a federal union is highly centralized is usually determined by the division of powers between the central government and the constituent units. If the central government reserves most of the powers, then the system is highly centralized. However, if most powers are delegated to the constituent units, the system is not necessarily decentralized.

Since federalism is a process, the degree of centralization or decentralization is constantly changing. As consensus within each ethnic or communal group and across the various communal groups changes, movements towards or away from centralization develop. Additionally, depending on the powers that are reserved, delegated, or assumed by the central government, many different variants of federalism can and do emerge.

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[31] Ibid.

Some constitutions purport to be federal but do not in fact provide a system of federal government. This distinction is important. In Latin America, for example, the four nations of Argentina, Brazil, Mexico and Venezuela, have constitutions described as federal, but the structure of power in each case is such that the government, as distinct from the constitution, rarely operates in agreement with the federal principle. If the federal constitution is ineffective or is thwarted by dictatorship, then the government is not in fact federal. Federalism and dictatorship are incompatible because the regional governments have no effective autonomy under dictatorship.[32]

5. Institutions of Federalism

The need to allocate and adjust functions precisely requires a careful description in a written constitution. Moreover, some agency must be given authority to review acts of the two levels of governments to ensure conformity with the constitutional distribution. This is usually done by courts, as in Canada, Australia, Germany and the United States.[33] In Switzerland, the judiciary may not invalidate an act of the national legislature, and the function of guarding the distribution of powers devolves upon the people, acting directly by referendum.

Another of federalism's institutional requirements is that both the states and the nation must have a share in the procedures of a constitutional amendment. If the two levels of government are to remain relatively independent of each other, neither can take powers from the other; but the constitution, to be flexible, must be susceptible to change. Every federal government has an amending procedure that requires a measure of consent

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[32] *The Encyclopedia Americana*. International Edition. Vol 11, Grolier Incorporated. 1999. p. 77.

[33] Ibid.

from both federal and state governments. This does not mean that each regional government must consent, but only participate in the process and that some predetermined measure of agreement must be obtained from them.

The true nature of federalism lies not in the clauses of the constitution but in the diversities of the society that make federal institutions desirable. A people may be divided by differences of language, religion, or economic and social organization, or by their previous history as separate states. Depending on the nature and intensity of these diversities, the nation may adopt any of a number of instrumentalities to articulate and protect the differences to which value is ascribed. Some of these instrumentalities, such as those already mentioned, seem to be essential, but many others are also useful. For example, the states may be represented equally in the upper house of the national legislature, a device frequently employed in federal and other systems to assure representation of regional interests.

In the United States, the president's appointments must be approved by the senate, in which the states are represented equally. In Canada and Australia, where the parliamentary system prevails, the cabinet is composed of representatives of states according to a complicated but rigid convention. In Switzerland, the executive is also constituted so as to reflect major cantonal interests.[34]

6. Finance

If the governments are to be independent of each other, each must have not only its own powers but also sufficient financial resources to sustain itself and support its assigned functions. However, tax yields are hard to predict over the long term. Demands

[34] Ibid., p.78.

on both levels of government increase and change, and the growth of the industrial economy seriously alters both government functions and government resources.

Every federal arrangement has produced a fundamental disequilibrium between the distribution of function and the distribution of financial resources. This imbalance can be resolved in three ways. First, functions may be transferred from the states to the central government. This has occurred in every federal system, but it usually encounters serious political objections. Second, tax resources may be transferred from the central government to the states. This, however, rarely solves the problem because it tends to increase the financial inequalities among the states. Third, funds may be handed over by the national government to the states.[35]

Most federal governments have made extensive use of this third device and have produced elaborate systems of national grants to the states, for either general or specific purposes. Grants in the United States are available to all states on the same basis, the amount varying according to the states' ability and willingness to contribute matching funds. The grants are not intended to equalize state resources. The system is frequently criticized on the grounds that the attached conditions in fact shift policy control from the states to the national government, but it is difficult for a state to refuse the offered funds. Another criticism is that, in order to match the grants, the states must divert funds from other important tasks to grant-aided programs, distorting state budgets and reducing their flexibility. On the other hand, the grants systems has enabled the states to undertake

[35] Ibid.

functions and services that otherwise could be performed only by the national government or not al all.[36]

7. Conclusion

The meaning of federalism is not a fixed point on a map but a tendency which is neither unitary nor separatist. Riker's definition of a federal government is a political organization in which the activities of government are divided between regional governments and a central government in such a way that each kind of government has some activities on which it makes final decisions.

The federal idea is a concept of government by which a sovereign people, for their greater progress and protection, yield a portion of their sovereignty to a political system that has more than one center of sovereign power, energy, and creativity. No one of these centers or levels has the power to destroy another. A federal government is to be distinguished from a confederacy, in which the central government is dependent on the regional government, and from a unitary system, in which the regional governments are dependent on the general government.

It must also be noted that federalism is not necessarily appropriate everywhere. Lalande has emphasized that the federal structure is not well suited to countries where majority rights are fundamental or where sovereignty is seen as one and indivisible, that is, where a concern for unity overrides considerations of diversity.[37]

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[36] Ibid.

[37] Lemco, Jonathan. *Political Stability in Federal Governments*. Praeger Publishers, New York. 1991. p. 2.

Federalism tends to be used in two kinds of countries, either in relatively large countries or in plural societies. In plural societies, federalism performs the special function of giving autonomy to ethnic minorities

There is a strong empirical relationship between the bicameral-unicameral and federal-unitary dichotomies. All formally federal systems have bicameral legislatures, whereas some nonfederal systems have bicameral and others unicameral parliaments. As the degree of federalism and decentralization increases, a shift from unicameralism to bicameralism takes place and then the strength of bicameralism increases. The next chapter describes the three countries of the United States, India, and Belgium as models that can provide Indonesia with good examples of how federalism works and how to shift from a unitary form towards a federal form.

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III. FEDERALISM IN DIFFERENT COUNTRIES (LESSONS LEARNED)

A. UNITED STATES

The United States is the classic exemplar of federal democracy. Alexis de Tocqueville wrote in 1831 that the

> constitution of the United States is an admirable work, nevertheless one may believe that its founders would not have succeeded, had not the previous 150 years given the different States of Union the taste for, and the practice of, provincial government.[38]

What Tocqueville most admired about American federalism was precisely its more statist and centralized aspects, the fact that the central government had its own fiscal basis and capacity to act upon individual citizens directly or by force if necessary, independent of its member-states. He was especially appreciative of the role of the Supreme Court in its capability to declare state laws incompatible with federal ones. He also was not favorably impressed by the fact that the ordinary policing of citizen behavior was so variable from one state to another, considering this as no better than a necessary evil.[39]

The United States and its Constitution were creations of an era when philosophers considered the nature of government and the ideal relationship between the government and its citizens. The genius of the drafters lay in their invention of a system of government that shared power among governments and citizens in a way that would

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[38] Ordeshook Peter C. &, Shvetsova, Olga. "Federalism and Constitutional Design". *Journal of Democracy*. Volume 8, Number 1 January 1997. p. 27.

[39] Schmitter, Philippe C., "Federalism and The Euro-Polity". *Journal of Democracy*. Volume 11, Number 1 January 2000.p. 41.

assure the greatest benefits of liberty and good government, a system that could change and grow to accommodate new needs as the country inevitably grew.

The Constitution was designed to serve both liberty and republicanism. The contradictory implications of these principles for the distribution of political power set the stage for the invention of U.S. federalism. Constitutional federalism strengthened the national government while conserving a large amount of state power. It created a structure that permitted a secure government to form without requiring the assembly to resolve all its conflicting ideals and interests.[40]

1. Evolution of Federalism

First of all, the Civil War (1860-1865) increased the power of the federal government. However, the federal government had been providing aid to states and localities in the forms of grants-in-aid since early in the 19th century without much complaint from the states. In fact, the states had more power than the national government for most of that century. Strong states and a weak federal government were known as dual federalism. [41]

Secondly, the Great Depression of the 1930's increased the power of the federal government as the federal government took measures to get the country out of the economic depression. The New Deal, policies of President Franklin Delano Roosevelt (1932-1940)[42], expanded both the scope and power of the federal government in many

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[40] Ibid.

[41] Vadi, Jose. *Political Science-Introduction to American Government.* Available [Online]: http://www.csupomona.edu/~jmvadi/201/federalism.html, 24 June 1998. p. 1.

