

POL 322



NATIONAL OPEN UNIVERSITY OF NIGERIA

FACULTY OF SOCIAL SCIENCES

COURSE CODE: POL322

3 CREDIT UNITS

COURSE TITLE: COMPARATIVE FEDERALISM

**MAIN
CONTENT**

POL322 COMPARATIVE FEDERALISM

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COURSE DESCRIPTION

There has been a tremendous increase in the number of states globally that have adopted federal system of government. This has been accentuated by the heterogeneous nature of states. Modern states comprise people of diverse cultures, religious beliefs and vast expanse of territory. The adoption of unitary or centralized system of government therefore, becomes unacceptable to the population. Besides, the functions of modern governments have become so enormous that there is need for distribution between the universe and the component units. With large number of contemporary federal states, the need has arisen for comparisons to be made on the basis of sub-regions, regions and continents. This has given birth to this course; Comparative Federalism.

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INTRODUCTION

POL 322 is a 300 Level Course which tries to compare federalism within the state, sub-region and continents. Just as democracy, there are matured and maturing federalist states. In states like Nigeria, the long stay of the military in politics has adversely affected the practice of federalism. The Course is designed in the form of Modules and commences with an Introduction which highlights the meaning of Comparative Federalism. There are four Modules in all. The second Module deals with Characteristics of Federal States while the third and fourth Modules cover peculiarities of Federal States and Comparative Issues in Federalism respectively. It must be pointed out that each Module is further sub-divided into Units providing instructional materials. Besides, the Unit provides the content and guidelines of the courses. To crown it all, there are Self-Assessment Exercises and other reading materials to consult to supplement the various Modules.

COURSE AIMS AND OBJECTIVES

The primary aim of this course is to make students of Political Science comprehend what comparative federalism is all about and be able to compare and contrast its practice across the various states in the world. The specific objectives to be achieved include the following;

- i) To provide students with knowledge to understand the practice of federalism in selected states.
- ii) To enable students know the factors that will obstruct the practice of federalism between/among states.
- iii) To stimulate the interest of students in the study of comparative federalism.

Students are to bear in mind that besides the Aims and Objectives stated above, there will be specific objectives at the beginning of each unit to keep them on track. Students are advised to work assiduously for the attainment of all the objectives in each unit.

WORKING THROUGH THE COURSE

As stated above, students must work hard to be able to finish the study units and the relevant materials provided. As part of your assessment, you will be required to submit a written assignment. Then at the end of the Semester you must write a Final Examination. In a nutshell, working through the course, you will be provided with the following :

- i) Course Guide
- ii) Study Units
- iii) Text books and
(iv) Assignment.

STUDY UNITS

This comprises 20 Study Units as follows:

MODULE 1: Meaning of Comparative Federalism

- Unit 1 Conceptual Clarification
- Unit 2 Origins of Federalism
- Unit 3 Structure of Federalism
- Unit 4 Institutions of Federalism
- Unit 5 Terms and Concepts of Federalism

MODULE 2 Characteristics of Federal States

- Unit 1 Heterogeneity/Diversity/Accommodation
- Unit 2 Majority/Minority Debate and Identity Politics
- Unit 3 Devolution of Powers and the Principle of Autonomy
- Unit 4 Representation, Marginalization and Political Power Relations
- Unit 5 Fiscal Relations

MODULE 3 Peculiarities of Federal States

- Unit 1 Nigeria
- Unit 2 United States of America
- Unit 3 Switzerland
- Unit 4 India
- Unit 5 Brazil

MODULE 4 Comparative Issues in Federalism

- Unit 1 Constitutionalism
- Unit 2 Intra-Governmental Relations
- Unit 3 Decentralization
- Unit 4 Inter-Governmental Relations
- Unit 5 Democracy

From the forgoing you can observe that the course commences from the fundamental to the advanced and complex form. Students are advised to adhere to all the instructions to the letter. To facilitate comprehension, Self-assessment tests are provided for you to evaluate, to put yourself on a scale to see if you really understand what you are reading. To crown it all, there are Tutor-marked Assignments to facilitate your study.

TEXTBOOKS AND REFERENCES

At the end of each Unit, you will discover a list of relevant reference textbooks to further enrich your knowledge about the course. Endeavour to consult them to enable you come out with flying colours in your Examination. The materials if consulted will also go a long way to enable you do well in all your assignments. Remember that a

good score in your assignment will lay a solid foundation for a good grade in the course.

ASSESSMENT

There are two kinds of assessment in this course viz. Self-Assessment Exercises (SAEs) and the Tutor –Marked Assessment (TMA) questions. Your answers to the SAEs are not to be submitted but they are also important since they give you an opportunity to assess your own understanding of the course content. Tutor-Marked Assessments (TMAs) on the other hand are to be carefully answered and kept in your Assignment File for submission and marking. This will count for 30% of your total Score in the course.

TUTOR-MARKED ASSIGNMENT

At the end of each unit you will find Tutor-Marked Assignments. There is an average of two Tutor-Marked Assignments per unit. This will allow you to engage the course as robustly as possible. You need to attempt three Tutor Marked Tests (TMAs) of which will be marked and recorded as part of your total course grade. This will account for 10% each, making a total of 30%. When you complete your assignments, send them including your form to the tutor for formal assessment on or before the deadline.

Self-assessment exercises are also provided in each unit. The exercises should help you evaluate your understanding of the materials so far. These are not to be submitted. You will find answers to these within the units they are intended for.

FINAL EXAMINATION AND GRADING

There will be a Final Examination at the end of the course. The Examination carries a total of 70% of the total course grade. The Examination will reflect the contents of what you have learnt and Self-Assessments and Tutor-Marked Assignments. You therefore, need to revise your course materials before -hand.

COURSE MARKING SCHEMES

The following table sets out how the actual course marking is broken down.

ASSESSMENT	MARKS
Three Tutor Marked Tests (TMAs) are to be submitted for marking)	Each TMA carries 10% then total of 30%
Final Examination	70% of overall course score
Total	100% course score

COURSE OVERVIEW PRESENTATION SCHEME

Units	Title of Work	Week Activity	Assignment (End-of-Unit)
Course Guide	COMPARATIVE FEDERALISM		
MODULE 1	Meaning of Comparative Federalism		
Unit 1	Conceptual Clarification	Week 1	Assignment 1
Unit 2	Origins of Federalism	Week 2	Assignment 1
Unit 3	Structure of Federalism	Week 3	Assignment 1
Unit 4	Institutions of Federalism	Week 4	Assignment 1
Unit 5	Terms and Concepts in Federalism	Week 5	Assignment 1
MODULE 2	Characteristics of Federal States		
Unit 1	Heterogeneity/Diversity/Accommodation	Week 6	Assignment 1
Unit 2	Majority/Minority Debate and Identity Politics	Week 7	Assignment 1
Unit 3	Devolution of Powers and the Principles of Autonomy	Week 8	Assignment 1
Unit 4	Representation, Marginalization and Political Power Relations	Week 9	Assignment 1
Unit 5	Fiscal Relations	Week 10	Assignment 1
MODULE 3	Peculiarities of Federal States		
Unit 1	Nigeria	Week 11	Assignment 1
Unit 2	United States of America	Week 12	Assignment 1
Unit 3	Switzerland	Week 13	Assignment 1
Unit 4	India	Week 14	Assignment 1
Unit 5	Brazil	Week 15	Assignment 1
MODULE 4	Comparative Issues in Federalism		
Unit 1	Constitutionalism	Week 16	Assignment 1
Unit 2	Intra-Governmental Relations	Week 17	Assignment 1
Unit 3	Decentralization	Week 18	Assignment 1
Unit 4	Inter-Governmental Relations	Week 19	Assignment 1
Unit 5	Democracy	Week 20	Assignment 1

WHAT YOU WILL NEED FOR THE COURSE

This course builds on what you have learnt in the 100 Levels. It will be helpful if you try to review what you studied earlier. Second, you may need to purchase one or two texts recommended as important for your mastery of the course content. You need quality time in a study friendly environment every week. If you are computer-literate (which ideally you should be), you should be prepared to visit recommended websites. You should also cultivate the habit of visiting reputable physical libraries accessible to you.

TUTORS AND TUTORIALS

There are 15 hours of tutorials provided in support of the course. You will be notified of the dates and location of these tutorials, together with the name and phone number of your tutor as soon as you are allocated a tutorial group. Your tutor will mark and comment on your assignments, and keep a close watch on your progress. Be sure to send in your tutor marked assignments promptly, and feel free to contact your tutor in case of any difficulty with your self-assessment exercise, tutor-marked assignment or the grading of an assignment. In any case, you are advised to attend the tutorials regularly and punctually. Always take a list of such prepared questions to the tutorials and participate

actively in the discussions.

FINAL EXAMINATION AND GRADING

The final examination for **POL322: Comparative Federalism** will be of three hours duration and have a value of 70% of the total course grade. The examination will consist of multiple choices and fill in-the-gaps questions which will reflect the practice exercises and tutor-marked assignments you have previously encountered. All areas of the course will be assessed. It is important that you use adequate time to revise the entire course. You may find it useful to review your tutor-marked assignments before the examination. The final examination covers information from all aspects of the course.

HOW TO GET THE MOST FROM THIS COURSE

1. There are 20 units in this course. You are to spend one week in each unit. In distance learning, the study units replace the university lecture. This is one of the greatest advantages of distance learning; you can read and work through specially designed study materials at your own pace, and at a time and place that suits you best. Think of it as reading the lecture instead of listening to the lecturer. In the same way a lecturer might give you some reading to do. The study units tell you when to read and which are your text materials or recommended books. You are provided with exercises to do at appropriate points, just as a lecturer might give you in a class exercise.
2. Each of the study units follows a common format. The first item is an introduction to the subject-matter of the unit, and how a particular unit is integrated with other units and the course as a whole. Next to this is a set of learning objectives. These objectives let you know what you should be able to do, by the time you have completed the unit. These learning objectives are meant to guide your study. The moment a unit is finished, you must go back and check whether you have achieved the objectives. If this is made a habit, then you will significantly improve your chance of passing the course.
3. The main body of the unit guides you through the required reading from other sources. This will usually be either from your reference or from a reading section.
4. The following is a practical strategy for working through the course. If you run into any trouble, put a call through your tutor or visit the study centre nearest to you. Remember that your tutor's job is to help you. When you need assistance, do not hesitate to call and ask your tutor to provide you necessary assistance.
5. Read this course guide thoroughly. It is your first assignment.
6. Organise a study schedule - Design a 'Course Overview' to guide you through the course. Note the time you are expected to spend on each unit and how the assignments relate to the units.
7. Important information; e.g. details of your tutorials and the date of the first day of the semester is available at the study centre.
8. You need to gather all the information into one place, such as your diary or a wallcalendar. Whatever method you choose to use, you should decide on and write in your own dates and schedule of work for each unit.

9. Once you have created your own study schedule, do everything to stay faithful to it.
10. The major reason that students fail is that they get behind in their coursework. If you get into difficulties with your schedule, please let your tutor or course coordinator know before it is too late for help.
11. Turn to Unit 1, and read the introduction and the objectives for the unit.
12. Assemble the study materials. You will need your references for the unit you are studying at any point in time.
13. As you work through the unit, you will know what sources to consult for further information.
14. Visit your study centre whenever you need up-to-date information.
15. Well before the relevant online TMA due dates, visit your study centre for relevant information and updates. Keep in mind that you will learn a lot by doing the assignment carefully. They have been designed to help you meet the objectives of the course and, therefore, will help you pass the examination.
16. Review the objectives for each study unit to confirm that you have achieved them. If you feel unsure about any of the objectives, review the study materials or consult your tutor. When you are confident that you have achieved a unit's objectives, you can start on the next unit. Proceed unit by unit through the course and try to space your study so that you can keep yourself on schedule.
17. After completing the last unit, review the course and prepare yourself for the FinalExamination. Check that you have achieved the unit objectives (listed at the beginning of each unit) and the course objectives (listed in the course guide).

CONCLUSION

This is a theory course but you will get the best out of it if you cultivate the habit of relating it to political issues in domestic and international arena.

SUMMARY

“Comparative Federalism” introduces you to general understanding of the current dynamics of Federalism as practiced within the state, sub-region, region and continents. All the basic course materials that you need to successfully complete the course are provided. At the end, you will be able to:

- explain vividly the concept of Comparative Federalism;
- demonstrate knowledge of the characteristics of federal states;
- comprehend the peculiarities of federal states and
- expatiate the concept democracy

ACRONYMNS

BJP.....	Bhartiya Jantu Party
BSP.....	Bahujan Sumaj Party
CA	Constituent Assembly
CARICOM.....	Caribbean Community
CP.....	Constitution Party
CPI.....	Communist Party of India
CPIM.....	Communist Party of India Marxist
DC.....	District of Columbia
EC.....	Electoral College
EU.....	European Union
GP.....	Green Party
IAEA.....	International Atomic Energy Agency
IGC.....	Ibadan General Conference
ILO.....	International Labour Organization
INC.....	Indian National Congress
JFA.....	Joint Functional Authority
LGA.....	Local Government Area
LP.....	Labour Party
NAFO.....	North Atlantic Fisheries Organization
NCP.....	Nationalist Congress Party
SAEs.....	Self-Assessment Exercises
TMA.....	Tutor-Marked Assignment
UAE.....	United Arab Emirates
UK.....	United Kingdom
USA.....	United States America

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MODULE 1- MEANING OF FEDERALISM

INTRODUCTION

This first Module takes a critical look at the various definitions of federalism by different scholars. It goes further to examine the intellectual origins of federalism, the structure and institutions of federalism and some terms and concepts of federalism. The importance of the understanding of this first Module cannot be overemphasized because it will facilitate the grasp of the other remaining ones.

- UNIT1: CONCEPTUAL CLARIFICATION
- UNIT2: THE INTELLECTUAL ORIGINS OF FEDERALISM
- UNIT3: STRUCTURE OF FEDERALISM
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UNIT 1: CONCEPTUAL

CLARIFICATION MAIN CONTENTS

- 1.0 Introduction
- 2.0 Objective
- 3.0 Main Content:
 - 3.1 Meaning
 - 3.2 Types of Federalism
 - 3.3 Data on Federal Political Systems
 - 3.4 Scholarly Interpretations of Federalism
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

As the first unit, we are taken through an understanding of the subject-matter of federalism by clarifying the major concepts in federal studies. Through this process, the student is made familiar with related terms and concepts, which lay the foundation for the understanding of the subject-matter. In effect, the students are able to

understand the meanings, context of usage, similarities and differences in the various terms and concepts that are germane to the understanding of federalism.

2.0 OBJECTIVES

At the conclusion of this unit, students should be able to:

- (i) Understand the meaning of federalism
- (ii) Explain the other related terms in federal studies
- (iii) Distinguish between federalism and other systems of government

3.0 MAIN CONTENT

3.1 Meaning

The primary aim of this course is for students to know the two broad categories within which we can place modern governmental systems. The two broad categories are federal system and unitary system.

At the level of structures and processes, there are two broad categories within which we can place modern governmental systems. The two broad categories are; the federal system and the unitary system.

Fundamentally, the marked differences between the broad categories are concerned with the type of powers in the relationship among and between the levels of government. In the federal system, powers are shared between the centre and constituent units while the unitary system allows the central government to take control of the state and all other levels of government take directives from the central government.

Our focus in this course is federal system of government. It is however, essential to clarify the various concepts that relate to the principles and standards of shared rule. According to Watts (1990: 6), three terms are distinguishable in the explanation of federal system of government- these are, federalism, federal political systems and federations. To him:

Federalism is basically not a descriptive but a normative term and refers to the advocacy of multi-tiered government combining elements of shared-rule and regional self-rule. It is based on the presumed value and validity of combining unity and diversity and of accommodating, preserving and promoting distinct identities within a larger political union. The essence of federalism as a normative principle is the perpetuation of both union and non-centralization at the same time.

In effect, the normative nature of federalism indicates the acceptance and bringing to life a system of government that appreciates the combination of shared and separate political values and systems of governance. In contrast to the normative value of federalism, federal political systems and federations are regarded as descriptive terminologies by Watts (1990).