[42] *The Encyclopedia Americana.* International Edition. Vol 20, Grolier Incorporated. 1999. pp. 169 170.

ways. This expanded role of the federal government based on a partnership with states was known as cooperative federalism.[43]

Thirdly, The New Deal Coalition, made up of groups that supported the policies of Franklin Roosevelt, remained the dominant political force in the United States until the late 1960's. Cooperative federalism continued through the administration of John F. Kennedy (1960-1963) and Lyndon Johnson (1964-1968) but with a greater emphasis on targeted aid to the poor in the form of categorical grants, for example, money provided by the federal government to states but limited as to the purposes for which they could be spent. It was at this point that an outcry developed about an intrusive and domineering federal government.[44]

Then, Richard Nixon (1968-1974) and Ronald Reagan (1981-1988) were elected running against the federal government. They instituted programs such as General Revenue Sharing (Nixon) and block grants (Nixon and Reagan) which shifted some power and revenues back to the states and localities. The policies of the Nixon and Reagan eras are known as the *New Federalism* and they have carried over into the Bush and Clinton era.[45]

2. The Relationship between States and the National Government

The Constitution sets up a federal system of government by dividing powers between the national, state and local governments. Two characteristics of this three-tier system of American government are fundamental. First, citizens elect officials to serve in

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[43] Vadi, Jose. *Political Science-Introduction to American Government.* Available [Online]: http://www.csupomona.edu/~jmvadi/201/federalism.html, 24 Junel998. p. 1.

[44] Ibid.

[45] Ibid.

the national, state and local governments. The authority of each level rests with the people. Second, each level of government raises money through taxation from the citizens living in the area it serves. Unless each level of government can raise its own fiscal resources, it cannot act independently.[46]

The idea of separating powers among the various elements of government was designed to restrict governmental power and prevent its abuse. Wherever possible, the Founding Fathers built a system of "checks and balances" into the Constitution so that no one part of the government could supplant the other.

The U.S. system of government is based on sharing, overlapping and competing powers of these levels of government. This relationship is a crucial source of tension and energy in the U.S. system of government.

3. Principles for Success

The success of American federalism has two interrelated sources: the structure of elections, and the constitutional weakness of the chief executive. The structure of elections makes political parties the critical integrating element of the state, while the constitutional weakness of the president and the decentralization of executive authority force the president, and each state governor, to govern through leadership and to use the integrating potential of his or her party to the maximum extent possible.[47]

An important implication of this argument is that no constitutional provision can be considered in isolation. The extent to which a federation is or is not integrated depends on the ways in which a wide variety of constitutional provisions interact, including the

[46] *Academic American Encyclopedia*. Vol.8. Grolier Incorporated, Danbury, Connecticut, 1994. p. 43.

[47] Ordeshook, Peter C.. & Shvetsova, Olga. "Federalism and Constitutional Design." *Journal of Democracy*. Volume 8, 1 January 1997.

structure of federal and regional elections and representation in the national legislature, the executive authority of the federal government vis-à-vis regional governments, and the legislative authority of the chief executive. A focus on those constitutional provisions traditionally and explicitly labeled "federal" can only accidentally yield an integrated federation and is more likely to yield undesired results.

4. The Limits of the U.S. Model

The U.S. model of federalism is "coming-together" in its origin, and "constitutionally symmetrical" in its structure. Despite the prestige of this U.S. model of federalism, it would seem to hold greater historical interest than contemporary attraction for other democracies.[48]

Many democratic federations emerged from a completely different historical and political logic, which Riker calls *holding-together federalism*.[49] India in late 1948, Belgium in 1969, and Spain in 1975 were all political systems with strong unitary features. Nevertheless, political leaders in these three multicultural polities came to the decision that the best way to hold the countries together in a democracy would be to develop power constitutionally and turn their threatened polities into federations. The 1950 Indian Constitution, the 1978 Spanish Constitution, and the 1993 Belgium constitution are all federal.

The U.S. Constitution establishes a form of symmetrical federalism, which is bolstered by a certain normative disinclination on the part of Americans to accept the concept of collective rights. With the exception of Switzerland, all of the multinational

[48] Stepan, Alfred. "Federalism and Democracy: Beyond the U.S. Model." *Journal of Democracy*. Volume 10, 4 October 1999. p. 32.

[49] Ibid., p. 22.

democracies are constitutionally asymmetrical. In order to hold the multinational polity together, they assign different linguistic, cultural, and legal competences to different states. Under the symmetrical American model, many of the things that are most essential in a multinational context cannot be accomplished. With the exception of Switzerland, all federations that are constitutionally symmetrical, Austria, Germany, Australia, the United States, Argentina, and Brazil, are mononational. India, Belgium, Canada, and Spain are multinational and their federations are all symmetrical.[50]

5. Conclusion

The United States is the classic exemplar of federal democracy. American federalism has precisely more statist and centralized aspects since the central government has its own fiscal basis and capacity to act upon individual citizens directly, by force if necessary, independent of its member-states.

The U.S. model of federalism is "coming-together" in its origin, and "constitutionally symmetrical" in its structure. Despite the prestige of this U.S. model of federalism, it would seem to hold greater historical interest than contemporary attraction for other democracies.

Finally, many of the new federations that could emerge from the currently nondemocratic parts of the world would probably be territorially based, multilingual, and multinational. So, very few, if any, such polities would attempt to consolidate democracy using the U.S. model of "coming-together" and symmetrical federalism.

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[50] Stepan, Alfred. "Federalism and Democracy: Beyond the U.S. Model".*Journal of Democracy.* Volume 10, 4 October 1999. p. 31.

B. INDIA

Officially the Republic of India, Hindi Bharat or Bharatavarsha is a country that occupies the greater part of South Asia. It is a constitutional republic consisting of 25 states, each with a substantial degree of control over its own affairs, and 7 less fully empowered union territories. The capital is New Delhi. With more than one-sixth of the world's total population, India is the second most populous country, after China.[51]

India came to independence in 1947 in the trauma of partition. The nationalist movement, led by Mohandas K. Gandhi and Jawaharlal Nehru, aimed to gather what was then British India plus 562 princely states under British paramountcy into a secular and democratic state. However, Mohammad Ali Jinnah, leader of the Muslim League, feared that his coreligionists, who made up almost a quarter of the subcontinent's population, would find themselves a permanent and embattled minority in a Hindu-dominated land. For Jinnah, India was "two nations," Hindu and Muslim, and he was determined that Muslims should secure protection in an Islamic State of Pakistan, made up of the Muslim majority areas of India.[52] In the violence that accompanied partition, some half a million people were killed, while upwards of 11 million Hindus and Muslims crossed the newly created borders as refugees. However, even all this bloodshed and suffering did not settle matters, for the creation of Pakistan left nearly half of the subcontinent's Muslims in India.

Muslims today are India's largest religious minority, accounting for 11 percent of the total population. Among other religious groups, the Sikhs, some of whom in 1947 had

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[51] *India-A Country Study. Library of Congress.* Available [Online]: http://lcweb2.loc.gov/frd/cs/intoc.html

[52] Hardgrave, Robert L., "The Challenge of Ethnic Conflict. India: The Dilemmas of Diversity". *Journal of Democracy.* Vol.4, No.4, October 1993. p. 54

sought an independent Sikhistan, are concentrated in the northern state of Punjab and number less than 2 percent of India's population. Christians, Buddhists, Jains, Parsees, and Jews add further richness to India's religious diversity, but their comparatively small number only accentuate the overwhelming proportion of Hindus, with some 83 percent of the population.[53]

The Hindus, although they share a common religious tradition, are themselves divided into a myriad of sects and are socially segmented by thousands of castes and hierarchically ranked according to tradition and regionally organized. The geographic regions of India are linguistically and culturally distinct. There are more than a dozen major languages, grouped into those of Dravidian South India and Indo-European (or Aryan) North India; Hindi, an Indo-European language spoken by 30 percent of all Indians, recognized by the Constitution of 1950 as the official language along with English.[54] In addition to the many Indo-European and Dravidian languages and dialects, there are various tribal languages spoken by people across India, most notably in southern Bihar and in the seven states of the Northeast.