The federal political system is therefore, a concept that encapsulates a broad spectrum of political arrangements, since it is only significantly differentiated from the unitary system on the basis of the nature and character of power that exists between the central government and the other levels of government. In this regard, Daniel Elazar has identified nine species of federal political systems. These are; Confederation, Federation, Federacy, Associated State, Consociation, Union, League, Joint Functional Authority, Condominium. Watts (1990) also adds Constitutionally Decentralised Unions and Hybrids, to the list.

3.2 Types of Federal Political Systems

The following types of federal political systems can be identified:

- (i) Confederation- According to Elazar (1987), this takes place when —several pre-existing polities joined together to form a common government for strictly limited purposes, usually foreign affairs and defence, and more recently economics, that remains dependent upon its constituent polities in critical ways and must work through them. Watts (1990: 8) expatiates

further that the common government is dependent upon the constituent governments, and therefore having only an indirect electoral and fiscal base.

Examples of such arrangements in past centuries include: Switzerland for most part of the period 1291-1847 and the United States of America between 1776-1789. Watts (1990) argue that the European Union represents a classic case of modern confederation; however, the union increasingly incorporates some features of federation.

- (ii) Federation- Daniel Elazar defines a federation as —a compound polity compounded of strong constituent entities and a strong general government, each possessing powers delegated to it by the people and empowered to deal directly with the citizenry in the exercise of those powers. The powers referred to above include; legislative, administrative and taxing powers. The fact should also be acknowledged that the representative exercising these powers is directly elected by the citizens as custodians of the powers.
- (iii) Federacy- This is an arrangement, —whereby a larger power and a smaller polity are linked asymmetrically in a federal relationship in which the latter has substantial autonomy and in return has a minimal role in the governance of the larger power. Resembling a federation, the relationship between them can be dissolved only by mutual agreement. Some of the common examples of such arrangements are the relationship between Puerto Rico and the United States of America, and also of Kashmir and India.
- (iv) Associated State- This is described as an asymmetrical arrangement similar to a federacy but like a confederation in that it can be dissolved by either of the parties under pre-arranged terms. The relationship between Cook Islands and New Zealand is a typical example.

- (v) Consociation-This connotes a non-territorial federation in which the polity is divided into permanent trans-generational, religious, cultural, ethnic or ideological groupings known as camps, sectors, and pillars federated together and jointly governed by coalitions of the leaders of each.
- (vi) Union- This refers to a polity compounded in such a way that its constituent entities preserve their respective integrities primarily or exclusively through the common organs of the general government rather than through dual government structures. New Zealand and Lebanon are the typical examples.
- (vii) League- This arrangement can be described as a linkage of politically independent polities for specific purposes that function through a common secretariat rather than a government and from which members may unilaterally withdraw at will, at least formally.

(viii) Joint Functional Authorities

It refers to an agency established by two or more polities for joint implementation of a particular task or tasks. Some examples include, The North Atlantic Fisheries Organisation (NAFO), the International Atomic Energy Agency (IAEA) and the International Labour Organisation (ILO). Watts (1990) explains that such joint functional authorities may also take the form of trans-border organisations established by adjoining sub-national governments. For instance, the inter-state grouping for economic development involving four regions in Italy, four Austrian Lander, two Yugoslav Republics and one West German Land established in 1978, and the interstate Regio Basiliensis involving Swiss, German and French cooperation in the Basel area.

(ix) Condominium-

This is a polity ruled jointly by two external powers in such a way that the inhabitants of the polity have substantial internal self-rule. An example of this type of arrangement is, Andorra under the joint rule of France and Spain between 1278-1993.

(xi)

Constitutionally
Decentralised
States

This comes as unitary in form, since the ultimate authority resides with the central government, although the component units are constitutionally protected, such that, they also possess some level of functional autonomy.

(xii) Hybrids:

This explains political systems that combine the features of various other political systems. Watts (1999, p. 9) provides more elaboration by saying that those which are predominantly federations in their constitutions and operation but which have some overriding federal government powers more typical of a unitary system may be described as quasi-federations. The author's detailed explanation deserves mention. Examples are Canada initially in 1867 which was basically a federation but contained some unitary elements which have in the second half of the twentieth Century fallen into disuse; India, Pakistan and Malaysia which are predominantly federations but whose constitutions include some overriding central emergency powers; more recently, South Africa (1996), which has most of the characteristics of a

federation but retains some unitary features¹. The author continues, —on the other hand, Germany while predominantly a federation, has a confederal element in the Bundesrat, its federal second chamber which is composed of delegates of the Land governments. The author argues that the emergent European Union after Maastricht is a typically hybrid because it combines much more fully the characteristics of a confederation and a federation. Noting that the EU is basically a confederation, but the union cannot deny the existence of the features of a federation in its structure and processes. Finally, the author submits:
—Hybrids occur because statesmen are often more interested in pragmatic political solutions than the theoretical purity.

3.3 Data Presentation

List of Federations and their Component Units

Argentine Republic	22 Provinces, 1 National Territory, 1 Federal District
Commonwealth of Australia	6 States, 1 Territory, 1 Capital Territory, 7 Administered Territories
Federal Republic of Austria	6 Lander
Belgium	3 Regions, 3 Cultural Communities
Brazil	26 States, 1 Federal Capital District
Canada	10 Provinces, 3 Territories, Aboriginal Organisations
The Federal and Islamic Republic of the Comoros	4 Islands
Ethiopia	9 States, 1 Metropolitan Area
Federal Republic of Germany	16 Lander
Republic of India	25 States, 7 Union Territories
Malaysia	13 States
United Mexican States	31 States, 1 Federal District
Federated States of Micronesia	4 States
Federal Republic of Nigeria	36 States, 1 Federal Capital Territory
Islamic Republic of Pakistan	4 Provinces, 6 Tribal Areas, 1 Federal Capital
Russian Federation	89 Republics
St. Kitts and Nevis	2 Islands
South Africa	9 Provinces

Spain	17 Autonomous Regions
Swiss Confederation	26 Cantons
United Arab Emirates	7 Emirates
United States of America	50 States, 2 Federacies, 3 Local Home-Rule Territories, 3 Unincorporated Territories, 130 Native American Domestic Dependent Nations
Republic of Venezuela	20 States, 2 Territories, 1 Federal District,
	2 Federal Dependencies, 72 Islands
Federal Republic of Yugoslavia	2 Republics

Source: Watts (1999)

Note that Federal Republic of Yugoslavia has since changed to Republic of Serbia and Montenegro.

List of Confederations

Name	Constituent Unit
Benelux	3 Member-States
Caribbean Community (CARICOM)	14 Member-States, 3 Associate Members, 10 Observers
Commonwealth of Independent States	12 Member-States
European Union	15 Member-States

Source: Watts (1999)

List of Associated States, Federacies and Condominiums

Name (Form)	Federated Power
Aaland Islands (Federacy)	Finland
Andorra (Condominium)	France and Spain
Azores Island (Federacy)	Portugal
Bhutan (Associated State)	India
Cook Islands (Associated State)	New Zealand
Faroe Islands (Federacy)	Denmark
Greenland (Federacy)	Denmark
Guernsey (Federacy)	United Kingdom
Isle of Man (Federacy)	United Kingdom
Jammu and Kashmir (Federacy)	India
Liechtenstein (Associated State)	Switzerland
Madeira Islands (Federacy)	Portugal
Monaco (Associated State)	France
Netherlands Antilles (Associated State)	Netherlands
Niue Islands (Associated State)	New Zealand
Northern Marianas (Federacy)	United States
Puerto Rico (Federacy)	United States
San Marino (Associated State)	Italy

Source: Watts (1999)

List of Decentralised Unions with Some Federal Features

Name	Number of Constituents
Antigua and Barbuda	2 Islands
Cameroon	10 Provinces
People's Republic of China	22 Provinces, 5 Autonomous Regions, 4 Municipalities, 2 Special Administrative Regions (Hong Kong) and (Macau)
Colombia	23 Departments, 4 Intendencies, 3 Commissaries
Fiji Islands	Consociation of 2 Ethnic Communities
Ghana	10 Regions
Georgia	2 Autonomous Regions
Indonesia	27 Provinces
Italy	15 Ordinary Regions, 5 Autonomous Regions
Japan	47 Prefectures
Myanmar/Burma	7 States, 7 Divisions
Namibia	14 Regions
Netherlands	11 Provinces, 1 Associated State
Papua New Guinea	19 Provinces, 1 Capital District
Portugal	2 Autonomous overseas Regions
Solomon Islands	4 Districts
Sudan	6 Regions, 1 Federally administered Province
Tanzania	2 Constituent Units
United Kingdom of Great Britain and Northern Island	4 Countries, 5 Self-governing Islands
Ukraine	24 Oblasts, 1 Autonomous Republic, 2 Metropolitan Areas
Vanuatu	Constitutionally Regionalised Islands

Source: Watts (1999)

For our purposes in this course, the understanding of the norms of federal political systems, in other words, federalism is essential. We shall therefore proceed with the various explanations of federalism as presented in classical works by seasoned scholars.

3.4 Scholarly Interpretations of Federalism

Arguably, the most authoritative explanation of federalism is that presented by one of the iconic researchers of federal political systems in the twentieth century, Wheare.

According to him, federalism is a system of government in which there is,
a division of functions between co-ordinate authorities, authorities which are in no way subordinate one to another either in the extent or in the exercise of their allotted functions.

In achieving this kind of arrangement, he submits that there would be the method of division of powers so that the general and regional governments are each, within a sphere, coordinate and independent. He lists the following as the essential ingredients of federalism:

- a. Division of power among levels of government;
- b. A written constitution showing the division of powers;
- c. Constitution stipulating the functions of each level of government.

Livingstone (1956) also explains the concept of federalism as a political system that takes cognizance of the socio-cultural environment; hence the processes and structure of the federal political system should be synchronized to suit the character of the socio-cultural environment.

From the foregoing, it is clear that the practice of federalism varies from state to state. To Linder (1994: 156)

‘there is no common model of federalism, but a rich variety that depends not only on political structures and processes but on cultural variety and the socio-economic problems a society has to resolve’.

Federalism is patterned in accordance to the nature of challenges that brought the federal option into consideration in the first instance’. Two broad variants of federalism have been identified, these are the: Anglo-Saxon viewpoint and the European viewpoint. It is contended that the Anglo-Saxon idea of federalism is heavily skewed in favour of political considerations, while the European idea is more of the legal conceptualization. The major difference in both viewpoints is that while

the Anglo-Saxon (practised by the US, Canada and Australia) allows for parity among the levers of authority, the European tradition (as represented by Switzerland, Germany and Austria) allows for a broader participation from the lower levels of government. Elazar (1987) explains the difference between both traditions thus:

For the Anglo-Saxonist tradition, federalism has been used as a means to unite people already linked by bonds of perceived nationality or common law by constitutionally distributing political power among a general government and constituent units so as to secure greater local liberty or national unity. For the European tradition, federalism has been used as a means to unify separate peoples for important but limited purposes without disrupting their primary ties to the individual liberties that constitute the basic units of federation.

In the final analysis, federalism should be understood as a mechanism for institutionalising political stability and peaceful coexistence among the variegated segments of multicultural states. Furthermore, federalism guarantees the platform for accommodation and compromise mechanisms in heterogeneous and multicultural states.

Self-Assessment Question

Provide a succinct definition of federalism.

4.0 CONCLUSION

This unit attempted to present the various meanings of federalism, in order for the students to be able to identify differences between federalism and all other related forms of governmental system. It is concluded that for a federal arrangement, there must be a minimum of two layers of government, which must operate on the basis of a coordinate relationship, without any form of subordinate/superior interaction.

5.0 SUMMARY

In summary, the unit takes the students through the meaning of federalism and the characteristics of a federal political system. The unit also presents the various species of federal political arrangement, and lastly, present in tabular forms, the various states

that fall within each federal system.

6.0 TUTOR-MARKED ASSIGNMENTS

- (i) Compare and contrast a federal and a confederal system of government
- (ii) Explain the difference between the Anglo-Saxonist and European conceptualisation of federalism.
- (iii) Explain a League⁴ within the context of federalism

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UNIT 2: THE ORIGIN OF FEDERALISM MAIN CONTENT

- 1.0 Introduction
- 2.0 Objective
- 3.0 MainContent
 - 3.1 ScholarlyContributions
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor MarkedAssignment
- 7.0 References/FurtherReading

1.0 INTRODUCTION

This unit is an attempt to trace the origin of federalism through the works of renowned scholars in the field. It is made clear that prior to the adoption of the federal system in the United States of America through the works of James Madison, Alexander Hamilton and John Jay, scholars in ancient times had provided intellectual backings for a political arrangement in which there would be a minimum of two layers of government, in a coordinate relationship. However, there are variations in the scholars' proposed methods of coordinate relationship between the two layers.

2.0 OBJECTIVES

At the conclusion of this unit, students should be able to:

- (i) Explain the origin of federalism
- (ii) Discuss the various phases in the development of federalism
- (iii) Identify each scholar's contributions to the development of federalism

3.0 MAINCONTENT

3.1 Scholarly Contributions

It may be argued that the main motivation for some of the early studies carried out on federalism was to seek alternative arrangements for centralised states because of the

weaknesses inherent in the arrangement of centrality Althusius (1603) is generally reputed as the father of modern federalist thought, because of his ever-green work, *Politica Methodice Digesta* where he argued for the autonomy of Emdem. This was a period when such thoughts were against the authorities of the Lutheran provincial Lord and the Catholic Emperor.

He jettisoned theocratic dictates for a non-sectarian, non-religious contractualist political theory of federations that prohibited state intervention even for purposes of promoting the right faith. Significantly, the accommodation of dissent and diversity prevailed over any interest in subordinating political powers to religion or vice versa.

Deriving from this intellectual tradition, other scholars attempted variations of federal political orders, mainly as a political association aimed at accommodating diversities, while also being a tool for resolving inter-state conflicts. Arguably the first effort in this respect is Ludolph Hugo's work (*De Statu Regionum Germanie*, 1661), where the distinguished confederations based on alliances, decentralized unitary states such as the Roman Empire, and federations, characterized by double governments' with territorial division of powers.

A similar argument was put forward by Baron de Montesquieu, in the classic work *The Spirit of Laws* where the author presented the case for confederal arrangements as a combination of the best of small and large political units, without the disadvantages of either. In effect, in one extreme, they could provide the advantages of small states such as republican participation and liberty understood as non-domination, which institutionalises the tenets of security against abuse of power. At the other extreme, confederal orders secure the benefits of larger states such as military security, without the risks of small and large states. He concludes thus:

This arrangement is partly reflected in the planning of the setting-up of the European Union. A different perspective to an appropriate political arrangement was presented by David Hume who counters the notion that smaller size is better. The author submits that, —in a large democracy ... there is compass and room enough to refine the

democracy. In his work, *Idea of a Perfect Commonwealth*, Hume's recommendation focuses on a federal arrangement for deliberation of laws involving both member unit and central legislatures. The component units are bestowed with various powers, including partaking in decision-making at the centre. However, their laws and court judgments can be overruled by the powerful centre. In such geographically large systems, there are better chances of protecting the decision-making process from the intrigue, passion and subjectivity that could go against public interest.

The confederal tradition became dominant in 18th century Europe such that most peace plans of the period relied solely on the principles and practise of confederation. Several 18th century peace plans for Europe recommended confederal arrangements.

In his own contribution, Jacques Rousseau provided for an enlarged membership to include all major powers, furthermore, that the joint legislation must be binding, that the joint forces must be stronger than any single state, and that secession must be illegal. In Immanuel Kant's contribution as presented in *On Perpetual Peace*, here recommends a confederation for peace. The main thrust of his work is that nations should be built on pacific federation among free states rather than a peace treaty or an international state. According

Remarkably, the US Constitutional Convention of 1787 provides the basis for contemporary federal political arrangements. One of the contributions of the

Convention to modern federal thought is going beyond the unification of the member political units, but also people of various nationalities. In the bid to revise The Articles of Confederation of 1781 because of such issues as the weakness of the centre for the purpose of law enforcement and security, the convention made fundamental changes to the Articles of Confederation. The changes led to the jettisoning of the confederal arrangement and the adoption of federalism as made in the constitution of 1789. With the landmark development, there emerged a new form of relationship between the centre and the component units.

In like manner, John Stuart Mill's work, *Considerations on Representative Government* (1861), recommended federations among —portions of mankind not disposed to live under a common government, to prevent wars among themselves and protect against aggression. However, the centre equally has enough power in order for the union to benefit. The author's three pre-conditions for a successful federation includes: sufficient mutual sympathy of race, language, religion, and, above all, of political institutions, as conducing most to a feeling of identity of political interest; no member unit so powerful as to not require union for defence nor tempt unduly to secession; and rough equality of strength among member units to prevent internal domination by one or two. In his opinion, the major benefits of federalism include the supposition that: —they reduce the number of weak states hence reduce temptation to aggression, ending wars and restrictions on commerce among member units; and that federations are less aggressive, only using their power defensively.

For Pierre-Joseph Proudhon, in his work, *Du Principe fédératif* (1863), federalism is the best way to ensure individual liberty and freedom in any political setting, where pacts have been entered to serve necessary and specific purposes. Subsequently, the changing phases of the world system, especially the devastating two World Wars provided impetus for considering federalism as suitable alternative political arrangements for states. One of the reasons for a resort to federalism was because it was claimed that wars were as a result of —rampant nationalism, there should therefore be other options to centralised states. Equally important was the fact that the high state of decolonisation meant that the

former colonies that were majorly multi- ethnic and multi-cultural had to adopt a suitable arrangement for their heterogeneity. It is also argued that globalisation has also been critical in providing opportunities for self-rule.

Self-Assessment Question

Discuss John Stuart Mill's contribution to the development of federalism

4.0 CONCLUSION

The unit presents the various phases that the principles of federalism had been through before the emergence of contemporary federalism. The various contributions are reflected in the variations that are found in modern day federal system.

5.0 SUMMARY

In all the various stages of the development of federalism, the fundamental ideal of a minimum of two levels of government has remained constant. Inherent in the arrangement therefore, is that the citizens would have responsibilities towards two governments- the centre and the component units, while the citizens in turn expect good governance from the two governments.

TUTOR-MARKED ASSIGNMENTS

Summarise the contributions of the following scholars to the development of federalism:

1. Johannes Althusius.
2. James Madison, Alexander Hamilton and John Jay.
3. Pierre Joseph-Proudhon.

7.0 REFERENCES/FURTHER READING

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UNIT 3: STRUCTURE OF FEDERALISM

MAIN CONTENT

- 1.0 Introduction
- 2.0 Objectives
- 3.0 MainContent
- 3.1 CompetitiveFederalism
- 3.2 CooperativeFederalism
- 3.3 DualFederalism
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor MarkedAssignment
- 7.0 References/FurtherReading

1.0 INTRODUCTION

Despite having specific foundational patterns that are distinct from the unitary system, there are no uniformities among federal states. While the ideal of shared-rule and separate-rule is sacrosanct, the structural patterns are never the same. There are series of factors that condition the structure of federalism. This unit deals with some of the various structures within the realm of federalism.

2.0 OBJECTIVES

At the conclusion of this unit, students should be able to:

- (i) Explain the meaning of dualfederalism
- (ii) Discuss the notion of competitivefederalism
- (iii) Identify the differences between dual and competitivefederalism

3.0 MAINCONTENT

The federal arrangement is unique in several ways. One of such is that while federal political systems strive to achieve the aim of a minimum of two levels of government

with jurisdictional responsibilities, the management of the relationship between the levels of government could be as diverse as possible. In essence, what obtains in federal country A, may be different from a federal country B. Thus, the dynamic nature of federalism entails differences and varieties in the structure and mechanisms of federalism. These can be categorised as the competitive, dual and cooperative federalism.

3.1 Competitive Federalism

The philosophical basis of competitive federalism is traceable to the political developments in the United States in the 1930s, all through to the 1970s. This new political arrangement that altered the pattern of federal relationship that existed prior to the development was prompted by what became known as the New Deal. The New Deal was a consequence of the various political reforms initiated in the US to reduce the impact of the Great Depression that emerged after the First World War. It was majorly focused on Relief, Reform and Recovery, geared towards bringing back the American economy and society to the path of growth and development.

This is a system of federal arrangement that provides the enabling environment for competition among the lower levels of government that are in the same category. Simply put, it is about state versus state or local government versus local government competitions. The competition provides options and choices for citizens in making decisions about which state or which local government (as the case may be), they would want to live under. Similarly, investors are also provided the opportunity of making choices among various options. Instructively though, the competition among these government authorities are not bitter rivalries, but, in contrast, healthy competitions that would enhance the viabilities of the government, and ensure that while the citizens have the opportunities of living where their interests and basic needs are provided and guaranteed, businesses are bound to set-up in places where they can maximise profits. In the long run, the competition becomes beneficial for the country as a whole. It must be noted that for the purposes of cooperative federalism, competition is not the opposite of cooperation, because, rather than be conflictual, the

competition is healthy. More importantly, the rules of competitive federalism are made and enforced by the federal government as a neutral arbiter.

Furthermore, it must be emphasised that competitive federalism is not emphatic about a situation in which the central government is in competition with either the state or local government authorities for control of local government authorities (vertical competition). However, this may occur in a situation of —positive policy learning in areas where there is overlap between the two levels of government, with each level pursuing distinct policies and observing which policies are more successful. As stated above, the federal government's role is that of arbiter in the relationship among the various state governments, or the local governments, as the case may be.

3.2 Cooperative Federalism

Cooperative Federalism can be defined as both a constitutional and political idea that focuses on the decentralisation of power and deemphasises the possibilities of equal sharing of power and governmental responsibilities among the various levels of government; federal, state or local levels. It implies the effort at tackling issues in a cooperative manner among the levels of government, rather than the method of imposition of policy on the lower level governments by the central authority. It therefore envisages a situation in which the relationship among the levels of government can be regarded as both independent and interdependent such that there is an overlap of functions and financial resources, while knocking off the possibilities of total and absolute control of functions and resources by any single authority. Under this arrangement, the citizens' participation is accentuated by the cooperative nature among the layers of government.

Essentially therefore, the major point in the concept of cooperative federalism is that the various levels of government must not exist exclusively of one-another, neither should they exist in separate spheres. This is summarised thus:

- (i) Federal and state governments should typically undertake government functions jointly rather than exclusively.
- (ii) The federal government and component units routinely share power.

- (iii) Power is not concentrated at any government level or any agency. The constitutional division of responsibilities allows citizens and groups wide-ranging access to different centres of influence.

In the final analysis, the idea of cooperative federalism refers to a concept of federalism where national, state and local governments interact cooperatively and collectively to solve common problems, rather than making policies separately but more or less equally or clashing over a policy in a system dominated by the national government.

Self-Assessment Question

Define cooperative federalism

3.3 Dual Federalism

This is the hard-core form of federal arrangement. Its origin is traceable to the emergence of the US form of federal practice, which envisages the highest form of autonomy between the central government and the component units of the federal compact. Essentially, it is an attempt to create demarcation between both levels of government, such that each is compelled to strictly limit its jurisdiction to certain areas, while being only responsible for the upkeep of specific designated areas. It is explained as follows:

Dual federalism is the political theory that two different governments share sovereign power over a certain region or people. Generally this is the concept of balancing the scales of power between a large, sweeping government and a more localised one. Usually, this involves some sort of federal authority and a state regime.

Essentially, this form of arrangement does not encourage smooth relations between two contending forces, it focuses more on the tension that could be generated in the course of carrying out responsibilities and functions.

As a result of the dual sovereignty exhibited in the practise of dual federalism, states' rights are cautiously guided, so that the central government is restrained from

infringing on spheres provided for the state government. An attempt to do so, constitutes a violation of the states' constitutional rights. Despite the attempts at constitutional provisions, it is usually difficult to define how and when there is infringement on the rights and jurisdictions of the state. More so, when there is a resort to the courts for dispute resolution, which is usually the highest court in the land, and a national institution, the states, are usually in the receiving end of judgments.

On this basis, dual federalism is composed of four essential parts, viz;

- (i) The national government rules by enumerated powers only. The national government may rule by using powers specifically listed in the Constitution.
- (ii) The national government has a limited set of constitutional purposes. The national government has only limited purposes.
- (iii) Each government unit- nation and state – is sovereign within its sphere. National and state governments are sovereign in their own spheres.
- (iv) The relationship between nation and states is best characterised by tension rather than cooperation.

4.0 CONCLUSION

The highlight of this unit is that there is no such situation of true-federalism. It goes to show that there are series of factors that determine the structure of any federal arrangement; as such federal states cannot conduct government business uniformly.

5.0 SUMMARY

This unit focused on the various federal arrangements that have been in operation. These arrangements are conditioned by the relationships between and among the governmental actors. While in some cases, there is healthy competition, some others tend to move towards collaboration between and among the layers of government. In the final analysis, the ideal practise of federalism is that which works in accordance with the dictates of the constitution.

TUTOR-MARKEDASSIGNMENTS

1. Explain the meaning of dualfederalism
2. Explicate the meaning of cooperative federalism
3. What do you understand by competitivefederalism?

7.0 REFERENCES/FURTHERREADING

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The New Deal: Cooperative Federalism and the Growth of the National Government. Retrieved from: <https://www.boundless.com/political-science/textbooks/boundless-political-science-textbook/federalism-3/history-of-federalism-31/the-new-deal-cooperative-federalism-and-the-growth-of-the-national-government-185-1906/>

What is Dual Federalism?: <http://www.wisegeek.com/what-is-dualfederalism.htm>

UNIT 4: INSTITUTIONS OF FEDERALISM

MAIN CONTENT

- 1.0 Introduction
- 2.0 Objectives
- 3.0 MainContent
- 3.1 TheExecutive
- 3.2 TheJudiciary
- 3.3 TheLegislature
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor MarkedAssignment
- 7.0 References/FurtherReading

1.0 INTRODUCTION

This unit focuses on the arms of government, because of their importance in bringing the processes of governance to fruition. It covers the various issues as it concerns the executive, judiciary and legislature. Within the unit, we would find out the working relationship among the three arms, and how each arm of government acts as checks on one-another in order to forestall the possibilities of arbitrary rule.

2.0 OBJECTIVES

At the conclusion of this unit, students should be able to:

- (i) Discuss the three arms of government
- (ii) Explain the contributions of each arm to the practice of federalism
- (iii) Identify the differences among the three arms of government

3.0 MAINCONTENT

3.1 TheExecutive

This is one of the essential arms of government. The executive is responsible for giving direction to government policies and also charged with the implementation of

those policies. It functions by working closely with the other arms in order to realise the objectives of the state. The structure and working process of the executive is however determined by the system of government in operation. For the presidential system, the executive is a stand-alone institution where principal officers are distinct from those in the other arms of government, but however, work in a coordinated collaboration for the benefit of the government as a whole. The executive officers are elected officers who appoint officials that participate in the running of government.

In a federal system of government, the executive operates at both the centre and also in the component units. As mentioned earlier, the onerous task of the executive is to work with the other arms of government to ensure good governance and the well-being of the citizens. The functions of the executive include:

1. Assent Bills
2. Passing executive bills to the legislature
3. Operation of Ministries, Departments and Agencies to ensure the functioning of government
4. Execution and implementation of policies
5. International relations

3.1.1 Types of Executive Arrangements

(i) Real or Nominal

The real executive is that which exercises substantive powers as dictated by the constitution. It is within the office of the real executive that the power for the actual executive control and administration of the country resides. While the nominal executive exercises ceremonial functions, and often times, acts as a symbol of the sovereignty of the state. In other words, the real executive is the Head of Government, while the nominal executive is the Head of State. The constitutions of some countries allows for both offices under an administration. For instance, in parliamentary democracies, such as India and Britain, the Prime Minister and his colleagues exercise real executive powers, while the President or the Monarch respectively exercise nominal executive powers. In the United States and Nigeria, the Presidents are the real executives while there are no nominal executives; this same arrangement applies to the Governors of the various states.

(ii) Single/Plural Executive

The single executive is one in which the ultimate power of the state rests with a single individual, often referred to as the President and Commander-in-Chief of the Armed Forces in a presidential system of government- he combines the functions of both the substantive and the ceremonial head. The United States and Nigeria are two typical examples of a single executive arrangement. The plural executive arrangement is collegiate in nature, whereby that share equal powers are bestowed with executive powers for the purpose of administering the country. Switzerland, with its Federal Council is an example of a plural executive. Here, the President of the Federal Council at any one time is not the supreme authority, he is however the moderator of the meetings and the external symbol of Swiss authority to the rest of the world, for a year. The ultimate executive power rests with the seven-member Federal Council. The single executive facilitates unity and encourages rapid response to challenges that may confront the state. The plural executive also prevents executive abuse of power and oppression.

3.2 Cabinet System

The cabinet system of government is a combination of both the single and plural executives. While the Prime Minister operates on the principles of single executive, the members of the cabinet follow the principles of plural executive, merely, making the Prime Minister, first among equals.

(i) Political and Permanent Executive

Political executives are officers of state who occupy the headship of various departments, but whose tenure of office is usually fixed, thereby being temporary. In Nigeria, the political executive consists of the members of the presidency- including the President, Ministers, etc. The president as the head of the executive is so referred only when he wins an election, and appoints the members of his team, whose stay in office are determined by him. In India, the political executive includes the Prime Minister, the ministers and the parliamentary secretaries. All these elected officials remain in office as long as their party wins the majority in parliament- they must

resign as soon as they are no longer in the majority. Therefore, a political executive may be of either the parliamentary or presidential type, while it could also be under either the single or plural executive arrangement.

The permanent executive consists of members of the bureaucracy who are permanent and salaried officials and subordinates who carry on the day-to-day work of administration. They have permanent tenures of office and are not affected by ministerial changes. Essentially, they are duty bound to implement the policies of the political executive even when they may not support or approve such policies.

Self-Assessment Question

Distinguish between political and permanent executives

3.2 The Judiciary

The judiciary is in charge of the dispensation of justice in any state. This responsibility is very important to the sustenance of civility. Without an impartial and independent judiciary, a state cannot exist. Such an environment would become the Hobbesian's state of nature where might was fundamentally right. The administration of justice by the state must be regarded as a permanent and essential element of civilisation and a device that admits of no substitute (Mahajan, 1988: 556). One of the essential ingredients for the functioning of the state is the independence of the judiciary. Often regarded as the hope of the common man, the judiciary is the last resort for anyone, where justice and equity are expected to be exhibited. The protection of the rights of the citizens can only be achieved by an unbiased umpire—the courts.

3.3 The Legislature

Arguably, the legislator is the most important arm of government. The main function of the legislature is law-making, law amendment and the repealing of laws. Therefore, the legislature provides the basis upon which both the executive and the judiciary can work effectively. The government, and by extension, the people are directly affected by the activities of the legislature, thus, the work of the legislature is carried out with all seriousness. Essentially, every bill passes through three stages before being passed into law. The stages include; the first reading, second reading, committee stage, report stage and third reading. It is only the bills that enjoy the support of the majority of the members, who are the representatives of the people become law.

3.3.1 Functions of the Legislature

(i) Financial

The legislature has legitimate control over government's budget. The legislature is empowered to assent to the revenue and expenditure of government. This function ensures some form of control over the executive.

(ii) Other oversight Functions

The legislature is involved in various activities concerning the running of the state. For instance, the legislature must be involved on issues concerning the declaration of war, or the declaration of emergency in any part of the state.

(iii) Judicial Functions

Perhaps, the most important part of this function is that the legislature sits over the impeachment proceedings of the President and Vice-President; this same scenario is replicated at the regional or state level, where the legislature have powers to present impeachment proceedings against the head of the executive.

4.0 CONCLUSION

The unit deals with the three arms of government within the context of the federal system. It generalises about the operations of these arms of government within both the cabinet and the presidential system of government. The unit is therefore an explication of the roles and relationship of the three arms of government, on the basis of both the separation of power and the diffusion of power models.

5.0 SUMMARY

In summary, the unit exhaustively treats each of the three arms of government, by highlighting their functions and responsibilities, and the relationship of each with the others. In the final analysis, it is implied that under either the cabinet or presidential system, the working process of the three arms of government must be in accordance with constitutional dictates, for the federal system to work adequately.

TUTOR-MARKED ASSIGNMENT

1. Explain your understanding of the Executive arm of government
2. Examine the factors that ensure the independence of the Judiciary
3. Mention three functions of the Legislature.