In confronting this staggering diversity, the creators of India's Constitution sought to shape the overarching Indian identity even as they acknowledged the reality of pluralism by guaranteeing fundamental rights, in some cases through specific provisions for the protection of minorities. These include freedom of religion (Articles 25-28), the right of any section of citizens to use and conserve their "distinct language, script, and culture" (Article 29), and the right of "all minorities, whether based on religion or

[53]*CIA The World Fact Book 2000: India.* Available [Online] http://www.odci.gov/cia/publications/factbook/geos/in.html. 1 January 2000

[54]*India-A Country Study. Library of Congress.* Available [Online]: http://lcweb2.loc.gov/frd/cs/intoc.html

language," to establish and administer educational institutions of their choice (Article 30). With the respect to caste, the constitution declared the practice of "untouchability" unlawful (Article 17). To provide compensatory justice and open up opportunity, certain admissions to colleges and universities and places in government employment were "reserved" for the so called Scheduled Castes (untouchables) and Scheduled (aboriginal) Tribes (Article 335). Similarly, to ensure adequate political representation, Scheduled Castes and Tribes were allotted reserved seats in the Lok Sabha, the lower house of parliament, and in state legislatures in proportion to their numbers (Article 330). These reservations were to have ended in 1960, but they have been extended by constitutional amendment at ten-year intervals.[55]

Despite enormous pressures, India has been remarkably successful in accommodating cultural diversity and managing ethnic conflict through democratic institutions. This success has in large part been the product of that diversity itself, for at the national level, what Indians call "the center", no single ethnic group can dominate.[56] Each of the 25 states in India's federal system reflects a dominant ethno linguistic group, but these groups are in turn divided by caste, sect, religion, and a host of socioeconomic cleavages. Federalism provides a venue, however, flawed, for expressions of cultural distinctiveness, but it also serves to compartmentalize friction.

1. Federalism and the Party System

India is a federal system with a strong central government. The constitution also lists state and concurrent powers, but provides the center with a capacity to intervene in

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[55] Hardgrave. "The Challenge of Ethnic Conflict. India: The Dilemmas of Diversity". p. 55.

[56] *The Encyclopedia Americana*. International Edition. Vol.14. Grolier Incorporated, 1999. p. 933.

state affairs and even to dismiss elected state governments and impose its own authority through "President's Rule." Under Prime Minister Indira Gandhi, centralization of power increased dramatically, both within government and in the structure and operation of the ruling Congress party.[57] The results were an increasing imbalance in the relationship between the center and the states and growing demands for autonomy voiced by non-Hindi states. In Tamil Nadu, for example, anger at the status of Hindi as the national language was the catalyst for the rise to power of ethnoregional parties. Similar discontent was seen in Andhra, resulting in the victory of the Telugu Desam party; and in West Bengal, where the Communist Party (Marxist) functions as a regional party. Most notable, however, is the Punjab, where in 1982, the Sikh-dominated Akali Dal pushed demands for greater state autonomy and Sikh militants launched a campaign of terrorism for an independent nation of Khalistan.[58]

India's federal system once acted to compartmentalize social unrest, with political crises often containable within a single state or region. However, the centralization power also centralized problems, bringing to the desk of the prime minister issues once resolved at the state level. The balance, if it were restored through a devolution of power to the states, perhaps to an increased number of states and possibly "autonomous regions" within states. However, this devolution, if it were accompanied by the constitutional guarantee of civil rights and liberties, would ensure that all persons receive equal protection of the law. Among the many measures proposed for redressing the balance between the center and the states, the most compelling include an end to the arbitrary

[57] Hardgrave. "The Challenge of Ethnic Conflict. India: The Dilemmas of Diversity". p. 55.

[58] Ibid.

dismissal of state governments and imposition of President's Rule, a more equitable sharing of revenues, and a respect by the center for spheres of public policy that are properly state concerns.[59]

2. The Politics of Bargaining

Relations between New Delhi and the states have tended to remain manageable, though not trouble free, for four main reasons. First, powerful group demands seldom are aimed squarely at New Delhi, but instead usually grow out of conflicts within states. Second, most states contain so much sociocultural complexity and heterogeneity that there is little prospect for the kind of state-wide solidarity that secessionism requires. Third, Indians can and often do shift their preoccupations rather fluidly among the many identities, on local, subregional, or national identities, or on class, linguistic, or religious identities. Finally, federal-state relations remain generally manageable because India's formal and informal political institutions, despite their decay in recent decades, can still make the politics of bargaining work. All political parties have enough people with appropriate skills and attitudes to sustain the bargaining process.[60]

3. Conclusion

India's experiences allow us to draw some conclusions about the democratic management of ethnic and religious conflicts. Firstly, democratic conflict management requires a substantive distribution of power between the center and the periphery and among the various groups within the country.[61] A balance, if it were maintained between

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[59] *The Encyclopedia Americana.* International Edition. Vol.14. p. 933.

[60] Manor, James. "Making Federalism Work. India Defies the Odds." *Journal of Democracy,* Volume 9, Number 3 July 1998.pp. 22-23.

[61] Hardgrave. "The Challenge of Ethnic Conflict. India: The Dilemmas of Diversity". p. 67.

steps taken, would check tendencies toward the overcentralization of political power and steps taken to contain the centrifugal forces that can rip apart a multicultural state.

Secondly, there is also a tension between the liberal emphasis on individual rights and the assertion of group rights and identity, and the democratic polity must find its way towards balance here as well.

Then, historically, problems of ethnic and religious conflict in India have eased when political and group leaders have sought to deal with them through accommodation, bargaining, and the political process, and particularly when the center has sought accommodation with minority groups. Problems tend to get worse when the center intervenes directly to impose an outcome on a group or region asserting its independent interests and identity. Force alone has been unable to overcome separatist tendencies. If it is to be successfully applied, it must be accompanied by political dialogue and accommodation.

Compared to the United States or most other countries with federal systems, India has a highly centralized arrangement. The authorities in New Delhi possess very considerable powers over day-to-day workings of state government. They can also impose "president's rule" on any state, suspending or dissolving the Westminster-style cabinet government in that state and replacing it with direct rule by New Delhi. [62]

The "holding-together" characteristics of the creation of federalism in India differ from the "coming-together" characteristics associated with the creation of American-style federalism. India's draft constitution was designed to maintain the unity of India, or in

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[62] Ibid.

short, to hold it together. The Indian constitution was guided by principles and mechanism that were fundamentally different from those found in the United States, in that the Indian subunits had much less prior sovereignty than did the American states. Since they had less sovereignty, they therefore had much less bargaining power. The Indian federation was not created as the result of an arrangement among the states, but by an act of the constituent assembly.[63]

Direct Presidential rule is supposed to be invoked only in grave crises, but national-level leaders have sometimes abused it, using it to oust a state government headed by rival parties. When those in charge of the central government have dealt with the states in a spirit of accommodation, as they mostly did from 1947 to 1970, and also have done since the era of hung federal parliaments began in 1989, relations between the center and the states have tended to proceed fairly smoothly.

By "quarantining" most conflicts within individual regions, federalism helps the political system cope with strife.[64] The rough congruence between most state boundaries and those of linguistic regions, and hence distinctive social systems, mightily assists this process, as does the strong tendency of the Indian voters in the 1990s to support parties preoccupied with regional concerns.

Finally, it is worth noting that since 1991 the federal system has often aided the cause of economic reform by enabling New Delhi to "off-load" some of the pain associated with liberalization to state-level arenas, where the resulting tensions are

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[63] Stepan, Alfred. "Federalism and Democracy: Beyond the U.S. Model." *Journal of Democracy*, Volume 10, 4 October 1999. p. 32.

[64] Ibid.

largely quarantined. Many state level politicians have proven themselves highly adroit at the political management of reform, and some state governments have developed imaginative innovations in economic policy. All of this, combined with the generally cautious and limited nature of reforms, has helped to make them more politically unsustainable.

C. BELGIUM

Prior to 1970, Belgium was a unitary state. An unwritten rule prevailed that, except for the prime minister, the government must include as many Flemish as French-speaking ministers. Tensions that had been building throughout the 20th century between the two-ethno linguistic groups led to major administrative restructuring in the 1970s, '80s, and '90s.

A series of constitutional reforms dismantled the unitary state, culminating in the St. Michael's Agreement (September 1992) that laid the groundwork for the establishment of the federal state, approved by parliament in July 1993 and enshrined in a new, coordinated constitution in 1994. National authorities now share power with executive and legislative bodies representing the major politically defined regions (Flemish: *gewesten*; French: *régions*) of Belgium: the Flemish Region (Flanders), the Walloon Region (Wallonia), and the Brussels-Capital Region, and the major language "communities" of the country which are Flemish, French, and German. The regional authorities have primary responsibility for the environment, energy, agriculture, transportation, and public works. They share responsibility for economic matters, labor, and foreign trade with the national government, which also retains responsibility for

defense, foreign and monetary policy, and justice. The "community" councils have authority over cultural matters, including the use of language and education.

The redistribution followed two broad lines.[65] The first concerns linguistics and, more broadly, everything relating to culture. It gave rise to the Communities, a concept which refers to the persons which make them up and to the bond which unites them, in this case language and culture. Belgium is situated at the junction between the Latin and Germanic languages of Dutch, French and German. Thus, Belgium has three Communities today, based on language: the Flemish Community, the French Community and the German-speaking Community.