7.0 REFERENCES/FURTHER READING

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UNIT 5: TERMS AND CONCEPTS IN FEDERALISM

MAIN CONTENT

- 1.0 Introduction
- 2.0 Objective
- 3.0 MainContents
 - 3.1 Intergovernmental Relations
 - 3.2 Consociationalism
 - 3.3 SymmetricalFederalism
 - 3.4 Asymmetrical Federalism
 - 3.5 Principle of Subsidiarity
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor MarkedAssignment
- 7.0 References/FurtherReading

1.0 INTRODUCTION

This unit forms an essential part of the introductory part of this study guide. In the unit, students are exposed to some of the terms and concepts that would be used in the course of the study guide. This way, students can more easily understand the direction of discussion, and can readily apply such different scenarios in federalstudies.

2.0 OBJECTIVES

At the end of this unit, students should be able to:

- (i) Familiarise themselves with various concepts in federalstudies
- (iii) Apply the terms and concepts in their discussions onfederalism
- (iv) Explain the terms and concepts treatedhere

3.0 MAINCONTENT

3.1 IntergovernmentalRelations

Oftentimes the concept of inter-governmental relations has been grossly confused and misunderstood by students and scholars of this field of study. Some people

understand intergovernmental relations as a relationship between two governments in two sovereign nation-states. Even though this assessment or conceptualization may not be completely wrong especially at the level of global analysis of government, but tends to paint an unclear picture of the scope of our subject matter and creates the impression that inter-governmental relations has to do with purely international reactions to matters of state policy (Abonyi,2006).

According to Okafor (2010), intergovernmental relations deal with an important body of activities or interactions occurring between governmental units of all types and levels within a federal system. It is the manner in which the units or agents of the state associate with each other whether civilian or otherwise especially under the federal structure. For Gboyega (1999) inter-governmental relations are concerned with both vertical and horizontal relation that exists between the various levels of government, and within the sovereign government of a particular country. An inter-governmental relation is a series of legal, political and administrative relationship, established among units of governments and which possess varying degree of authority and jurisdictional autonomy.

In line with the above, Oginna (1996) asserts that inter-governmental relations can be seen as the complex pattern of interaction, co-operation and inter-independence between one or more levels of government. In this context therefore, intergovernmental relations relates to the following mix of relations:

- (i) Centre-State relationships
- (ii) State-State relationships
- (iii) State-Local Government relationships
- (iv) Local-Local Government relationships
- (v) Centre-Local Government relationships

3.2 Consociationalism

From practical experiences, federalism can only function effectively and adequately only when democracy is the system of government. Democracy in such instance must be explicitly different from civil-rule and must also be substantive rather than procedural. One of the major types of democracy that has been effectively deployed by federal states to institutionalise power-sharing arrangements is consociational democracy. The consociational approach is a system employed by heterogeneous societies, made up of multicultural, multi-religious and multi-ethnic nations to stabilise the political environment by ensuring that political power-sharing arrangements are legitimised on the basis of consensus among the critical sectors of the society. The consociation seeks to reconcile societal segmental cleavages along ethnic and religious lines. The objective is to ensure government stability, survival of power sharing and democracy and avoidance of political violence.

According to Lijphart (1977), there must be favourable conditions for the likely success of consociational democracy. These include;

- (i) Segmental isolation of ethnic communities
- (ii) A multiple balance of power
- (iii) The presence of external threats common to all communities
- (iv) Overarching loyalty to the state
- (v) A tradition of elite accommodation
- (vi) Socioeconomic equality
- (vii) A moderate multiparty system with segmental

parties. Finally, the major features of a consociational arrangement are;

- (i) Coalition cabinet (often, collegiate executive)
- (ii) Balance of power between the executive and the legislature
- (iii) Decentralised federal system
- (iv) Proportional representation
- (v) A rigid constitution
- (vi) Elements of direct democracy

3.3 Symmetrical Federalism

Symmetric federalism is a federal constitutional arrangement in which the constituent states that make up the federation possess equal powers. Thus, each of the component units has equal participation in the pattern of social, cultural, economic and political circumstances of the state. In effect, a symmetric federal system is one in which there is conformity and commonality in the relations of each separate political unit of the system to both the system as a whole and to the other component units.

Charles Tarlton provides the features of an ideal symmetrical federal system. According to the author, the model system is one composed of constituent political units with such characteristics as equal territory and population, with similar economic opportunities, similar climatic conditions, cultural patterns, social groupings and political institutions.

3.4 Asymmetrical Federalism

In contrast to the symmetric federal arrangement, this system means that different constituent states within the federation possess different powers. For instance, any of the states or a group of states may have more autonomy than the others despite having equal constitutional status. Two types of asymmetric arrangements can be identified. These are;

- (i) De jure asymmetry
- (ii) De facto asymmetry

De jure asymmetry is built around the notion of differences in legislative powers, representations in central institutions and the rights and obligations of each of the component units, all of which are outlined in the constitution. The contents of the de facto asymmetry are not usually constitutionally based. They are usually based on agreements that are derived from national policies. It could also arise from bilateral and often times, ad hoc dealings with specific provinces. Essentially though, asymmetric arrangements for federal states are often times proposed as solution to disaffections that may arise when the needs of component units are mutual, as a result

of the numerous segmental cleavages, such as ethnic, linguistic or cultural, that form part of the reasons for federalism.

The ideal model of federalism according to Charles Tarlton is one that is composed of political units corresponding to differences of interest, character, and makeup that exist within the whole society.

Self-Assessment Question

What do you understand by symmetric federalism?

3.5 Principle of Subsidiarity

This origin of this principle is traceable to the Catholic Church's teachings on social relations. The argument is that humans would be best served if their affairs are handled by the lowest and least centralised level of authority possible. The relevance to federalism is therefore that powers should be decentralised and by extension be devolved to the lowest level closest to the people. In effect the principle states that the central authority should only exist on the basis of a subsidiary functions it serves through the performance of the tasks which cannot be performed effectively at a more immediate or local level.

4.0 CONCLUSION

The unit presented and explained some of the crucial terms and concepts that are germane to the understanding of federalism. An understanding of these terms would aid the easy application of the theoretical aspects of federalism to real-life scenarios.

5.0 SUMMARY

This unit is a very important segment of the course pack. It brings into sharper focus, some of the important issues that would be raised in the course of this module. In summary, the unit explains the notion of intergovernmental relations. It distinguishes between intergovernmental relations as a concept in federalism and intergovernmental relations as a form of inter-state relations. Other critical concepts discussed are;

consociationalism, symmetrical and asymmetrical federalism, and finally, the principle of subsidiarity.

TUTOR-MARKED ASSIGNMENTS

1. Explain the principle of subsidiarity
2. Discuss consociationalism
3. Explain asymmetrical federalism

7.0 REFERENCES/FURTHER READING

Abonyin, N. (2006). *Inter-governmental Relations in Democratic Federations*. Enugu: John Jacob's Classic Publishers.

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MODULE 2 CHARACTERISTICS OF FEDERAL STATES

INTRODUCTION

The first Module laid the foundation for the course by defining the concept of federalism and tracing its origins. This Module continues with the examination of the heterogeneity/diversity and accommodation in federalism. It goes further to take a look at devolution of powers, representation, political and fiscal relations as applied to federalism.

Unit1: Heterogeneity/Diversity/Accommodation

Unit2: Majority/Minority Debate and Identity Politics

Unit 3 Devolution of Powers and Principles of Autonomy

Unit 4: Representation; Marginalisation; Political Power Relations

UNIT5: Fiscal Relations

UNIT 1: HETEROGENEITY/DIVERSITY/ACCOMMODATION

CONTENTS

1.0 Introduction

2.0 Objectives

3.0 Main Content

3.1 Heterogeneity

3.2 Diversity

3.3 Accommodation

4.0 Conclusion

5.0 Summary

6.0 Tutor Marked Assignment

7.0 References/Further Reading

1.0 INTRODUCTION

In the previous module, the students were exposed to a broad spectrum of issues that are germane to the understanding of federalism. This unit would take us through some of the most important state features that inform the adoption of federalism. We shall

see that differences in cultural values and orientation have not limited the political association of people overtime.

2.0 OBJECTIVES

At the conclusion of this unit, students should be able to:

- (i) Understand the meaning of heterogeneity
- (ii) Explain the meaning of plurality
- (iii) Identify some of the reasons for adopting federalism

3.0 MAINCONTENT

It is worthy of note that the federal system of government is practised by over a third of the states of the world. Some of the states that have adopted the federal tradition include USA, Nigeria, Switzerland, Canada, Brazil etc. Although no two federal structures are the same. The central feature of federalism is the existence of a minimum of two-layers of government. In theory, the federal principle abhors the encroachment of one on the competence or jurisdiction of the other. Federal systems are based on compromise among various sets of peoples. It oscillates between unity and regional diversity, between need for effective central power and effective checks and balances on that power. Federation in other words is an organisation of government in between unitary government and confederal government. Essentially, a federal system operates on the intent to forge unity in diversity. This presupposes the existence of a wide variety of people within a territory, who for political expediency must co-exist. We shall start the explanation with the meaning and impact of heterogeneity on federal political systems.

3.1.1 HETEROGENEITY

The word 'heterogeneity' means 'combine' or 'different' in character. This could be in form of cultural, ethnic, language, and other differences. Federalism is however a response to the societal division and diversity that arise as a result of heterogeneous character of some states. For instance, the Nigerian state is heterogeneous in cultural, ethnic and linguistic dimensions. There are over two hundred and fifty ethnic groups and approximately four hundred languages across the length and breadth of Nigeria.

This accounts for the relatively high population of people in the country. These various groups were politically brought together by the colonial amalgamation in 1914.

While the major ethnic groups are Hausa, Ibo and Yoruba, there are numerous minority groups that include, Efik, Tiv, Ijaw, Gwari, Idoma, Ighala, Itsekiri, among others. The need for these groups to co-operate and coexist harmoniously without rancour informed the adoption of federalism in the 1954 Lyttleton Constitution as the basis for politically structuring the Nigerian state.

One of the most significant elements that guarantee the best for a heterogeneous society is the institutionalisation of enduring democratic culture. When democracy is in place, the fear of domination of one group over the other(s) is restrained. There is a sense of belongingness that pervades the society because of the feeling of relevance in politics. For instance, in the US and the other developed parts of the world, people of different races and colours, religions, customs and values live together in one accord, on the basis that they are well-represented through democratic means. Another important factor essential to stability in federal states is the guarantee of the protection of rights and interests of the citizens, such that no one or group is discriminated against on the basis of colour, religion, political orientation, ethnicity, and all other social factors.

3.1.2 DIVERSITY

This refers to existence of multiple socio-cultural, socio-economic, ethnic and linguistic divergences. The socio-cultural, ethnic and linguistic diversities make the choice of federation inevitable for heterogeneous states, such as, Nigeria, US, Brazil, Switzerland, India, among others. The concept of diversity in relation to political entity refers to a conglomeration of both ascribed and naturally acquired attributes that distinguish individual/group characteristics, nuances, pretensions and predilections. These variables meet at the point where individuals impact on the governance of the State. Instructively, individuals do not exist in strait-jacketed isolation; they are

members of groups, whose defining characters are in regular contact. To this extent, each political-entity is diverse- whether homogenous or heterogeneous.

The Switzerland example is equally significant. Switzerland is one of the most diverse countries on the European continent. The country is a hodgepodge of linguistic, religious, social and cultural contrasts. This much is known and appreciated by all and sundry in Switzerland, and thus, the agreement to maintain the diversity. In everything federal, attempt is made to recognize and represent each of the diversity, and within the cantons, there is a level of autonomy and independence in which diversity is treated. But basically, each canton is required to appreciate the diverse nature of the State in its constitutional provisions.

The Swiss national languages are four, although, there are identifiable variants in some of the national languages. For the Swiss variant of the German languages, called *Schwyzedeutsch*, there are still so many variations. And in the Italian side, called Ticino, there are various Italian dialects spoken. Even the relatively known Romansch, spoken in only the canton of Graubunden can be split into five different idioms (Fleiner, 1996: 101). Statistically, the breakdown of the use of the four official languages goes thus;

German has the highest number of adherents (spoken by 63.7% of the Swiss population), French (20.4%), Italian (6.5%) and Romansch (0.5%). The outstanding 8.9% of Swiss population speak various other languages (Schmitt, 1999: 349).

The four major languages are regarded as of equal importance by the constitution. However, some expediency has been applied to the official recognition of the four languages, presumably in respect of cost attached to the number of official languages possible. Hence, the official languages are German, French and Italian. None of these languages is believed to be superior to the other. However, the Romansch language is accepted as a semi-official language, and therefore, Romansch can also be used in official dealings with the federal government.

This linguistic variation is capable of generating tension if not properly managed. The Swiss authority has overtime devised practical methods of handling the situation. Of

particular interest is the legal aspect; peradventure a contradiction arises in the interpretation of the three official languages in respect of a federal law, the judge is expected to opt for the one that proclaims best, the perceived intentions of the law-makers. Moreover, the Swiss government has demonstrated greater determination in availing the relevant authorities with materials and resources to meet the challenges of working in a multi-lingua environment.

In addition to this, grants are made available with the purpose of projecting inter-cultural values for the benefit and appreciation of the various language communities. There is also the princi territory which is determined by the canton that occupies the territory. These efforts,

according to Fleiner (1996:93), means:—The confederation not only respects pluralism; it also considers pluralism as a specific value of Switzerland which forms part of the identity of the country. The equal and unbiased focus given to the language groups requires:

- a. That all federal laws are published and translated into the three languages;
- b. That all three languages are considered equal with regard to the interpretation of the contents of a statute and;
- c. That the citizens can write or discuss with the federal authorities in their own mother tongue, (Fleiner, 1996:93)

Self-Assessment Exercise

Explain one of the ways by which Switzerland manages diversity

3.1.3 ACCOMMODATION

Political accommodation refers to the principles of tolerance and forbearance that make for fairness, equity and justice in the relationship among the various groups within a political entity. In effect, it is about unity without uniformity in a federal system. It is the basis upon which heterogeneous entity can manage the diversities in natural endowment and economic viability, linguistic, cultural and ethnic diversity. In the United States, the constitution was used to manage the diversity and cater for the minorities who have political and economic control through the residual list of the federal constitution.

Ideally, political accommodation is part and parcel of the federalist thought that enhances relatively poor units of the federal union to share from and have access to the resources and wealth of the relatively richer units. The deceptive belief that rich units should get richer and poor units poorer negates the federal principle of political accommodation; rather federalism should bring about balanced and even development (Osaghae, 2010).

4.0 CONCLUSION

The unit attempted to expose the students to some of the major characteristics of federalism. These features distinguish federalism from the unitary system. Aside from including some of the reasons for adopting federalism, it also deals with inherent features of federalism.

5.0 SUMMARY

In summary, the unit commences with the explanation of one of the conditions of federalism- heterogeneity. It also explains the twin-feature of federalism- diversity and accommodation. References were drawn from the Nigerian, American and Swiss scenario. In the final analysis, it is only the adequate management of these three variables that can guarantee political stability within federations.

6.0 TUTOR-MARKED ASSIGNMENT

1. Explain your understanding of heterogeneity within the context of federalism.
2. What do you understand by diversity?
3. How would you explain accommodation?

7.0 REFERENCES/FURTHER READING

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UNIT 2: MAJORITY/MINORITY DEBATE AND IDENTITY POLITICS

MAIN CONTENT

- 1.0 Introduction
- 2.0 Objective
- 3.0 MainContent
 - 3.1 Perspectives on Majority/MinorityDebates
 - 3.2 Majority GroupPolitics
 - 3.3 Minority GroupPolitics
 - 3.4 IdentityPolitics
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor MarkedAssignment
- 7.0 References/FurtherReading

1.0 INTRODUCTION

This unit deals with the characteristics of the composition of federal states, and how the composition has been managed by different states. As usual, it is the adequate management of the composition that would determine the level of political stability within the state.