The second main line of State reform is historically inspired by economic concerns, expressed by Regions who wanted to have more autonomous power. This gave rise to the founding of three regions: the Flemish Region, the Brussels Capital Region and the Walloon Region. To some extent, the Belgian regions are similar to the American States or the German "Länder". The country is further divided into nine provinces, 10 as of 1 January 1995, and 589 communes.

By constitutionally recognizing three communities of the Flemish, the French and the German-speaking, and three regions of Flanders, Brussels-Capital and Wallonia, Belgium has become a modern and dynamic federal State.

The federal state retains important areas of competence including foreign affairs, defense, justice, finances, social security, and important sectors of public health and domestic affairs. The Regions and Communities are entitled to run foreign relations

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[65] *The Encyclopedia Americana.* International Edition. Vol. 4. Grolier Incorporated, 1999. p. 488.

themselves in those areas where they have competence. Reconciling regional and cultural identity and federal structure is not an easy task, but it does have the advantage of bringing the decision-making process closer to the people. The result is a more sharply defined political structure and greater emphasis on the quality of life.

The Belgian federal system is characterized by the three dominant features.[66] First of all, Belgian federalism is centrifugal by nature. Since their creation in 1970, the Communities and Regions have gradually acquired an increasing degree of autonomy. The centrifugal nature of Belgian federalism is the reason why residual jurisdiction has hitherto remained vested in the federal authority.

Secondly, Belgian federalism is essentially bipolar, which is the reason for various mechanisms found in it, such as the linguistic groups in the federal Parliament, the special majority federal-laws, the alarm-bell procedure, and the equal composition of the cabinet. In the bipolar federal state so far distinguished by the absence of any federal political parties, it is self-evidently more difficult to strike a balance between the requirements of the autonomy of the constituent units on the one hand, and effective central policy on the other.

A third characteristic is the increasingly territorial nature of Belgian federalism, which to some extent reflects what is known as the *ius soli*. The "personal" element (*ius personae*) is present in Belgian federalism, but only to a very minor extent. The fourth State reform of 1993 further accentuated this trend, not least by basing the composition of the Flemish Council and the Council of the French Community on the Regional Councils,

[66] Alen, André and Ergec, Rusen. *Federal Belgium After the Fourth State Reform of 1993*. 2nd edition. Ministry of Foreign Affairs, External Trade and Cooperation for Development. Brussels, August 1998.p. 31.

and the possibility of transferring jurisdiction from the French Community to the Walloon Region and to the French linguistic group on the Council of the Brussels-Capital Region.

These elements favor the predominance of the regional entity in the French-speaking part of the country; thereby accentuating the tendency towards asymmetry in the federated institutions. The set-up of the Belgian State is based on principle of territoriality which determines the use of languages, the geographical jurisdiction of the Communities and Regions and the composition of their Councils. The precedent of both the European Court of Human Rights and the Court of Arbitration has recognized the fundamental importance of the principal territoriality.

These are the three hallmark features of the Belgian institutional system, which is based on a judiciously interlocking set of balances. The mere fact that it has been possible to forge a consensus with this system in a wholly peaceful manner is in itself a remarkable achievement.

The Belgian Constitution of 1831 comprised 139 articles. The two Constitutional revisions of 1893 and 1921 concerned with extending the franchise and the four constitutional revisions of 1970, 1980, 1988 and 1993 concerned with the reform of the State, have wrought fundamental changes to the Belgian Constitution, not only to its length, but also and above all to its substance. To make the Constitution more readily comprehensible, the Constituent Assembly of 1994 rewrote the Constitution, rearranging the provisions in a more logical order and adapting its terminology to the new federal

structure of the State. The new coordinated Constitution was promulgated on 17 February 1994.[67]

1. The Reform of the State in Four Successive Constitutional Revisions (1970-1980-1988-1993)

At the time when Prime Minister G. Eyskens uttered in his parliamentary address of 18 February 1970 the historic words: "*The unitary State,* with its structure and functioning as currently regulated by the law, *has been overtaken by events",* the demerger of the Belgian broadcasting authorities and departments of national education was already a reality and the cardinal constitutional provisions of the first State reform, commenced in 1967 and completed in 1971, were in the process of being created. The Communities and Regions were to "take their place in renewed State structures more appropriate to the country's specific situations", as Prime Minister Eykens also said in the same address.[68]

Communitarization was a response to a long-standing demand of the Flemish Movement, which had always striven for genuine recognition and development of their own language and culture. Hence, the 1970 Constitution gave recognition to three "cultural Communities", the French, Dutch and German cultural communities, each equipped with its own Council vested with the powers to enact "decrees" with legislative force for the territories under their authority in matters relating to cultural affairs and, to a more limited extent, in education and the use of languages.

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67 *Encyclopædia Britannica. Belgium*. Britannica.com. Available [Online]: http://www.britannica.com/search?miid=1271543&query=Belgium,+history+of

68 Alen, André and Ergec, Rusen. *Federal Belgium After the Fourth State Reform of 1993*. 2nd edition. Ministry of Foreign Affairs, External Trade and Cooperation for Development. Brussels, August 1998. pp. 11-17.

In the 1980 Constitutional amendment," cultural autonomy" became "Community autonomy" following the extension of the communities' powers to the "personalized" services" and the acquisition of their own executive bodies. Thereafter, all references were simply to the Flemish community, the French Community and the German-speaking Community.[69]

In the 1988 revision of the Constitution, the autonomy of the Communities was further strengthened by the inclusion in Article 24 of guarantees in educational matters, assigning virtually exclusive responsibility for education to the communities.[70]

In 1993, The Constitution was amended to include a new provision-Article 138-empowering the French Community to vest the exercise of its jurisdiction, by mutual agreement, in the Walloon Region and the French linguistic group in the Council of the Brussels-capital Region. Where this is done, the Council and Government of the Walloon Region and the French linguistic group in the Council of the Brussels-capital Region and its committee, exercise by decree the powers and duties devolved to them by the French Community in the French-language area and the bilingual area of Brussels-Capital, respectively.

2. Conclusion

Belgium was a unitary and centralized state for along time, but starting in 1970, it gradually moved in the direction of both federalism and decentralization. In 1993, it formally became a federal state.

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[69] Forsyth, Murray. *Federalism and Nationalism*. St. Martin's Press. New York. 1989. p. 61.

[70] Ibid., p. 63.

The form of federalism adopted by Belgium is a "unique federalism" because it consists of three geographically defined regions, Flanders, Wallonia, and the bilingual capital of Brussels, and three nongeographically defined cultural communities, the large Flemish and French communities and the much smaller German-speaking community.[71] The main reason for the construction of this two-layer system was that the bilingual area of Brussels has a large majority of French-speakers, but that it is surrounded by Dutch-speaking Flanders. There is a considerable overlap between regions and communities, but they do not match exactly. Each has its own legislative and executive branches, except that in Flanders, the government of the Flemish community also serves as the government of the Flemish region.

In any overall assessment of the reform of the Belgian State, it is all too tempting to emphasize the more negative aspects of its complexity, notably due to the fact that the three communities and the three regions are not wholly congruent with one another, the complexity of the institutions in the Brussels-capital, for instance, the language issue and the laborious compromises it demands, and the bipolarity and centrifugal character which, on first sight, would seem to rule out any form of federal state system.[72] The federalization of the state seems not to have wholly checked the centrifugal momentum, given recent calls for the transfer of yet further powers and responsibilities to the federated entities. However, there is another side to the coin, as the following list shows:

- the allegiance owed to the federation by the federal authority and federated entities

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[71] *History and Politics: Belgium's Independence (1830-present time).* Available [Online]: http://www.belgium.fgov.be/abtb/history/en_303001.htm

[72] Alen, André and Ergec, Rusen. *Federal Belgium After the Fourth State Reform of 1993.* 2nd edition. Ministry of Foreign Affairs, External Trade and Cooperation for Development. Brussels, August 1998. p.

- the emphasis given to the international role of Brussels and its function as the capital, from which any form of sub-nationality is excluded
- the concept of economic and monetary union
- solidarity, manifested not least through the federal social security scheme
- the many avenues of cooperation.[73]

If the federal state is to operate in a constitutional manner; the element of "cohesion" must outweigh the element of "autonomy". That means that, alongside the diversity of the constituent units, there must also be a feeling of nationhood or solidarity. In the fourth State reform of 1993, the duty of allegiance to the federation by the federal State and the federated entities alike was enshrined in the constitution. The economy and the monetary union, combined with allegiance to the federation, are key factors of cohesion in Belgian State.

The factors for cohesion in the nation have consistently prevailed throughout the many quarrels between Belgium's communities. The skills of consensual democracy and federalism which Belgium has always cultivated will doubtless continue to prevail in the future, and may serve as a model for European Integration, and indeed other attempts to reconcile unity with diversity.