2.0 OBJECTIVES

At the conclusion of this unit, students should be able to:

- (i) Understand the meaning of identity politics
- (ii) Explain how identity politics impacts on the political stability of the state
- (iii) Clarify the majority/minority debate

3.0 MAINCONTENT

3.1 PERSPECTIVES ON MAJORITY/MINORITY DEBATES

The starting point is the clarification of the majority and minority perspectives. We

shall be examining the Nigerian and the American perspectives. From the Nigerian perspectives, both terms are viewed from the numerical understanding of majority being preponderant and minority being relatively few in number. From the American perspectives, the numerical consideration of determining majority and minority may not apply in all situations. Specifically, the assumption that minority groups may be small in number may be misleading.

In reality, a minority group can be quite large and even can be a numerical majority of the population. Women, for example, are sometimes considered to be a separate minority group, but they are a numerical majority of the U.S. population. In South Africa, as in many nations created by European colonisation, whites are a numerical minority (less than 10% of the population), but they have been by far the most powerful and affluent group and, despite recent changes, they retain their advantages in many ways.

3.2.1 MAJORITY GROUP POLITICS

According to Farley (1995), the majority is any group that is dominant in the society, that is, any group that enjoys more than a proportionate share of the wealth, power, and/or social status in that society. The majority group always feels it is its natural and axiomatic right to monopolise state power and resources, and for this reason, appointment and promotion to top bureaucratic political and economic positions are not bequeathed to the minorities. More often than not, power rests with the privileged group that inherited it from colonial government, and as it has been observed, the state is used for accumulation as against legitimacy purposes. Its structures, institutions and instruments are easily employed by the dominant forces to repress, exploit, suppress and marginalize others.

3.2.2 MINORITY GROUP POLITICS

The term 'minority' which sometimes refers to a minority group, is both conceptually and ideologically cloudy. The concept has quantitative, economic, social and cultural dimensions. It can be applied to ethnic, racial or religious groups. It has different meanings and consequences in different places and at different times. It is a group

with a small numerical population relative to another or other groups. It may also refer to a powerless group or groups relative to more powerful groups in society. In the latter sense a minority is used and interpreted as a synonym for being disadvantaged. Thus, a minority may be one with a small population or one with very little power to influence decisions in the public domain within the society.

In spite of the diverse opinions on this subject, a number of scholars (Nnoli 1978; Otite, 1990) seem to have agreed that minorities are culturally specific and relatively cohesive groups which occupy a status of numerical inferiority and or socio-political subordination in relation to other cultural sections in the society. From the perspective of the United Nations, minorities are groups that are:

... numerically inferior to the rest of the population of a state, in a non-dominant position, whose members possess ethnic, religious or linguistic characteristics differing from those of the rest of the population, and show, if only implicitly, a sense of solidarity directed towards preserving their culture, traditions, religions or language.

In view of the above, the concept at times poses some problems regarding the basic features which should be appropriately applied to designate the minority status of a given group. Such features usually include statistical or numerical size, socio-economic and political power distribution, homogeneous physical and/or cultural traits, and differential treatment or status. With regard to the latter, there is also the question as to whether or not it is self-imposed; and whether or not members of the minority groups are collectively conscious of the differential treatment to which they are subjected. More importantly, it implies low status in a social power relationship between a dominant power group and a dominated group (Eteng 1997:117). The minority groups vary depending on whether they are geographically concentrated or dispersed, whether they seek participation in, or isolation from, the broader political system, and whether the policies of the majority groups are made to enhance the liberation, continued subordination or elimination of such minorities.

Again, minority also means a group of persons who, by the factor of their physical or cultural characteristics, are singled out from others, and who, therefore, consider

themselves as objects of collective discrimination. This means that minority status tends to possess an exclusion tendency from full participation in the life of the society. This exclusion character places the minority group more often than not in opposition to the majority group.

Self-Assessment Question

Explain two of the characteristics of minority groups.

3.2.3 IdentityPolitics

The shape of politics in heterogeneous societies is usually based on identities peculiar to each society, however, it is pertinent to ensure that the dichotomy in such situations do not lead to antagonisms. An identity could be broadly seen as any group attribute that provides recognition or definition, reference, affinity, coherence and meaning for individual members of the group, acting individually or collectively. There are two established approaches that could be used to capture and analyse the nature of Nigeria's identity diversity. One is to classify them on the basis of Geertz's (1963) famous distinction between primordial ties which are basically ascribed and based on the —givens of life (tribe, kinship, and ethnicity among others), and civil ties, which hinge on industrial society-type aggregations like class, political party affiliation, interest group membership and so on.

4.0 CONCLUSION

This unit has made an attempt to discuss some of the issues that are relevant to the understanding of federalism. In that regard, the unit considered the strength of the relationship among the various groups in the federal compact. Examples are employed in order to find empirical expressions for the abstract terms being studied.

5.0 SUMMARY

The unit started with the majority/minority debate in order to lay the foundation for the actual meaning of each of the term to be adopted. Furthermore, the various perspectives on the meaning of minority is discussed before the discussion on the fundamental issue of IdentityPolitics.

6.0 TUTOR-MARKED ASSIGNMENT

1. Articulate the perspectives on minority
2. Explain Identity Politics.
3. What are the three factors associated with the minority challenge

7.0 REFERENCES/FURTHER-READING

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UNIT3: DEVOLUTION OF POWERS AND PRINCIPLES OF AUTONOMY

MAIN CONTENT

- 1.0 Introduction
- 2.0 Objective
- 3.0 MainContent
- 3.1 Devolution ofPowers
- 3.2 Principles ofAutonomy
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor MarkedAssignment
- 7.0 References/FurtherReading

1.0 INTRODUCTION

The unit discusses the fundamentals of the relationship between the coordinate powers in the federal system- the central government and the component units. It emphasises the notion that while there should be some cooperation between the two levels of government, limits must also be set in order to guarantee the autonomy of the component units.

2.0 OBJECTIVES

At the conclusion of this unit, students should be able to:

- (i) Understand the relationship between the centre and componentunits
- (ii) Explain the meaning of autonomy
- (iii) Discuss the meaning of devolution

3.0 MAINCONTENT

3.1 DEVOLUTION OFPOWERS

Inherent in federalism, is the necessity of dividing powers between member units and common institutions. Unlike in a unitary state, sovereignty in federal political orders is non-centralized, often constitutionally, between at least two levels so that units at each

level have final authority and can be self-governing in some issue areas. In effect, the citizens are required to have obligations towards two governmental authorities, while they also expect their rights to be secured by two authorities. Inadvertently, power distribution between the component units and the centre may not be uniform across federal states, but federalism emphasises some modicum of responsibility from at least two-levels of government. However, government machinery at the level of the component unit may also contribute to governance at the centre.

It is termed, the decentralisation of power. Decentralisation is defined as the transfer of powers from central government to lower level governments in a political-administrative and territorial hierarchical format (Crook & Manor, 1998). Similarly, Sayer et.al contends that decentralisation involves the transfer of the locus of decision-making from central to regional governments. Decentralisation implies that the centre delegates certain tasks or duties to the component units, while the centre remains a rallying point, and in the federal sense, a nucleus to suggest the unity, inherent in the prevailing diversity. The act of transfer of power and authority in decentralisation is referred to as devolution.

According to Crook & Manor (1998), devolution refers to the transfer of governance authority for specified functions to sub-national levels ... that are largely outside the control of the central government. This is legally binding on all parties, for it is usually captured in the constitution. The idea of decentralisation by devolution possesses characteristics which seek to make the objectives of effective political administration compatible with democratic principles. These include;

1. the creation of sub-national jurisdictions at regional level;
2. the generalization of elections by universal suffrage to cover all sub-national jurisdictions;
3. the transfer of authority with sufficient financial resources for sub-national jurisdictions to carry out assigned functions; and
4. the desire to respond to regional aspirations, which reflect the awareness of a community of interests at this level, and the desire of citizens to participate in

the management of their affairs.

Generally, a constitution that operates decentralisation through devolution divides power between the states and the federal government, providing for exclusive powers given specifically to the national government, residual powers given specifically to the states, and concurrent powers shared by both levels of government. A central philosophical issue to the devolution discourse is the critical assessment of alleged grounds for federal arrangements in general, and the division of power between member units and central bodies in particular.

Devolution of power is essentially designed to create a political environment in which power to access political, economic and social resources is distributed between the central government and the sub-national levels of government. State authority is spread among a wide array of actors, making politics less threatening and therefore an encouraging joint problem-solving enterprise. Some of the advantages of devolution include;

1. The creation of a fairer political ground;
2. Protection of group and individual human rights;
3. Establishes checks and balances to central power;
4. Avoids winner-take-all political competition;
5. Prevents political violence among rival groups.

SELF-ASSESSMENT QUESTION

Discuss some of the constitution considerations for Devolution of Powers

3.2 THE PRINCIPLE OF AUTONOMY

This principle is based on the notion of the liberty of the federating units. Essentially, it presupposes a constitutionally-backed coordinate rather than a subordinate relationship between the two orders of government; the central and the regional. It is this arrangement that shows that federalism is an intermediate between the unitary system and confederacy (autonomous unit). Unitary system emphasises the unity of all parts while the confederal system emphasises autonomy and justifies it on the basis of

diversity. For federalism, it is a merger of both systems to evolve a system of unity in diversity.

4.0 CONCLUSION

This relatively short unit has explained two fundamental issues in the federal system. The two issues discussed ensure that the relationship between the layers of government, if properly worked, would ensure smooth relationships between the centre and the component units.

5.0 SUMMARY

The unit commenced with the explanation of a critical ingredient of federalism- Devolution of Powers. Here, we are made to understand the relationship between decentralisation and devolution, and also, the constitutional requirements for the devolution of powers.

6.0 TUTOR-MARKED ASSIGNMENT

1. What is decentralisation of powers?
2. Explain the Principle of Autonomy
3. Mention some advantages of Devolution of Power

7.0 REFERENCES/FURTHER-READING

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UNIT4: REPRESENTATION; MARGINALISATION; POLITICAL POWERRELATIONS

MAIN CONTENT

- 1.0 Introduction
- 2.0 Objective
- 3.0 MainContent
 - 3.1 Representation
 - 3.2 Marginalisation
 - 3.3 Political PowerRelations
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor MarkedAssignment
- 7.0 References/FurtherReading

1.0 INTRODUCTION

The unit deals with an analysis of some of the issues that challenge the workings and processes of federalism. Having established that federal states are usually heterogeneous, pluralistic and with diverse identities, it is only logical to expect therefore, that there would be disagreements among the various peoples in the federal compact along the lines of representation and indeed, power relations. This unit would therefore focus on these issues, using Nigeria as the point of departure.

2.0 OBJECTIVES

At the conclusion of this unit, students should be able:

- Explain the forms of politicalrepresentation
 - Discuss marginalisation as a politicalconcept
 - Understand the importance of power-sharing in a federalsystem

3.0 MAINCONTENT

In a federal system, it is paramount to assure all relevant groups of their importance in the federal political arrangement. This form of assurance is more likely to stop feelings of hatred and antagonisms if all groups are adequately positioned for key decision-making roles. Thus, there are usually institutionalised processes contained in the constitutions to guarantee the roles for all within the federal government.

3.1 Representation

The Nigerian Legislature at the Federal level is known as the National Assembly. It is made up of the Senate and the House of Representatives. The Senate has one hundred and nine members. Three Senators represent each of the thirty-six states, while one Senator represents the Federal Capital Territory (the seat of government). The Senate is presided over by the Senate President and assisted by the Deputy Senate President. These two officers are elected from among the members of Senate, although candidates are elected from the political party with the highest number of seats in parliament.

The House of Representatives is made up of three hundred and sixty members, elected from various constituencies of nearly equal population as far as possible. The House is headed by the Speaker, who is assisted by the Deputy Speaker, both of whom are elected by members of the House (from the political party with the highest number of seats in parliament). Each of the thirty-six states has a House of Assembly. The size of the State House of Assembly is three or four times the number of seats, which that State has in the House of Representatives. Each State's House of Assembly is presided over by the Speaker, who is assisted by the Deputy Speaker. The legislature of each Local Government Area is made up of Councilors. The Leader of the House presides over the meetings. Each elected member of a legislature represents the interests of his or her constituency.

At the level of the federal Executive, the President is elected along with the Vice-President to serve a period of four years, which can be extended for a maximum of two-terms (eight years). To assist the President and Vice in the administration of the

country are cabinet ministers, and numerous other positions of administration. Representation in federal cabinet in Nigeria has largely been dominated by the major ethnic groups.

3.2 Marginalisation

Marginalisation may be regarded as a sociological term with deep political implication. It is characterised by exclusionist tendencies, and simply alienates a group or members of a group from mainstream opportunities, especially, such opportunities that are regarded as rights. Often times, in most political settings, it is the minority that complains about marginalisation. We shall now examine the import of supposed marginalisation on the Nigerian state. Marginalisation presupposes a complex process of relegating a specific group of people to the lower outer edge of the society. It effectively pushes the people to the margin of the society, following the policy of exclusion. It denies sections of the society equal access to productive resources and an avenue for the realisation of their productive human potential and opportunities for their full capacity utilisation. This pushes the community to poverty misery, low wage, discrimination and livelihood insecurity. Their upward social mobility is being limited.

Politically the process of relegation denies people access to formal power structure and participation in the decision making processes that impinge on their economic empowerment and political involvement. As a consequence of the economic and political and cultural deprivation, the marginalised usually end up to be socially ignorant, uneducated and dependent. They are not guaranteed the basic necessities of life; they are relegated to live on the margins of society. For Nigeria, civil society organisations and ethnic organisations have been at the forefront of the agitation against marginalisation. Before Nigeria's independence, the minorities agitated against domination by the majority groups. The agitation brought about fundamental changes in relevant areas of administering Nigeria. For instance, the marginalisation of the minority is partly responsible for the abolition of the regional government and the creation of states; also, it led to the explicit introduction of the respect for fundamental human rights in subsequent constitution thereafter.

3.3 Political Power Relations

The 1979 and the 1999 constitutions made Nigeria a federal state, and proclaimed the presidential system modeled after the United States' arrangement as the system of government. As a federation, Nigeria is made up of 36 states 1 federal capital and 774 local government areas. Political power in Nigeria is exercised and shared on geographical basis between national and the sub-national governments. The Federal Government has powers over matters that affect the whole country. On the other hand, state governments' powers are limited to the boundaries of their respective states. From 1976, Local Governments constituted the third tier of government. As a matter of fact, all local government areas are listed in the First Schedule of the 1999 Constitution, thereby recognising their constitutional powers. In the Nigerian federation, therefore, every citizen lives under three governments i.e. federal, state and local. The three tiers of governments however, complement one another.

SELF-ASSESSMENT QUESTION

Outline the Executive Powers in Nigeria as proclaimed in the 1999 Constitution.

POWER-SHARING ARRANGEMENTS

The power-sharing arrangement is one of the fundamental issues that can make or mar the development of a federal state. The inherent separation of power system in the presidential arrangement should ideally solve the challenges of power-sharing for multi-ethnic states; however, if it is mishandled, it could have catastrophic consequences. In Nigeria, the dynamics of power-sharing are spelt out below:

1. The sharing of responsibilities and functions among the federal, state and local governments in the federation are constitutionally guaranteed.
2. At some point in Nigeria's political history, there was the adoption of diarchy, in which political power was shared between the ruling military government and the contrived civilian controlled transitional government.
3. The challenges of power-sharing in Nigeria remain recurring to the extent of having the potentials to lead to crisis. This is in spite of the knowledge that the philosophy guiding the principles of power-sharing is to ensure equal access or opportunity, the right to aspire to any public office irrespective of state of origin, ethnicity or creed, and thus inculcating a feeling of belongingness in all

Nigerians.

All through history, there have been people in parts of the world who have suffered some disadvantage due to their size as in the case of minorities, their limitations as in the case of the disabled, their gender as in the case of women and girl-children. The minorities in Nigeria are no exception, hence they are now determined to tackle their marginalisation through time and to assume their rightful place in the country. It is in recognition of this fact that certain political mechanisms are being put in place to accommodate the interests of the minorities.

4.0 CONCLUSION

This unit has dealt with some of the constitutional provisions guiding inter-group relations in Nigeria. The focus has been mostly on the institutions, in order to emphasise the notion that there are established constitutional backings for the protection of all groups in Nigeria; the only challenge is the inability to adequately work the process.