[73] *The Encyclopedia Americana.* International Edition. Vol. 4. Grolier Incorporated, 1999. p. 489.

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IV. INDONESIA

A. HISTORY OF FEDERALISM

The Republic of Indonesia became independent on August 17, 1945, when its independence was proclaimed just days after the Japanese surrender to the Allies. By early 1946, the Dutch authorities had given up as unrealistic the idea of resurrecting the Netherlands Indies and begun to accept, however reluctantly, the probability of some kind of Indonesian autonomy. In 1948, the Dutch had gained control of an extensive territory on Java and Sumatra, in addition to what they held elsewhere in the archipelago. Unwilling to transfer authority to an independent, archipelago-wide Republic, the Dutch began to develop an alternative successor to the Indies by creating federal states on its outer islands.

At first the Dutch had seen these federal states as a politically conservative counterweight to the Republican radicals on Java, and also as a way of easing the reunification of the archipelago following its administrative division under Japan's occupation. During the course of revolution, however, Dutch opinion shifted toward the idea of actually fragmenting the Indies. During 1948, the Dutch seriously considered granting independence to a federal state that would exclude a nationalist Republic and would be reduced to parts of Java and Sumatra, and toyed with encouraging separatist movements in West Java, Ambon, and the Minahasa area of northern Sulawesi. Not coincidentally, the Ambonese and Minahasans were largely Protestant populations.

When the Dutch attempted to eliminate the Republic once and for all by launching another "police action" against it at the close of 1948, they were surprised by

the nearly universal condemnation that their actions received from the ostensibly conservative leaders they had tried to coopt into a federal framework. Nor were the Dutch prepared for the effectiveness of the Republican guerilla resistance to their assault. Politically and militarilly at a loss, and under pressure from the United States to forestall a communist recovery by reaching a quick settlement with the more moderate Indonesian nationalists, the Dutch agreed to forego the period of transition to independence that they had previously demanded.[74] In December 1949, they transferred their sovereignty to an Indonesian state: the Republic of the United States of Indonesia (Republik Indonesia Serikat, or RIS).

Republik Indonesia Serikat was a federal state, in keeping with Dutch desires. However, by far its most popular and hence potentially most powerful constituent unit, was the unitary Republic of Indonesia. The territory of that Republic had been truncated and its sovereignty caged within a federal frame. It was still, however, powerfully legitimated by its origin in the pan-Indonesian nation-state that Sukarno and Hatta had declared in 1945.[75]

In 1950, Indonesian authorities were able to suppress the resulting Republic of the South Moluccas, a Christian Ambonese group traditionally favorable to Holland, but the attempted breakaway showed how far the centrifugal force of ethnicity mixed with the region and religion could go. By far the more enduring consequence of the Dutch experiment with federalism, however, was the stigmatizing of that concept by association with foreign intrigue to divide the country the better to rule it.

[74] Emmerson, Donald K., *Indonesia Beyond Suharto. Polity, Economy, Society, Transition*. M.E Sharpe and Asia Society. 1999. p. 25.

[75] Ibid.

The federal RIS lasted less than a year. Under nationalist pressure, all but one of its constituents dissolved themselves, finally leaving the original unitary Republic as the only member of the federation. This situation ended on August 17, 1950, when Sukarno, who was president of both the Republic and the RIS, formally abolished the latter. Similar to the original 1945 constitution, the charter of the now reenlarged Republic called for a unitary state. Therefore, the experience of living in federalism (1949-1950) created a negative image about federalism for most people in Indonesia.

B. SOCIOECONOMIC-ISSUES

After living 50 years in a unitary state, once again, federalism has become the demand of some provinces. The demand for a federal system in Indonesia is largely the product of a feeling of injustice against central government, and its abuse of local revenue distribution accompanied by authoritarian actions by members of the armed forces and government officials. The socioeconomic gap from one region to another has much to do with the unfair implementation of the administrative system, which has only benefited the central government. Besides this situation, the unitary system, which is a highly centralized system, encouraged the growth of corruption in the central government while at the same time stifling genuine development initiatives in the regions as well. This had created an unhealthy undercurrent of resentment against the system, which has been surfacing in different ways for the past several years. In this case, the long-standing unitary state had failed to maintain the public's trust in the government. This system also failed to achieve equal justice and welfare for all Indonesians. Therefore, this system created an unhealthy situation in Indonesia as seen from the many conflicts occurring in some places.

1. The Current Troubled Areas

a. Molucca (Maluku)[76]

Before the arrival of the Europeans, most of the Spice Islands formerly known as the Moluccas were ruled by local rajas and many were Muslims. The Portuguese introduced Catholicism and the Dutch rule, which was firmly established in the early 19th century. Christians made the Ambonese more loyal colonial subjects than the Muslim Javanese which was the majority population in the Dutch Indies. After Indonesia's independence, Christians and Muslims co-existed in relative peace for decades. In January 1999, bloody clashes erupted between Christians and Muslims throughout the Moluccas. By the end of 1999, the Molucas were on the verge of civil war.

The roots of the conflict can be traced back to the religious division on the islands. The situation deteriorated when a Christian, Colonel Dicky Watimena, served as Mayor of the City of Ambon, the capital of the Molucca province, between 1985-1991. He subdued areas controlled by Muslim migrants from Sulawesi. This influx of 'new Muslims' from other areas of the archipelago upset the delicate religious balance on some of the Moluccan islands.

The situation was reversed when a Muslim, Mohammad Akib Latuconsina, became governor of the province in 1992. All important positions in the administration traditionally filled with Christians, were replaced by Muslims. All newcomers were Muslims. Fights among Christian and Muslim youth gangs erupted within a few years Ambon was ready to explode. Indonesia's economic crisis has made

[76] *Jane's Intelligence Review*. "Centrifugal forces stir in Indonesia". June 2000. pp. 24-26.

competition for job and business opportunities fiercer. Although a semblance of peace and order has returned to the Moluccas, it remains one of Indonesia's potentially most explosive powder kegs. Many Ambonese have revived their dreams of an independent Christian republic.

b. Aceh[77]

On the northern tip of Sumatra, Aceh was the first province to demand a referendum after the vote in East Timor. In November 1999, nearly two million of the province's five million inhabitants rallied for a referendum and an end to military violence.

Once independent, Aceh was conquered by the Dutch in the late of the 19th century. Aceh resistance against the Dutch continued and although Indonesia became a unitary state in 1950, Aceh was promised 'special territory status' in 1959. Demands for separation from Indonesia were raised and armed resistance broke out. It was not until December 1976 that Hasan Tiro, a descendant of the old sultans, returned from exile in the United States and declared Aceh an independent state.

In the early 1979, Tiro left Aceh for exile in Sweden. His Aceh-Sumatra National Liberation Front or Free Aceh Movement (GAM) continued the guerilla campaign from jungle hideouts in the province. Today, Aceh poses the most serious challenge to Indonesia's unity and Indonesia's rigid unity poses the most serious threat to workable federalism. GAM is stronger and much better armed than any other separatist group in the country. Aceh is important to Indonesia. If it broke away, Indonesia would suffer a severe psychological blow. Also, the province is very rich in oil and gas.

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[77] Ibid.

c. *West Papua (Irian Jaya)*[78]

The western half of the island of New Guinea, the world's largest tropical island, constitutes the Indonesian province of West Papua, formerly known as Irian Jaya. The interior is rugged and densely forested. Its more than 1.6 million people live mostly along the coast, leaving large swaths of the province's 163,000 square miles (423,800 square kilometers) sparsely populated.

New Guinea's eastern half, Papua New Guinea, became an independent state in 1975. The Dutch-controlled western half declared independence in 1961 but became part of Indonesia two years later.

The United Nations recognized Indonesia's claim to the territory in 1969 when 1,000 ethnic Papuan delegates, representing a population of 800,000, voted to become Indonesia's 26th province, and its largest, embracing 22 percent of Indonesia's territory. The government wants to maintain a firm hold on West Papua. It has relocated at least 200,000 people from Java to "transmigration" camps in the vast province, and another 50,000 have moved there voluntarily. West Papua has abundant natural resources, many of them still untapped, that include spices, copra, timber, crude oil, uranium, and the world's largest concentrations of gold and copper.

West Papua's indigenous population is mostly Melanesian and Christian, ethnically and culturally different from Indonesia's predominantly Muslim majority. Resentment toward the government boiled over in the 1970s and 1980s, and thousands of separatist Papuans were killed during clashes with the Indonesian army. Some guerrillas,

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[78] Ibid., p. 25.

part of the Free Papua Movement, still operate in the region along West Papua's border with Papua New Guinea.