5.0 SUMMARY

The unit commenced with the explication of representation, after which the direct opposite, marginalisation is treated. It is made clear that indeed, while the constitution supports representation, it does not encourage marginalisation. In the last part of the unit, the critical issue of power-sharing patterns is discussed.

6.0 TUTOR-MARKED ASSIGNMENT

1. Explain the pattern of representation in Nigeria
2. Discuss what you understand by political marginalisation
3. Outline power sharing arrangements in Nigeria.

7.0 REFERENCES/FURTHER-READING

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UNIT 5: FISCAL RELATIONS

MAIN CONTENT

1.0 Introduction

2.0 Objective

3.0 MainContent

3.1 Meaning of FiscalFederalism

3.2 Nigeria's Revenue AllocationExperience

3.3 Brief Notes on FiscalFederalism

4.0 Conclusion

5.0 Summary

6.0 Tutor MarkedAssignment

7.0 References/FurtherReading

1.0 INTRODUCTION

This unit deals with arguably the most divisive issue in federal relations- revenue generation. It focuses on how collectively generated revenue is meant to be shared and distributed among the layers of government. This issue is contentious to the extent that each layer of government wants to receive as much as possible from the federal purpose. The struggles for maximum advantage by each of the units often degenerate into strained relationships.

2.0 OBJECTIVES

At the conclusion of this unit, students should be able to:

- (i) Understand the meaning of Fiscal Federalism
- (ii) Explain the main issues pertaining to imbalances in resource-allocation
- (iii) Summarise Nigeria's fiscal federalism experience.

3.0 MAINCONTENT

3.1 MEANING OF FISCALFEDERALISM

Mainly, fiscal federalism poses questions as to how the nature of financial relations in any federal system affects the distribution of the nation's wealth. Scholars have argued that in its working and processes, fiscal federalism is very much in accord with the American model of federalism. Fiscal federalism means the fiscal arrangement existing among and between the various levels of government in Nigeria. One exists The relations should be in such a way as to ensure equity and stability. The Revenue Mobilization Allocation And Fiscal Commission is responsible for the determination fiscal relations in Nigeria. The following explanations bear true resemblance to the nature of fiscalfederalism.

1. In federalism, each tier of government is coordinated in its sphere of authority and should have appropriate taxing powers to exploit its independent sources of revenue. The relationship between the central government and the authorities of the component units should be that of partners in progress, and therefore, as long as the state governments request for grants and subsidies from the central government, rights have been sold, and the relationship moves from the level of coordinator to superior/subordinate relationship. In effect therefore, financial subordination is antithetical to the principles of federalism. It follows that both state and federal authorities in a federation must be given the power in the constitution to have access to control its own financial resources.
2. Musgrave (1959) and Oates (1972) opinethat the finances and functions ofgovernment should be shared in a manner that is acceptable to all involved. Fiscal federalism is the allocation of tax powers andexpenditureresponsibilities to various levels of government. In Nigeria, this includes the central government, state governments and local government authorities.
3. Nyong (1999), states that fiscal federalism is the relations among various levels of government in respect to allocation of national revenue and tax powers within the federation. He asserts that the principle of fiscal federalism is anchored on revenue sharing (vertical); federal, state and local governments and distribution of revenue (horizontal) among various armsof government

(executive, legislature and judiciary).

4. Mobolaji (2002) submits that, in a federal state, each unit should have its own sphere of responsibilities, and each should be blamed or commended on how it functions within its own sphere.
5. Uche (2004), states that fiscal federalism is the criterion for government to share revenue among various tiers of government. Ofuebe (2005). This is one of the relevant inclusions in Section 162(2) of the 1999 Constitution of Nigeria.

For the avoidance of doubt therefore, fiscal federalism refers to the allocation of tax-raising powers and expenditure responsibilities between the levels of government.

3.2. NIGERIA'S REVENUE ALLOCATION EXPERIENCE

Nigeria's revenue allocation experience has been an arduous task; in efforts at satisfying all stakeholders, there have been continuous reviews of the sharing formula. Despite the numerous reviews, there remains the feeling of dissatisfaction among a cross-section of Nigerians as regards what is distributed from the Federation Account. Two formulas are available for Revenue Allocation in Nigeria. Vertical Allocation is for the three tiers of government thus : 52.68% for the Federal Government, 26.72% for Local Government and 20.60% for Local Government for the Federal Government, There is Horizontal Allocation for the 36 States and 774 Local Governments. Oil and Gas producing States are given additional 13% by the Federal Government for ecological hazards. A list of the principles used for the reviews is presented below:

3.2.1 Derivation Principle/Resource Control

This is when a large proportion of the wealth of country is ploughed into the development of the area it is derived from. Returns to where such is derived. On the basis of this principle, the indigenes continue to clamour for resource control, especially in the areas with rich deposit in natural resources, especially the South-South region where the crude-oil resources accounts for 90% of Nigeria's earnings. A legal and institutionalised backing for the control of their resources, and by which they would pay royalty to the Federal Government. This idea has understandably not been very popular with the other sections of the country. It has been argued also that

the principle negates the sense of national unity.

3.2.2 National Development Principle

This is based on the belief of the people that there should be a minimum standard of development throughout the country. In that regard, the accruals from the resources of areas blessed in abundance are deployed to areas in need of development. Hence, resources are taken from where it is in abundance to develop the area where they are short in supply. Redistributive is the guiding spirit where national development is applied.

3.2.3 Principle of Equality

This principle attempts to be fair and just in the distribution of the country's resources. The distribution of resources is therefore on the basis of equal distribution among the component units. Thus, what each gets is dependent on the number of component units. This can however short-change the large states because of the implications on demography. In effect, this principle may just be in favour of the relatively small units.

3.2.4 Equality of Population

Under this principle, wealth is distributed on the basis of population. Thus, the larger wealth goes to the area where there is larger population. This is likely to lead to population explosion and politics of population and compound the problem of head count.

3.2.5 Landmass and Geography

This principle suggests that rather than population, the land mass of the area is usually the determinant in the distribution of wealth. The complexity in this arrangement can be explained by a situation in which geographically small but high revenue requiring development state like Lagos receives less revenue than geographically large but relatively smaller revenue-requiring places like Jigawa and Katsina.

3.2.6 Absorptive Principle

The logic of this arrangement is based on the extent to which a particular state can absorb its natural resources. Thus, the level of infrastructural development of the state, and the extent to which it is receptive to development determines the revenue to be allocated to the state.

3.2.7 Internal Revenue

The internal revenue generating capacity of each state determines the volume of revenue to be allocated. The whole essence is to encourage states to be industrious and generate as much revenue as possible. This is because, allocation from the distributable pool is based on the lesser your internally generated revenue, the lesser the revenue the state receives from the federation account, and the higher the internally generated revenue, the higher the state receives from the federation account. The principle encourages healthy competition among the states. Despite having applied these principles at the different times, Nigeria's challenge with fiscal federalism remains very real. Some of the challenges are treated below.

Self-Assessment Question

Explain internal revenue within the context of fiscal federalism.

3.4 Brief Notes on Fiscal Federalism

The challenge of fiscal federalism is not merely a Nigerian problem. Other federal states equally contend with one of most fundamental issues of federalism. According to Olowononi (1998):

The success of a federal system depends on acceptable distribution of resources and functions among the three levels of government so that efficiency in the use of scarce resources is encouraged while reducing inequality in the treatment of individuals among different states.

For Brazil, this giant stride has become unattainable. According to Shah (1990), Brazil's challenge with fiscal federalism can be captured thus:

1. Federal and state governments are involved in purely local functions in an uncoordinated fashion;
2. The administration of sales tax by all three levels creates duplication and confusion;
3. Administration of the general value-added tax by the states involves unresolved issues about tax crediting on inter-state trade;
4. The states and municipal revenue-sharing funds do not distribute revenue fairly and equitably;
5. Conditional transfers are arbitrary and driven primarily by political considerations. Programs work at cross-purposes and the subjective nature of these transfers may be sending the wrong signals to lower levels of government about laxity in fiscal management.

In the final analysis, Shah (1998) submits that revenue sharing constrains the federal government ability to fulfill its mandate as national government and is conducive to fiscal mismanagement as local government are shying away from raising revenue from property taxes and user charges. The author further contends that:—The municipal governments have more money than they need. The state government also faces a financial squeeze..... The federal government's problem is structural. Its revenue falls short of its spending needs, the final submission is therefore that —existing financial arrangements have created vertical fiscal imbalance.

The whole essence of fiscal federalism is the design of mechanism for taxing, spending, and regulatory powers among the levels of governments. It also includes the structuring of intergovernmental transfers. Thus, there is usually the allocation of responsibilities to each level of government; the allocation involves expenditure, tax and regulatory functions. On this basis, Shah explains the principles of Expenditure and Tax Assignments. The outline of both is provided below.

The Principles of Expenditure Assignment

1. Efficient Provision of Public Services
 - Spatial Externalities;
 - Economies of Scale
 - Administrative and Compliance Costs
2. Fiscal Efficiency
3. Regional (Horizontal) Equity
4. The Redistributive Role of the Public Sector
5. Provision of Quasi-Private Goods
6. Preservation of Internal Common Market
7. Economic Stabilisation
8. Spending Power

The Principles of Tax Assignment

1. Economic Efficiency Criterion
2. National Equity Considerations
3. Administrative Feasibility Criterion

4. Fiscal Need or Revenue Adequacy Criterion

4.0 CONCLUSION

This unit covers a wide-range of issues concerning fiscal federalism. Fiscal federalism as mentioned earlier is usually a contentious matter because it deals with sharing of money from the commonwealth. The unit points out the various mechanisms that are used in the management of resource-sharing. In the final analysis, it is implied that it is not merely the mechanisms that would ensure free and fair management of resources, and its sharing between the centre and the component units, but instead, how much each level of government is willing to sacrifice to ensure peace and harmony within the federal system.

5.0 SUMMARY

The unit commences with the meaning of fiscal federalism, before delving into critical issues in the study of federalism as a whole, such as the principles of both tax and expenditure assignment. Furthermore, the issue of intergovernmental fiscal transfers was treated.

TUTOR-MARKED ASSIGNMENT

1. Outline the Principles of Expenditure Assignment
2. Outline the various resource-allocation formula that have been used in Nigeria.
3. Suggest various suggestions that could solve Nigeria's fiscal federalism problems.

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MODULE 3: PECULIARITIES OF FEDERAL STATES

- UNIT1: NIGERIA
- UNIT2: UNITED STATES OF AMERICA
- UNIT3: SWITZERLAND
- UNIT4: INDIA
- UNIT5: BRAZIL

UNIT 1: NIGERIA

MAIN CONTENT

- 1.0 Introduction
- 2.0 Objectives
- 3.0 MainContent
 - 3.1 PoliticalHistory
 - 3.2 Evolution ofFederalism
 - 3.3 Intergovernmental Relations
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor MarkedAssignment
- 7.0 References/FurtherReading

1.0 INTRODUCTION

Nigeria is a federation composed of 36 states, bound by one constitution with three tiers of government. Like most countries in Africa, Nigeria has a colonial history. The impact of Britain, Nigeria's former colonial master; in the body polity, or the peoples and culture of Nigeria cannot be dismissed. There has been wide debate as to what

kind of federalism Nigeria practises as well as what kind of relationship exists between the central government and the federating states. This unit traces the political history of Nigeria and introduces the students to the evolution of Nigeria's system of shared rule- and separate rule, the federal system.

2.0 OBJECTIVES

At the conclusion of this unit, students should be able:

- (i) Understand the trajectory of Nigeria's political history
- (ii) Explain the various evolutionary stages in Nigeria's federalism
- (ii) Assess the relationship between the centre and the component units in Nigeria's federalism.

3.0 MAIN CONTENT

For our purpose in this course, we shall trace the history as well as formation of Nigeria with a view to understanding how internal centrifugal pressure and events shaped the evolution of a federal state. To understand Nigeria's political evolution and system it is important to grasp the role of ethno-political groups and fears, rivalry and agitations on developments. In the contemporary global scene, federal political systems do provide a practical way of combining the benefits of unity and diversity through representative institutions. We shall therefore also examine how the various intergovernmental structures relate with one another. In the next part of this unit, we shall analyse the political history of Nigeria.

3.1 POLITICAL HISTORY

The federation of Nigeria, as it is known today, has never really been one homogenous country, for its widely differing peoples and tribes. This obvious fact notwithstanding, the former colonial master decided to keep the country one in order to effectively control her vital resources for their economic interests. Clifford (1920) submits that Nigeria is—a collection of independent native states, separated from one another by great distances, by differences of history and traditions and by ethnological, racial, tribal, political, social and religious barriers.

The amalgamation of 1914 offered an opportunity for making changes in the unsatisfactory arrangement, but not much was achieved in this area. All that was created was a body known as the Nigerian Council which met once a year to listen to what may be called the Governor's address on the state of the colony and the protectorate of Nigeria. The body had no legislative powers whatsoever. For example, the Sir Hugh Clifford Constitution of 1922 introduced the Elective Principle for Legislative Council for the first time and replaced Lugard's Nigerian Council. The new Constitution legislated for the Colony and Southern Provinces while the Governor continued to legislate for the Northern provinces through proclamations.

The Richards Constitution of 1946 aimed at the promotion of the unity of Nigeria and securing greater participation by Nigerians in discussing their affairs and set out to cater for the diverse elements in the country. Although the Richards Constitution was expected to last for nine years, opposition to it, especially from the political leaders, was so strong that a new constitution, the Macpherson Constitution, was promulgated in 1951.

Unlike the preceding constitutions, there was significant participation of Nigerians in its making from the village level up to the Ibadan General Conference of 1950. Substantially, therefore, the 1951 Constitution was more or less a half-way house between regionalism and federalism. Between 1951 and 1954, two important Constitutional Conferences were held in London and Lagos between Nigerian political leaders and the British Government. These resulted in a new 1954 Federal Constitution whose main features were; the separation of Lagos, the nation's capital, from the Western Region; the establishment of a Federal Government for Nigeria comprising three regions, namely north, west and east with a Governor-General at the centre and three Regional Governors; the introduction of an Exclusive Federal Legislative List as well as a concurrent list of responsibilities for both the Federal and Regional Governments, thus resulting in a strong central government and weak regions; regionalization of the judiciary and of the public service through the establishment of Regional Public Service Commissions, in addition to that at the federal level. From the point of view of the evolution of the Nigerian state, the most

significant aspect of the 1954 constitution, which remained in force until independence in 1960, was that the Lugardian principle of centralization was replaced by the formula of decentralization as a matter of policy in the administration of the Nigerian state.

3.2 EVOLUTION OF FEDERALISM

According to Jean Bodin and Hugo Grotius in some of the early writings on federalism, the essence of federalism is that it is a voluntary form of political union. They believe that it is a form of government where separate states, regions and provinces come together to form a large political entity. The central government is however given the mandate to rule over all persons and institutions (Appadori, 1976). In contrast, Osuntokun (1979) explains Nigerian federalism as a deliberate design by the British government, which came into being as a result of two reasons:

- (i) Geographical and historical factors.
- (ii) The British government deliberately imposed the federal system on Nigeria in order to maintain a neo-colonial control.

Arguably, the most authoritative explanation of federalism is the one presented by one of the iconic researchers of federal political systems in the twentieth century- Kenneth C. Wheare. According to Wheare, federalism is a system of government in which there is, —a division of functions between co-ordinated authorities, authorities which are in no way subordinate to another either in the extent or in the exercise of their allotted functions. In achieving this kind of arrangement, Wheare submits that there would be —the method of dividing powers so that the general and regional governments are each, within a sphere, coordinate and independent. The author also went further to say that not two federalisms are the same. Similarly, Linder (1994) submits that —there is no common model of federalism, but a rich variety that depends not only on political structures and processes but on cultural variety and the socio-economic problems a society has to resolve. From the foregoing, it is made clear that the practice of federalism is non-uniform. Thus, it is necessary to examine the development and peculiarities of Nigeria's federalism.

The formal adoption of a federal system in Nigeria occurred in 1954 during British rule. The British considered federalism as a means to accommodate the diverse ethnic, religious and linguistic composition of the country (Adamolekun, 1989), because a federal structure required a division of power sharing between the central, regional and local governments. Federalism was deemed especially beneficial for plural societies seeking unity while retaining aspects of their individual identities. The Nigerian federation comprised the eastern region dominated by Igbos, the Western Region dominated by Yorubas and the Northern Region dominated by the Hausa-Fulani. The adoption of a federal system, while aiming at regulating ethno-political conflicts was itself based on ethnic heterogeneity rather on factors such as geographic diversity.