In June 2000, a Papua People's Congress recommended independence from Indonesia, contending West Papua has never legally been part of Indonesia. Indonesian President Abdurrahman Wahid responded that the congress does not represent the wishes of a majority of the province and that the congress excluded anti-independence voices.

d. Riau[79]

In April 1999, people gathered near Pekanbaru in oil-rich Riau which accounts for 15% of Indonesia's revenues, on Sumatra to demand that the government honor a promise to deliver 10% of all revenues back to the province. If not, they would fight for independence. Local activists claim that the province receives a mere 0.02% of its contributions in return through the national development budget. Saleh Djasit, governor of Riau said that "Our heart is still in Indonesia. The people just want a better balance of wealth."

e. Celebes (Sulawesi) And Borneo (Kalimantan)[80]

In early 1999, the Sambas area of West Borneo saw some of the country's most vicious ethnic killings in recent years. The conflict did not follow "normal ethnic and religious patterns. Local Malay Muslims, and indigenous Animist and Christian Dayaks confronted Muslim settlers from the island of Madura off Java.

In West Borneo, relative harmony between the Malays and the Dayaks has prevailed for generations. The balance was upset by a massive influx of Madurese,

[79] Ibid., p. 26.

[80] Ibid.

brought to Borneo under the transmigration program. The bloody clashes in Sambas were not separatist per se, but could give rise to regionalist sentiments if the rights and needs of the local people were not safeguarded.

In February 2001, the Dayaks turned against the Madurese immigrant minority and slaughtered hundreds of people in a spate of bloody violence. Thousands have been evacuated from the strife-torn areas, but the military and police seem powerless to protect a terrified community attempting to flee. .

Similar problems exist on the nearby island of Celebes, with many different ethnic and religious groups, as well as migrants.

2. The Current Situation in Indonesia

Run as a dictatorship for more than 30 years, Indonesia was rife with corruption, desperately short of honest judges and policemen, and full of groups with the money, the arms and influence to cause trouble. On top of all that, the country's first democratically elected president in 1999 inherited an economy crippled and collapsing under their debts.

The economic crises in 1997 hit many Asian countries, but Indonesia is the only one that has to contend with political, economic, security, social, and ethnic problems, all simultaneously. Indonesia's economy collapsed even more spectacularly during the East Asian Crisis of 1997-1998 than did those of its neighbors. Real GDP fell by 20 % in 18 months and at one point the country's currency, the rupiah, had lost over 85% of its value against the dollars.[81] However, the economy's ruination brought the possibility of political rebirth. President Suharto resigned after 32 years in power. The military-backed regime that he had created began to crumble. The ruling Golkar party was no longer able

[81] "A survey of Indonesia. The Faltering Firefighter". *The Economist.* July 8th 2000. p. 20.

to decide who was going to be allowed to win an election. After only 17 months in power, Mr. Habibie followed his change-blocking predecessor into retirement.

Following years of military repression, Indonesia's new president, Abdurrahman Wahid, adopted a new approach to solving ethnic and religious conflict in the archipelago. He has apologized to the people of East Timor, Aceh, and west Papua for past misdeeds of the army, pledged to withdraw troops and listen to local grievances. He has even promised to consider autonomy for certain parts of the country and the assurance of a fair share of the natural resources in the areas instead of concentrating all the wealth in the capital, Jakarta. The long-standing unitary state had failed to maintain the public's trust in the government. This system failed to achieve equal justice and welfare for all Indonesians as demanded by the government and instead also created a demand for a federal system.

The problem with dealing the federalism issue in Indonesia is that the term "federalism" is still negative for most of the people of Indonesia because of historical reasons of Dutch colonialization and the lack of understanding about the idea and concept of federalism. Most Indonesians still think that federalism is equal to separatism. They are used to misjudging the federalism idea in the name of unity and for historical reasons. They also felt emotionally and politically bound to the constitution, which stipulates that Indonesia is a unitary state.

The supporters of a unitary state, which include government, many of the main political parties, such as the Indonesian Democratic Party of Struggle, Golkar and the Indonesia Military, still hold the high ground and can convince society to preserve the

unitary state system. The big challenge for the federalists is the public's perception that their ideas are too new and that they lack understanding of the central issues.

In addition, the unitary state ideology is already deeply ingrained. The whole process would require an agreement on an overhaul of the current system, as well as major provincial details to be worked out such as tax raising powers, for example, and the equally major details to be agreed upon in the realm of defense, foreign and central monetary policies. Therefore, a centralized government is no longer compatible for Indonesia.

In order to deal with this issue, the essence of federalism has been adopted in a new bill (No. 22/1999 about Regional Government) known as "wide-ranging autonomy". Thus, according to Riker's classification about degrees of federalism and decentralization, Indonesia can be categorized as "unitary and decentralized".

A Regional Government Bill was passed on 22 April 1999 under the presidency of Habibie, promising more power and government funds to the provinces. President Wahid may go even further and create real autonomous provinces, a partial return to the principles under which Indonesia was founded. This new bill has several notable strengths and weaknesses.

a. Strengths[82]

The new bill responded to some criticism of the previous bill's emphasis on autonomy as a responsibility rather than being a right. The new bill stipulated balance. Chapter 1 provided that government activities are based on the principle of

[82] Erawan, I Ketut Putra. "Political Reform and Regional Politics in Indonesia". *Asian Survey.* vol. XXXIX, No.4, July/August 1999.p. 606.

decentralization, while Chapter 4 stated that the regional/local government is created with the right to rule and regulate the interests of society based on society initiatives. The regions have authority over all government activities except foreign policy, security and defense, the judiciary, and other activities specified by government regulation (Chapter 7). In addition, the hierarchical relationship between the first and the second administrative levels, such as between the provinces and the district or municipality, was eliminated (Chapter 4). All these chapters seem to provide the local government with more power.

Unlike Bill 5/1974, which identified the legislature as part of the regional government, Chapter 14 of the new bill separates the legislature. The bill also returns some of the legislature's lost authority. For example, Chapter 19 stipulates that it has the right to hold the local executive accountable, and also to conduct investigations in the interest of society. Giving it parity with the executive body, the legislative body now has the right to represent the region at the national level (Chapter 20). One important innovation is that legislators can no longer be sued for any statement they make in a legislative meeting (Chapter 27), which will prevent nuisance litigation aimed at recalling critical members, as had occasionally occurred previously.

While the position of the legislature has been strengthened, that of the executive is now weaker. At the regional level, it has been made responsible to the legislature (Chapter 40). If an executive's exercise of his or her responsibilities is deemed unacceptable by the legislature on two occasions, he or she may be removed from office. Furthermore, if there is no significant lack of public confidence in the performance of the

regional government, the executive can also be requested to step down (Chapter 49). The atmosphere of reform seems to resonate in these provisions.

Regarding candidates for regional executive offices, Bill 5/1974 required that they have government experience. This requirement gave individuals with a bureaucratic or armed forces background an advantage. There is no such requirement in the new bill. Candidates are required to have lived for at least a year in the country if running for governor or in the relevant province if vying for district head or mayor. They are also obligated to present their vision, mission, and policy plans at a legislative meeting (Chapter 33, Section 2). During that session, they must respond to questions asked by legislators. These requirements were designed to select more locally rooted regional leaders.

b. Weaknesses[83]

While the relationship between the regional executive body and legislature will be more balanced, the new bill did not change the substance of inter-level, vertical relationships. The central government still has ultimate authority in virtually all matters. For example, Chapter 2 of the new bill indicates that the province is both an autonomous and an administrative entity. As an administrative apparatus, the provincial government is therefore the local representative of central authority. In the previous experience, this ambivalence was the source of and justification for central political involvement in regional political and governmental affairs. In terms of elections for governor, the bill requires that the legislature consult the president over potential candidates (Chapter 38).

[83] Ibid., p. 607.

The central government's involvement in such elections has more often exacerbated existing frictions than resolved them, as discussed previously.

There is also a stipulation that gives the central government the right to remove regional leaders from office if they are involved in what is termed "clandestine activities." However, the bill does not specify what is meant by this term, which leave it open to wide interpretation and the potential for politically motivated abuse. Furthermore, Chapter 50 gives the president the right to remove regional leaders without agreement of the local legislature indicating that much of the political power remains in the hands of the center.

Other parts of the new bill reflect the continuation of centralized power. Chapter 81 states that regional governments can borrow funds from international sources only with the agreement of the central government. This makes obtaining the agreement of the central authority the most important factor in such cases.

Finally, the power to create, dissolve, or merge autonomous regions is given under Chapter 115 to a central government institution, the Consultative Assembly for Autonomous Regions (DPOD) chaired by the Minister of Home Affairs. The Finance Minister will give these institution recommendations concerning various important matters affecting the regions, and the DPOD can also make changes to the center regional financial balance. While Assembly membership will include regional representatives, they may not constitute a majority.

C. CONCLUSION

To most people in Indonesia, the failure of federalism in 1950 made federalism even less attractive than the unitary system. The philosophy behind the Unitary State was

that a pluralistic country like Indonesia could only be independent and strong if it was firmly united and integrated. This was obviously the answer to the Dutch colonial practice of divide and rule. Hence, the national motto was "Bhinneka Tunggal Ika" (unity in diversity)

After living 50 years in a unitary state, once again, federalism has become one of the issues that is quite complicated because some provinces are seriously demanding the implementation of federalism. The demands for a federal system in Indonesia are largely the product of a feeling of injustice against the central government, and its abuse of local revenue distribution accompanied by authoritarian actions by members of the armed forces and government officials. In this case, the unitary state had failed to achieve equal justice and welfare for all Indonesians.

The problem with dealing with the federalism issue in Indonesia is that federalism terminology still has a negative impact on most of Indonesia's people for the historical reason of Dutch colonialization, and the lack of understanding about the idea and concept of federalism.

In order to deal with this issue, Indonesia's government has adopted a new approach to solving these problems by using the essence of federalism, such as considering autonomy for certain parts of the country and the assurance of a fair share of the natural resources in the areas, instead of concentrating all the wealth in the capital of Jakarta.

A Regional Government Bill promises more power and government funds to the provinces, and even further creates real autonomous provinces, a partial return to the

principles under which Indonesia was founded. This new bill has several notable strengths and weaknesses. On the positive side, it indicated a significant effort to balance the competing interpretations of autonomy as a right or as a responsibility, it empowered the local legislative body over the executive, thus correcting the definition of government, and it opened the recruitment process. Its problems include continued central government dominance and a lack of clarity with respect to balancing financial resources between the central and regional governments.

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V. FEDERALISM IN INDONESIA

A. THE LIKELY IMPACTS OF IMPLEMENTING FEDERALISM IN INDONESIA

There is a great need to reconsider the potential risks and benefits of federalism. The greatest risk is that federal arrangements can offer opportunities for ethnic nationalists to mobilize their resources for independence. Of the nine states that once made up communist Europe, six were unitary and three were federal. The six unitary states are now five states, while the three federal states are now 22 independent states. Most of post communist Europe's ethnocracies and ethnic bloodshed have occurred within these post federal states. [84]

Yet despite these potential problems, federal rather than unitary states are the form most often associated with multinational democracies. Federal states are also associated with large populations, extensive territories, and democracies with territorially based linguistic fragmentation. Although there are many multinational polities in the world, few of them are democracies. Those multinational democracies that do exist are all federal such as in Belgium and India.

Considering the case of Indonesia, it seems to meet some indicators for a successful federal state. It has a population of over 200 million, and its territory is spread across more than 2,000 inhabited islands. It has great linguistic and ethnic fragmentation and many religions. Thus, it is near the top in virtually all the categories associated with federalism. If Indonesia were to become a democracy, one would think that it would have

[84] Stepan, Alfred. "Federalism and Democracy: Beyond the U.S. Model". *Journal of Democracy.* Volume 10, Number 4, October 1999. p. 19.

to address the question of federalism or decentralization. Indonesia should at least consider the concept of federalism to deal with special jurisdictions like Aceh or Papua.

Looking at the situation in Indonesia, implementing federalism could create benefits and risks. In this case, the potential benefits of federalism for Indonesia are:

- Maintaining national integration. Meeting the increasing demands for referenda in Aceh and Papua
- Preventing the concentration of unchecked power in the central government
- Solving the problem of economic and regional equality issues such as efficiency, effectiveness, and fairness that are caused by a highly centralized government
- Creating and maintaining a nation while preserving the identity and traditions of the constituent units
- Increasing democratization. Checks and balances mechanism informed by the concept of federalism prevent excesses and invites the full, free play of innovation and initiative. This balance is essentially achieved by the division of powers between the national and state governments; the separation of legislative, executive, and judicial authority; the absence of monolithic national parties; the competitive action of commercial enterprise; and above all the freedom of individual initiatives, rooted in a basic and unwavering belief in the dignity of the human person.
- Increasing human resources in the regional governments (local leaders)
- Reducing corruption in the central government. A highly centralized system encouraged the growth of corruption at the central government while at the same time stifling genuine development initiatives in the regions.
- Reducing the military's role in the regional government. This likely impact emerges from the student's argument that a move towards federalism also addresses the possible impact on the army of such a reform. A reduction in the power of the military would mean a gradual elimination of their involvement in local politics and economic development.
- Avoiding dictatorship. Federalism and dictatorship are incompatible because the regional governments have no effective autonomy under dictatorship, and implementing federalism provide more effective autonomy to the regional governments.

- Providing the best government possible for a nation of considerable ethnic, regional and religious disparity. A centralized federal government that protects the national interests and the governments of the constituent units that protect local and regional interests are the most responsive administrative forms for a society of great diversity.
- Creating an independent central bank. The five central banks with the greatest independence all operate in federal systems: Germany, Switzerland, the United States, Austria, and Canada.

On the other hand, federalism applied in Indonesia could create risks as well.

Hence, the potential risks of federalism for Indonesia are:

- Disintegration. This is the greatest perceived risk because the nation building process in Indonesia has been postponed and has not yet been finished. It can be seen from the conflicts that happen in Indonesia such as Molucca (religious conflict), Borneo (Ethnic conflict), Aceh and Papua (separatism). Besides conflicts, Indonesia is an archipelago country that will create another problem because provinces will think about a dividing sea which is very complicated.
- Problems will occur in provinces that have only a few resources and are not ready to adopt federalism, such as the Nusa Tenggara Timur province next to East Timor, and Central Celebes. These provinces will suffer because of limited resources and dependence on funds and subsidies from the central government. On the other hand, the provinces that have a lot of resources would feel that poor provinces will become burdens on them, and these rich provinces would start to think about separating from Indonesia and becoming independent.
- In a multiethnic state like Indonesia, the implementation of federalism would give rise to racial animosity. There will be a massive flow of migrants into wealthy states, prompting, at the worst, conflicts and clashes between them and local people over sources of living. The fact that not all provinces are blessed with natural resources should become another consideration before establishing federalism.
- Move corruption from the central government to regional governments. Corruption in Indonesia takes place at every level of government. With this situation, implementing federalism just shifts corruption in Jakarta towards the provinces. Regional governments are assumed to be either corrupt or subject to corruption and because regional elections are seen as easy targets for fraud, regional and local elections either are postponed until a degree of political stability emerges at the national level or are subjected to strict oversight and control by the national government.

- The central government will lose a lot of power in order to control regional governments, unless they conflict with federal laws

B. WHAT ARE THE REQUIREMENTS FOR INDONESIA TO MAKE FEDERALISM WORK SUCCESSFULLY

Indonesia needs some conditions to make federalism work successfully when first becoming a federal state. Lemco provides some necessary conditions for political stability at the inception of federal states. The conditions contribute to federal stability that are suitable for Indonesia include:

- A bicameral form of government. A bicameral legislature with a strong federal chamber to represent the constituent regions.
- A written, flexible constitution specifying center-constituent unit powers
- A desire to be independent of foreign powers, which makes union a necessity
- A hope of economic advantage and the desire for an improved economic condition
- The similarity of political and social institutions
- The existence of uniformity among states of size, culture, and political and social development
- The existence of unifying spiritual, emotional, or ideological forces
- The presence of flexible elites
- The presence of territorial or spatial divisions of power
- The need for administrative efficiency
- The presence of independent sources of political, financial, and military power for the central government[85]

According to conditions in Indonesia right now, Indonesia has some of Lemco's conditions such as:

- A hope of economic advantage and the desire for an improved economic condition
- A similarity of political institutions

[85] Ibid. pp. 10-15.

- The existence of uniformity among states of size, culture, and political and social development
- The existence of unifying spiritual, emotional, or ideological forces
- The presence of independent sources of political, financial, and military power for the central government.

Therefore, Indonesians need to work hard on being able to create other conditions for political stability at the inception of Indonesia as a federal state such as:

- A bicameral form of government
- A written, flexible constitution specifying center-constituent unit powers
- Geographical proximity among states, and the presence of flexible elites

Federalist theorists often identify several secondary characteristics of federalism:

- A bicameral legislature with a strong federal chamber to represent the constituent regions
- A supreme court or special constitutional court that can protect the constitution by means of its powers of judicial review.[86]

Indonesia should then shift from a unicameral legislature towards a bicameral legislature and increase the role of the Supreme Court to be more independent in order to make federalism work successfully.