Self-Assessment Exercise

Mention the factors that necessitated the adoption of federalism in Nigeria?

3.3 INTERGOVERNMENTAL RELATIONS

In Nigeria, the practice of inter-governmental relations during both the colonial era and the first republic, very much exhibited traits of the principal/agent model. For instance, a local government authority functioned more as field administrative unit of regional and later state governments. Before the second republic in 1979, the state governments were empowered to enact legislation that would ensure the establishment, structure, composition, finance and functions of the local government council (Bello, 1995). Meanwhile, Ayoade (1988) opined that the Nigerian federal structure with a multiple division of relational and political structure, identified six levels of inter-governmental transactions within the levels;

- (i) Federal-state relations.
- (ii) Federal-state-local government relations
- (iii) Federal-local government relations
- (iv) Inter-state government relations
- (v) State-local government relations

(vi) Inter-local government relations

The constitutional existence of States and Local Government varies from one country to another. For instance, in a federal system like America, the constitution recognizes two tiers of government only, the state becomes the basic constitutional unit of local government because the 10th Amendment of the American constitution reserves for the state, the power to determine for itself the nature, scope and functioning of local government within its jurisdiction.

For Nigeria, Njoku (1998) submits that the local government is technically a creation of the federal government as the third tier, its local prerogatives defined by the constitution and legislation.

However, Section 7 (1) of 1999 Nigerian constitution provides that the system of local government by democratically elected local government council is under this constitution guaranteed and accordingly, the government of every state shall ensure their existence under a law which provides for the establishment, structure, composition, finance and functions of such councils. Countries like Nigeria, Canada, America, and Germany have governments with original powers and jurisdiction derived from the constitution of the country, while the local government units are dependent for their powers and functions on the state and central government.

In Nigeria, there are three levels of government; the federal, state and local government. The constitution stipulates the division of power and functions in the exclusive list, concurrent list and residual list. The 1999 Constitution was largely modeled on the American experience. The central legislature is composed of two houses both elected directly; the Senate, containing as in the United States example, an equal amount of representatives for each state and the House of Representatives representing the states in proportion to their population. The Constitution can be amended by an Act of National Assembly to the effect supported by votes of not less than two-thirds majority of all the members of that House and approved by a resolution of the House of Assembly of not less than two-thirds of all the States.

There is a Supreme Court to settle constitutional disputes between the central and state legislatures. Regarding allocation of power, the federal government has matters

contained in exclusive legislative list allocated to it; both the federal and the state governments have matters allocated to them in the concurrent legislative list; the residual legislative list include the exclusive functions of a local government council and the participatory state/local government functions. But where there is a conflict between federal and state laws, that of the former takes precedence (section 4 (5)). Also, where the state executive action clashes with that of the federal, that of the latter supersedes. This implies that the federal government can intervene in any matter of public importance if it chooses to do so.

In the final analysis, the emerging structure of Nigeria federalism today is a pyramid where the federal government is at the apex, the state below and the local government at the base. The provisions of the 1999 constitution have in all, emphasized vertical interaction among the three levels of government rather than horizontal relationships.

4.0 CONCLUSION

In conclusion, Nigeria adopted the federal system of government because of her multi-cultural, multi-ethnic, and multi-religious peculiarities. Federalism guarantees the platform for accommodation and compromise mechanisms in a heterogeneous and diverse society. The federation continues to grapple with inter-governmental relations

5.0 SUMMARY

The foundation and general outcome of what we have today as Nigerian federalism was laid in the colonial era. The strength of the centre and the contradicting tendencies, as well as the hegemony of the federal might which was already in place during the colonial days was passed on to the post-colonial Nigerian state. The evolution of Nigerian federalism did not depart from the general tendencies established during colonialism with regards to the centralizing tendencies in content, spirit and structure. Undisputedly, the constitution preserves the autonomy of each tier of government but there is no denying the extent of federal power. This derives primarily from the military origin of the constitution, and the fact that the country operates a single economy in which economic activities belong to the exclusive legislativelist.

TUTOR-MARKED ASSIGNMENTS

1. Analyse reasons why the federal system is seen as appropriate for a heterogeneous society like Nigeria
2. Explain the term Inter-governmental relations
3. Assess the impact of the fiscal dominance of the central government on Nigeria's federalism.

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UNIT2: UNITED STATES OF AMERICA

MAINCONTENT

1.0 Introduction

2.0 Objective

3.0 MainContent

3.1 PoliticalHistory

3.2 Evolution ofFederalism

3.3 Intergovernmental Relations

4.0 Conclusion

5.0 Summary

6.0 Tutor MarkedAssignment

7.0 References/FurtherReading

1.0 INTRODUCTION

The United States of America was the first modern federation, and indeed, the federal constitution can be regarded as America's contribution to constitution-making. America was originally a confederation of thirteen states that later came together to form a federal union in 1787. The United States of America embodies a number of racial stocks. Currently, the United States is a federal system with fifty individual states, each having its own position of legal autonomy and political significance. The American Constitution of 1787 establishes an association of states so organized that powers are divided between a general government which in certain matters is independent of government of associated states and state governments which in certain matters are, in turn, independent of the general government.

The Constitution provides for a unicameral legislature at the state level and a Congress comprising the House of Senate and Representatives at the national level. The Senate contains an equal number of representatives from each state and the House of Representatives representing the states in proportion to the population. Amendments to the US Constitution may be proposed either by two-thirds of both Houses of Congress, or by a convention called together by Congress on the

application of the legislatures of two-thirds of the states. These proposed amendments are valid when ratified by the legislature of three-quarters of the states. The Supreme Court is the final arbiter in the interpretation of the Constitution and of division of powers. And in the event of a conflict between the federal and state legislatures, the state legislation will be rendered void to the extent of its inconsistency. Our focus in this course is on America's political origin and the development of its federalism.

2.0 OBJECTIVES

At the conclusion of this unit, you should be able to:

- (i) Explore the origins of America's political history.
- (ii) Explain the development of American federalism
- (iii) Highlight the contemporary practices and forces that seem to be moving American federalism in new directions.

3.0 MAINCONTENT

Since its inception over two-hundred years ago, American federalism has gone through tremendous changes. Today, all levels of government- federal, state and local- play greater roles in the lives of their citizens. Furthermore, expectations about what kind of services and rights people want from government have changed, and relations among federal, state and local governments have become infinitely more complex. For our purpose in this unit, the understanding of these complexities and evolution is essential. In the next part of this unit we shall explore the political history of the United States of America.

3.1 PoliticalHistory

The origin of the United States of America has always been a subject of debate among historians. The most popular legend is that of the arrival of Christopher Columbus in 1492 in modern day Americas. In recent decades American schools and universities have shifted back in time to include more on the colonial period and more on the prehistory of the Native people. Indigenous peoples lived in what is now the United States for thousands of years before European colonialists began to arrive, mostly

from England, after 1600. By the 1770s, the thirteen British colonies contained two and a half million people. In the 1760s British government imposed a series of taxes while rejecting the American argument that any new tax had to be approved by the people. Tax resistance, especially the Boston Tea Party (1774), led to punitive laws by Parliament designed to end self-government in Massachusetts. This led to armed conflicts which began in Massachusetts; American Patriots drove out the royal officials out of every colony and assembled mass meeting and conventions. Those Patriot governments in the colonies then unanimously empowered their delegates to Congress to declare independence.

In July 1776, Congress created an independent nation, the United States of America. However, the central government established by the Articles of Confederation proved ineffectual at providing stability, as it had no authority to collect tax and no executive officer. Congress called a convention to meet secretly in Philadelphia in 1787 to revise the Articles of Confederation. It wrote a new Constitution, which was adopted in 1789. Sanford (2000) stated that in 1789 the United States of America adopted what was at the time a unique form of governance.

The government created by the new constitution became, arguably, the first structured according to principles of what is today referred to as federalism. The author went further to explain that sectionalism was to remain a threat to the viability of the new expanded republic and eventually led to the Civil War (1861-1865). The nation was divided between the north-south axes. The Civil War was to have a critical impact on the shape of US federalism, leading to the national government asserting its responsibility for upholding the Union as inviolable. The national government's imposition of a period of reconstruction on the South from 1865-1876 solidified its role as the keeper of the Union and gave new meaning to the constitution's statement that federal laws of the national government were supreme (Sanford, 2000).

After reconstruction, the power of the national government was not asserted to a similar degree, but rapid industrialization of the country created forces of nationalization that would lay the foundation for the growth of federal power. In the twentieth century, two world wars, and the emergence of the United States as a world

power would re-define the character of US federalism. The national government, particularly the office of the President would assume increased significance and authority. Today, the national government is far stronger than it was when it was first established. All the three branches of government have assumed greater power in the federal system than they had in the early years.

3.2 Evolution of Federalism

Katz (1999) begins the analysis of American federalism by explaining the origins, development and the forces that seem to be moving it in a new direction. As was discussed above, to remedy the defects of the Articles of Confederation, George Washington, Alexander Hamilton, James Madison and other nationalist leaders called upon the states to send delegates to a constitutional convention to meet in the city of Philadelphia in May 1787. It was, of course, that convention that produced the Constitution of the United States of America. The framers of the Constitution rejected both confederal and unitary models of governance. Instead, they based the new American government on an entirely new theory –federalism.

The author went on to say that in American federalism, the people retain their basic sovereignty and they delegate some powers to the states. Furthermore, the states are not administrative units that exist only to implement policies made by some central government. The states are fully functioning constitutional polities in their own right. The powers granted to the federal government deal mainly with foreign and military affairs and national economic issues, such as the free flow of commerce across states lines. Most domestic policy issues were left to the states to resolve in keeping with their own histories, needs and cultures. The northern victory during the Civil War and the subsequent adoption of the 13th, 14th, and 15th amendments of the constitution ended slavery, defined national citizenship, limited the power of the states in the areas of civil rights and liberties generally, and established the supremacy of the national Constitution.

Until the New Deal, the prevailing concept of federalism was –dual federalism as a system in which the national government and states have totally separate sets of responsibilities. Thus foreign affairs and national defense were the business of the federal government

alone, while education and family law were matters of the states exclusively. The New Deal broke this artificial distinction and gave rise to the notion of —cooperative federalism, a system by which the national and state governments may cooperate with each other to deal with a wide range of social and economic problems. Cooperative federalism characterized American intergovernmental relation through the 1950s and into the 1960s. According to Elazar (1981), President Lydon Johnson’s Creative Federalism as embodied in his Great Society program was a major departure from the past. It further shifted the power relationship between government levels toward the national government, the expansion of grant-in-aid system and the increasing use of regulations.

In the 1970s, the US moved toward New Federalism. This allows the states to reclaim some power while recognizing the federal government as the highest governmental power. It is based on devolution, which is the transfer of certain powers from the federal government to the states. Sometimes, though, new federalism comes under scrutiny for leaving too much power to the states. After 2005’s Hurricane Katrina, state governments were highly criticized for not effectively responding. As a result, citizens called for a more unified federal government response to future emergencies. These days there is a recent move toward progressive federalism. This type of federalism is a slight shift toward reclaiming some power for the federal government through programmes that regulate areas traditionally left to state (Dugger, 2009).

Self-Assessment Questions

- Describe the growth of American federalism and the factors behind its growth
- Identify the parts played by state and local government in the federal system

3.3 Intergovernmental Relations

The national government has three branches- the bicameral Congress serving as the legislative branch, the independently elected President heading the executive branch and the Supreme Court heading the judicial branch. The relationship of each of these branches to the states has changed since the federation was created. With the rise in

power of presidency along with the increasing responsibility of that office for the national economy, Presidents have become the national political figures they were originally intended to be. For instance, the Supreme Court Justices (nine) are appointed by the President, but ratified by the Senate; this is one among the numerous powers of the Executive President and Commander-in-Chief of the Armed Forces. The division of powers between the national government and the states is specified in the constitution. Article VI of the constitution includes the —supremacy clause that makes the constitution and the laws of the national government supreme. The supremacy clause, however, has at times been invoked to pre-empt state concurrent powers, for instance in recent years regarding the regulation of air and water pollution. The area of concurrent powers suggests that the debates about the allocation of power in the US federal system are unavoidable (Samuel, 1993).

While the early years of the constitution saw the growth of a national government, for much of its history especially after the Civil War, the Tenth Amendment has served to create a great reservoir of residual powers for the states. The conceptualization of national-state government relations have changed over time as well. A contrast has historically been between the theories of dual and cooperative federalism. Dual federalism emphasized the separateness of the tiers and the need to limit the national government so that it does not undermine the sovereignty of each state. In American federalism, citizens only vote indirectly for the President because the votes are used to determine the allocation of electors from each state who then vote accordingly as an —Electoral College to choose the President (and the designated Vice-President). The process therefore makes the election a question of garnering enough support in enough states in order to achieve a majority in the Electoral College.

Table III: Political Indicators

Capital City	Washington, District of Columbia
Number and type of constituent units	50 States: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming.
Political system- federal	Federal Republic
Head of State- federal	President. The President and Vice President are elected on the same ticket by an Electoral College. The President can serve no more than two 4-year terms.
Head of government- federal	President. The President appoints the Cabinet, but the Cabinet members must be approved by the Senate.
Government structure	Bicameral: Congress Upper House- Senate, 100 seats. Senators are elected to serve 6-year terms, with one-third elected every two years. Lower House - House of Representatives, 435 seats. Representatives are directly elected to serve 2-year terms. Each state is guaranteed at least one representative.
Constitutional court-highest court dealing with constitutional matters	Supreme Court
Head of state and government – constituent units	Governor- popularly elected with term in office varying from 2 years (2 states) to 4 years (48 states), depending upon the states.

4.0 CONCLUSION

The nature of American federalism has changed as the relative positions of the national and state governments have evolved. Although the national government took

a limited role for much of the country's history, it expanded its influence considerably in the early twentieth century.

5.0 SUMMARY

In this unit, you would have learnt about the history of American federalism and the various phases it passed through. We have also attempted to analyze the intergovernmental relations and explore how federal institutions are based on the principle of the separation of powers between executive and legislature with Presidential-Congressional institutions involving a system of checks and balances. In American federalism, the states are not administrative units that exist only to implement policies made by some government, but they are coordinate partners in the working of the federal system.

TUTOR MARKED ASSIGNMENT

1. Explain the concept of —Dual Federalism.
2. Describe the process of amending the U.S Constitution.
3. Highlight the branches of the American national government.

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UNIT 3: SWITZERLAND

MAIN CONTENT

1.0 Introduction

2.0 Objectives

3.0 MainContent

3.1 PoliticalHistory

3.3 Evolution ofFederalism

3.4 Intergovernmental Relations

4.0 Conclusion

5.0 Summary

6.0 Tutor MarkedAssignment

7.0 References/ Further Reading

1.0 INTRODUCTION

Switzerland became a federal state in 1848. Prior to this development, the country operated the confederal system which scholars of Swiss political history dates back to 1291. The country is perceived as embodying the spirit of a perfect federal arrangement, thus, the country provides examples for numerous others on how federalism should work. Swiss federalism has been tailored to cater for the multi-cultural character of the Swiss political environment. This unit focuses on the fundamental of Switzerland's federalism, by starting from the country's political history, and explaining how federalism has been used for accommodating diversity.

2.0 OBJECTIVES

At the conclusion of this unit, you should be able to:

- (i) Explain the origin of Switzerland's politicalhistory.
- (ii) Describe the growth of federalism and the factors behind thegrowth.
- (iii) Discuss the nature of intergovernmental relations inSwitzerland.

3.0 MAINCONTENT

In order to set the tone for this discourse, it is important that we understand the origin of Switzerland's political history. In 1848 the people and cantons of Switzerland adopted a federal constitution. This constitution was a compromise between the winners and losers of the civil war. It introduced some centralization but it also guaranteed, through the institutional set-up and limitation of competencies of the central government, respect for cantonal diversity. With the 1848 constitution Switzerland took an important step towards modernity. It became a federal country based on constitutionally guaranteed shared rule and self-rule. The modernization did not aim at homogenization of the population but rather, attempted to create a Swiss nation by preserving the pre-existing diversity. The combination of shared-rule and self-rule enabled the country to create diversity in unity. Although over the years the institutions and political processes have evolved and developed further, the over-all design has stayed the same. The political history of Switzerland will be explored in the next part of the unit.