Another of federalism's institutional requirements is that both the central government and the regional governments must both participate in the procedure of amending the constitution. If the two levels of government are to remain independent of each other, neither can take powers from the other; but the constitution, to be flexible, must be amendable to change. Every federal state, therefore, has an amending procedure that requires a measure of consent from both the central and regional governments.

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[86] Ibid.

C. CONCLUSION

There is a great need to reconsider the potential risks and benefits of federalism in Indonesia. In the case of Indonesia, there will likely be both positive and negative impacts from implementing federalism. Lemco provides conditions that are necessary for political stability at the inception of federal states. Creating such conditions will require a lot work, beyond dealing with current day-to-day events and problems, such as political disputes, ethnic and religion conflicts, foreign debt, and constitutional debates, that are as complicated as the federalism issues.

VI. CONCLUSIONS AND RECOMMENDATIONS

A. CONCLUSIONS

1. Federalism

The meaning of federalism is not a fixed point on a map but a tendency which is neither unitary nor separatist. Riker's definition of a federal government is

> a political organization in which the activities of government are divided between regional governments and a central government in such a way that each kind of government has some activities on which it makes final decisions.[87]

The federal idea is a concept of government by which a sovereign people, for their greater progress and protection, yield a portion of their sovereignty to a political system that has more than one center of sovereign power, energy, and creativity. None of these centers or levels has the power to destroy another.

Federalism tends to be used in two kinds of countries. Those that are relatively large countries or plural societies. In the plural societies, federalism performs the special function of giving autonomy to ethnic minorities

There is a strong empirical relationship between the bicameral-unicameral and federal-unitary dichotomies. All formally federal systems have bicameral legislatures, whereas some nonfederal systems have bicameral legislatures and others unicameral parliaments. As the degree of federalism and decentralization increases, a shift from unicameralism to bicameralism takes place and then the strength of bicameralism increases.

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[87] Lemco, Jonathan. *Political Stability in Federal Governments*. Praeger Publishers. New York. 1991. p. 6.

2. Lessons Learned from the United States, India and Belgium

The United States is the classic exemplar of federal democracy. The U.S. model of federalism is "coming-together" in its origin, and "constitutionally symmetrical" in its structure. Very few, if any, such polities would attempt to consolidate democracy using the U.S. model of "coming-together" and symmetrical federalism. American-style federalism embodies some values that would be very inappropriate for many democratizing countries, especially multinational polities.

India's experiences draw some conclusions about the democratic management of ethnic and religious conflict. Compared to the United States or most other countries with federal systems, India has a highly centralized arrangement. The "holding-together" characteristics of the creation of federalism in India differ from the "coming-together" characteristics associated with the creation of American-style federalism. India's draft constitution was designed to maintain the unity of India, in short, to hold it together. The Indian constitution was guided by principles and mechanism that were fundamentally different from those found in the United States, in that the Indian sub units had much less prior sovereignty than did the American states.

Belgium was a unitary and centralized state for a long time, but from 1970 on, it gradually moved in the direction of both federalism and decentralization. In 1993, it formally became a federal state. The form of federalism adopted by Belgium consists of the three geographically defined regions of Flanders, Wallonia, and the bilingual capital of Brussels, and the three nongeographically defined cultural communities of the large Flemish and French communities and the much smaller German-speaking community.[88]

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[88] *History and Politics: Belgium's Independence (1830-present time)*. Available [Online]:

3. Federalism in Indonesia

The economic crises hit many Asian countries, but Indonesia is the only one that has to contend with political, economic, security, social, and ethnic problems, all simultaneously. Indonesia is a developing country of more than 200 million people with 300 ethnic groups scattered over a thousand islands, with a history punctured by instability and turbulence, and a relatively young and restless nationalism. Such is the enormity of its challenges that Thomas Friedman has called Indonesia, along with Russia, a "messy state... too big to fail, and too messy to work."[89]

It is impossible for the nation to maintain a unity without a fair division of power and income between regional and central governments. Riau and East Borneo have demanded a federal state while Aceh and Papua have demanded independence as a result of unfair distribution of power and wealth to the provinces in the past.

The demands for a federal system is largely the product of a feeling of injustice against the central government, and its abuse of local revenue distribution accompanied by authoritarian actions by members of the armed forces and government officials. This had created an unhealthy undercurrent of resentment against the system, which has been surfacing in different ways for several years now.

The case of Indonesia seems to meet some indicators for a successful federal state. It has population of over 200 million, and its territory is spread across more than 2,000 inhabited islands. It has great linguistic and ethnic fragmentation and many

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http://www.belgium.fgov.be/abtb/history/en_303001.htm

[89] Friedman, Thomas quoted in Dino Patti Djalal. *Indonesia: Not There Yet, Getting There.* Online available: http://www.indopubs.com/archivrs/0436.html May, 22, 2001

religions. Thus, it is near the top in virtually all the categories associated with federalism, as defined by Lemco.

The problem in dealing with the federalism issue in Indonesia is that the term federalism still possesses a negative connotation for most of Indonesia's population for historical reasons such as Dutch colonialization, and the lack of understanding about the idea and concept of federalism. Most Indonesians still think that federalism is equal to separatism. They are used to misjudging the federalism idea in the name of unity for historical reasons, and also feel emotionally and politically bound to the constitution, which stipulates that Indonesia is a unitary state. These reasons aside, implementing federalism in Indonesia can lead to disintegration, due to the political and economic situation; diversity of people in ethnic groups, languages, religions, and geography. Even though federalism has many advantages and works well in some countries, such as the United States, India, and Belgium, the Indonesia people are not yet ready to implement a federal system. Therefore, the unitary government system may still be more suitable for Indonesia at the present time.

In order to deal with this issue, the essence of federalism has been adopted in the new bill (No. 22/1999 about Regional Government) known as "wide-ranging autonomy". So, according to Riker's classification about the degrees of federalism and decentralization, Indonesia can currently be categorized as "unitary and decentralized".

Two clarifications are in order here. First, federal forms of government are not necessarily superior to unitary ones. Federalism may have little to offer small states, especially culturally homogeneous ones (such as Nepal and Denmark) that must compete

economically with larger neighbors. On the other hand, large states must contend with geographically based ethnic, religious, or linguistic cleavages or they might find protectionist trade policies politically irresistible, and thus some form of regional autonomy seems inevitable.

B. RECOMMENDATIONS

The real threat to disintegration does not originate from Aceh or other restive provinces. The source of the threat comes from Jakarta, and from the very people who like to sound the warning. If Jakarta is genuinely concerned about national unity rather than about keeping power to itself, it should start sharing power and resources with the regions. Unity cannot be imposed. People in the regions need to be given a strong reason to want to stay in the republic. They had that reason in 1945 when they voluntarily joined in the project that the founding fathers called Indonesia. That reason was a common vision and a goal. Hence, federalism, rather than being the system which breaks Indonesia apart as many people fear, could in the end become what saves Indonesia's unity.

If the diverse populations of Indonesia's many regions are given greater autonomy to pursue their own religious beliefs, educate their children as they see fit, and use the wealth of resources within their regional borders to achieve developmental goals that they set for themselves, it is likely Indonesia will survive, although as a far more decentralized state than the one Suharto left for his successors.

In order to deal with the issues of efficiency, effectiveness, economic equality, and fairness in the unitary system, the central government must give greater autonomy to the provinces. Indonesia needs to adopt some form of fiscal and political federalism if it

wants to survive as one country. However, Indonesia will have to think very carefully about which variant is likely to be the most suitable for them.

The Indonesian government, therefore, should first concentrate on the implementation of Law No. 22/1999 (regional autonomy) and see how it works. This bill has not even been started to be implemented properly. Hopefully, Indonesia can solve the problem of possible disintegration and maintain national unity.

Ultimately, Indonesia's many problems require many solutions such as national unity in a federal form, economic recovery, and democracy reforms. These solutions are mutually reinforcing; a pick-and-choose approach just will not do. Without economic recovery, there will not be political stability and some of the provinces will grow more restless. Without unity, the country will plunge into stability with huge economic costs and this may delay democratic reforms. Without democratic reforms, economic reform loses credibility and political stability will be lost.

The challenge of reform in Indonesia is not to drift from one form of extremism to another, but to find the right balance for the co-existence of democracy with stability, devolution with unity, reform with prosperity, and freedom with peace. Indonesians need time to work out this delicate balance, but it is unwise for others to push Indonesia too hard in this process.

The current political disputes, ethnic conflicts, and constitutional debates will probably slow down the efforts of Indonesians to find a stable and solid political format, but the experience of overcoming these challenges will be critical for Indonesia's democracy to reach maturity.

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