3.1 POLITICALHISTORY

Originally inhabited by the Celtic Helvetians, the territory comprising modern Switzerland came under Roman rule during the Gallic wars in the 1st Century BC and remained a Roman province until the 4th Century AD. After the decline of the Roman Empire, Switzerland was invaded by Germanic tribes from the north and west. In 800, the country became part of Charlemagne's empire. It later passed under the dominion of the Holy Roman Emperors in the form of small ecclesiastic and temporal holdings subject to imperial sovereignty. With the opening of a new important north-south trade route across the Alps in the early 13th Century, the Empire's rulers began to attach more importance to the remote Swiss mountain valleys, which were granted some degree of autonomy under direct imperial rule. Fearful of the popular disturbances flaring up following the death of the Holy Roman Emperor in 1291, the ruling families from Uri, Schwyz and Unterwalden signed a charter to keep public peace and pledging mutual support in upholding autonomous administrative and judicial rule.

The Anniversary of the Charter's signing (August 1, 1291) is now being celebrated as Switzerland's National Day. Between 1315 and 1388 the Swiss Confederates inflicted three crushing defeats on the Habsburgs, whose aspiration to regional dominion clashed with Swiss self-determination. During that period, five other localities (cantons in modern-day parlances) joined the original three in the Swiss Confederation. Buoyed by their feats, the Swiss Confederates continuously expanded their borders by military means and gained formal independence from the Holy Roman Empire in 1499. Routed by the French and Venetians near Milan in 1515, they renounced expansionist policies. By then the Swiss Confederation had become a union of 13 localities with a regularly convening diet administering the subject territories. Swiss mercenaries continued for centuries to serve in other armies; the Swiss guard of the Pope is a vestige of this tradition.

The Swiss remained neutral during the War of the First Coalition against Revolutionary France, but Napoleon, nonetheless, invaded and annexed much of the country in 1797-98, replacing the loose confederation with a centrally governed unitary state. The Congress of Vienna in 1815 re-established the old confederation of sovereign states and enshrined Switzerland's status of permanent armed neutrality in international law. In 1848, after a brief civil war between Protestant liberals seeking a centralized national state and Catholic Conservatives clinging on to the old order, the majority of Swiss Cantons opted for a Federal State, modeled in part on the US Constitution. The Swiss amended their Constitution extensively in 1874, establishing federal responsibility for defense, trade and legal matters, as well as introducing direct democracy by popular referendum. To this day, cantonal autonomy and referendum democracy remain trademarks of the Swiss politics. Following the Cold War, Switzerland joined the Bretton Woods Institutions in 1992 and finally became a member of the United Nations in 2002.

3.2 Evolution of Federalism

If the 1848 settlement represented a delicate compromise between the desires of the liberals and radical majority and the fears of the conservative minority, it could not for

long resist new pressures from both the liberal-radical movement and economic necessity. At this time, the new federal state was still extraordinarily decentralized, with limited competences exercised at the central level. The pressures that had led to the transformation of the confederation into a federal state were now pushing in the direction of a greater centralization of the latter. The main drive was the desire to harmonize regulations across cantons, in order to facilitate economic activity on a country-wide basis. After a failed attempt in 1872, a wide-ranging constitutional revision was approved in 1874 giving more power to the centre, notably on matters of defense, private law, transport and the environment.

As noted above, the 1874 revision left the institutional structure largely unchanged, with the significant exception of a strengthening of the powers and independence of the Federal Tribunal. In fact, the most significant innovation of the new constitution was the introduction of an optional referendum for ordinary legislation, whereby 30,000 citizens could challenge any law passed by the Federal Assembly, adding to the mandatory referendum for constitutional reviews. Even more important in this respect was the introduction, in 1891, of the popular initiative for partial constitutional amendments. These instruments became the pillars of the system of direct democracy that has profoundly shaped the Swiss political system. In particular, as discussed in more detail below, direct democracy has played a crucial role in constraining the centralizing tendency of the political dynamics and thus has preserved some of the peculiar features of Swiss federalism.

This slow but persistent centralizing tendency was clearly displayed where the harmonization of legal codes was concerned. An 1898 constitutional revision paved the way for the adoption of a single civil code in 1907 and a single penal code in 1937. After the First World War, and even more so after the Second World War, the same centralizing dynamic was on display in the progressive creation of a welfare state, with more power conferred on the central level. This trend was supported in the fact that the 1874 constitution was amended more than 100 times over the course of the following century (Church, 2004).

Prior to the establishment of the federal state until the 1970s, a slow but unambiguous process of centralization thus took place in the Swiss federal system. It was, moreover, a process that gathered momentum over time, with a decline in the number of defeats to constitutional amendments from the end of the nineteenth century onwards (Aubert, 1974). However it is important to note that the Swiss federal state started from a situation of extreme decentralization more commonly associated with confederations than federations. The power shift that has occurred over time can then be partially explained by the initial level of centralization. Secondly, centralization has largely been confined to legislation while policy implementation has been left to cantons and communes. Thirdly, centralization in the Swiss system, though significant, has not gone as far as it has gone in other federal states, with the result that Switzerland is still the most decentralized of the main federations (Mckay, 2001).

Similarly Church (2004), argued that the process of Swiss centralization over time has been driven by three main forces: the desire to facilitate economic activity by creating a single economic space governed by harmonized regulations; the desire to grant citizens equality of rights in the political and social spheres, which has translated into the strengthening of Swiss citizenship and the building of a welfare state; and a strong nationalist ethos in the Radical Party.

SELF-ASSESSMENT QUESTIONS

1. Examine those factors that have constrained centralization in the Swiss federal system.
2. Describe the extent to which federalism has become a key component of Swiss national identity.

3.3 Intergovernmental Relations

Switzerland is a federation composed of 26 cantons (Article 1), of which six are so-called—half-cantons arising out of the historic division of three cantons taking place before the foundation of the federation in 1848. These half cantons have the same

independence as the other 20 cantons (Articles 3), with the exception that they have only half the representation when the formal tools of shared rule are concerned. This means they have only one vote when the majority of cantons are required for a referendum (Article 142).

According to the Swiss Federal Constitution of 1999, as well as earlier constitutions, cantons are—sovereign as long and insofar as their sovereignty are not limited by the constitution (Article 3). Sovereign in this case means that they have the exclusive right to execute the legislative, executive and judicial powers within their territory in all domains that can be subject to state power. The Confederation is obliged to respect this exclusive sovereignty of the cantons. It should be noted, —Confederation here refers to the official name of the Swiss federal state, Confederation Helvetica or —Swiss Confederation. Despite its traditional name, however, the modern Swiss political culture does not fit the modern concept of a confederation, but it is rather a federation. This sovereignty is not absolute, however. The constitution places several limitations on the sovereignty of the cantons in several different ways.

According to Church (2004), there are three sets of institutional actors in Swiss federalism: the federation, the cantons and the communes. All three levels of government have specific constitutional tasks though their nature and extent naturally vary and it is critical to include the communes because they play an essential role in Switzerland. The author continues by stating that cantons still appear to be central actors. Not only are they the crucial middle level between the federation and the communes, they are also the building blocks of the state. Constitutionally, they are the only actors free to determine their own policy-making role within the limits of the federal constitution although, de facto, this freedom has been progressively reduced by the process of centralization discussed above. Makers to the decision that judges should not be able to abolish what have been decided democratically.

Also the executive branch of the federal government, Federal Council, is a very important factor of shared rule, mainly because the Federal Council and its administration draft almost all law-making propositions and they negotiate whenever

an international treaty is discussed. The Federal Council is composed of seven Federal Councilors, elected by both chambers of the Federal Parliament, each of whom is head of a ministry, and together they form the Swiss Executive. For government decisions, all members of the Federal Council have equal votes, which mean that the Federal President is only *primus inter pares* (first among equals).

The division of functions between the three levels of government is primarily regulated through constitutional norms. The presence of constitutional rules at both federal and cantonal level means that each of the three levels operates within legal constraints and has to respect the autonomy and prerogatives of the other levels and to co-operate with them. This said, there is a clear hierarchy of levels. Cantonal constitutions and legislation constrain the communes' margin of manoeuvre while the federal constitution and laws prevail over cantonal laws. Importantly, cantonal acts are subject to judicial review by the Federal Tribunal while federal acts are not and can only be challenged through referendum.

Furthermore, all three levels have revenue-raising powers and broadly speaking aim to be self-financing although there is a considerable degree of revenue sharing. Reflecting the distribution of policy implementation, cantons and communes spend more than the centre. Although not dependent on income from the centre, cantons get help from the federation through sharing in federal taxes and also receive grants, refunds and subsidies in compensation for their implementation role. This is done through an equalization fund intended to smooth the imbalances in revenue among cantons (Mckay, 2001).

Church (2004) also lends credence to the argument of how important an actor in the communes are in the system. He stated that there are several types of commune, but the one we are concerned with here is the—Political Commune, comparable to those in Germany, France and Italy. The nearly 3000 communes carry out a great deal of policy implementation, directly raise a significant amount of taxation to finance it and, importantly, are the agencies granting citizenship. Uniquely among federal states, Swiss citizenship depends on cantonal citizenship which in turn depends on the

citizenship granted by a commune.

4.0 CONCLUSION

Switzerland is an extremely interesting example of a federal system in both its historical and contemporary dimensions. It can be seen as the near perfect embodiment of the federal idea. But it is also a peculiar system, in which formal institutions and cultural patterns are closely intertwined. As such, it is a fascinating political system to study but also a very difficult one to imitate.

5.0 SUMMARY

This unit has been an attempt to explain the history and evolution of Switzerland. In this unit two general points have been made about Swiss federalism. First, it is not a fixed entity but an evolving affair marked by constitutional changes and driven by political dynamics. Secondly, its contemporary form and how it functions are not only matters of institutional mechanisms and of formal division of labour, they are also intimately linked to political culture in an organic manner. The Swiss federalism is concerned with giving as much autonomy as possible to local communities and letting the differences between them co-exist peacefully and harmoniously. Moreover, beyond the formal institutional arrangements, it is a way of working and thinking, shaped by history and rooted in an organic, bottom-up conception of the state.

TUTOR-MARKED ASSIGNMENTS

1. Explain the hierarchy of levels in Swiss federalism.
2. According to Clive Church, the process of Swiss centralization has been driven by three main forces. –Discuss
3. ‘Cantons are Sovereign’. Explain

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UNIT 4: INDIA

MAINCONTENT

1.0 Introduction

2.0 Objectives

3.0 MainContent

3.1PoliticalHistory

3.2Evolution ofFederalism

3.3Intergovernmental Relations

4.0 Conclusion

5.0 Summary

6.0 Tutor MarkedAssignment

7.0 References/FurtherReading

1.0 INTRODUCTION

India is a country with the population of over 1 billion people, forming 1/7th of the world's population. India is therefore regarded as the world's largest democracy. This unit is concerned about projecting India's unique case as a federal democracy. We would therefore explain the political history of the country, specific attention would be paid on the evolution of federalism, and also, how intergovernmental relations are established and carried on for the smooth running of the state. This material will ensure that the gross complexities involved in studying about the largest democracy in the world are simplified by using everyday words and making simple sentences for the needed clarity and brevity necessary for proper understanding.

2.0 OBJECTIVES

At the end of this unit, you should be able to:

- (i) Understand the political history of India.
- (ii) Explain the evolution of federalism in India
- (iii) As well as Intergovernmental Relation in India.

3.0 MAINCONTENT

One of the consequences of colonialism in India is the spread of the English language, which aided mass mobilisation under the spiritual leadership of Mahatma Gandhi and forged a political unity which the national leadership built upon. Mahatma Gandhi was the father of the nation, while Jawaharlal Nehru could be said to be the father of the Indian state. India experienced a disturbing decolonization period, but the founding fathers in their own wisdom deemed it fit to lay a solid foundation for a durable democracy.

India is located in the South of Asia and the name India comes from the Indus River. The country is referred to as Bharata in the constitution. The name is a reference to the ancient mythological emperor, whose story was told to have conquered the whole of the sub-continent of India and ruled the region in peace and harmony. The land is considered one of the oldest inhabited places on earth. Archaeological excavations started a little late in India, compared to the likes of Egypt despite being as richly endowed, but hominid activities in the region can be traced as far back as 250,000 years, making it one of the earliest inhabited regions on planet earth.

3.1 PoliticalHistory

India gained her independence on 15th August, 1947. The task for the whole of India, especially her leaders was the integration and preservation of the national unity of India's one billion population, bearing in mind the gross diversity of the people in India divided among ethnicity, religion, language and caste. The India which they inherited from the colonial masters had been one of abject poverty, social injustice, economic inequality, to mention a few. Therefore, the people were determined to build the India of their choice, bearing in mind their diversities. This was reflected in the mood of the speech made by Jawaharlal Nehru on August 14, 2014, the eve of independence.

3.2 Evolution of IndianFederalism

Historical factors have played crucial roles in the adoption of a federal constitution

with strong unitary features in India (Rao and Singh, 2002). After the partition of India, the onus of drafting a constitution in line with federal principles fell on the Constituent Assembly (CA), formed in 1946. They had prolonged deliberation over the issue and finally decided to settle for a—unitary federalism. The passing of the India Independence Act and the eventual Partitioning of India led the Constituent Assembly to adopt a more unitary version of federalism. The drafting of India's federal constitution was conditioned by federal examples from places like the USA and Canada, and infused with local peculiarities. They gave room for changes that might not be possible if they had a constitution with strict federal principle. The result of this was a constitution that could meet the peculiar needs of the Indianation.

The Assembly was perhaps the first constituent body to embrace from the start what A.M. Birch and others have called —cooperative federalism. It is characterized by increasing interdependence of federal and regional governments without destroying the principle of federalism. The decision of the Constituent Assembly to have a federal constitution with a strong centre was occasioned also by the circumstances in which it was taken. A strong central government was necessary for handling the situation arising out of the communal riots that preceded and accompanied Partition, for meeting the food crisis, for settling the refugees, for maintaining national unity and for promoting social and economic development, which had been thwarted under colonial rule.

3.3 Intergovernmental Relations in India

The Constitution of India recognizes the office of the President, a role similar to that of the British Queen, he represents the nation but does not rule the nation, he is elected into office by elected members of parliament and of state legislative assemblies by a method of proportional representation through single transferable vote, as the head of state for a five year tenure and is eligible for election and can as well be impeached for violating the constitution. He is elected along with a Vice-President on the same five year tenure. The Vice-President assumes power only when the President is unable to perform his duties because of absence, illness or any other cause, or is removed or resigns, the Vice-President is enjoined upon by Article 65 to act as the President.

Meanwhile, the constitution also recognizes the office of the Prime Minister, who is the head of government, responsible to the parliament. The parliament is charged with the responsibility of electing the Prime Minister. All important decisions are taken in cabinet meeting, chaired by the prime minister. The President in India is not a figure head, in fact, the constitution has given the President enormous powers, but the constitution is well structured to prevent the President from emerging a dictator. The President is not opportune to use his power at will, as a single ruling party is in control of the government. It is only possible for the President to exercise huge power in a situation whereby they have a split of agreement within the ruling party. The President can now use his discretion to bring about calm and order or dissolve the parliament and instigate a new one.

In other areas, the powers of the President are quite clearly defined. When a bill is presented to him, under article 111, he may withhold his assent and, if he desires, return it to parliament for reconsideration. If both Houses again pass it and send it back to him, he is obliged to give his assent. In the case of money bills, however, he has no discretion. In any case, he has no absolute power of veto. The 44th Amendment in 1978 also made it explicit that the President can declare an Emergency only after receiving in writing the decision of the Cabinet advising him to make the proclamation. During the period of Emergency as well, he is to act on the advice of the Cabinet. It is very clear that almost all his powers, including those of appointing various high functionaries such as judges of the higher courts, governors, ambassadors, the Attorney-General, the Comptroller and Auditor-General of India, etc., are to be exercised on the advice of the Cabinet. The same is true of his powers as Supreme Commander of the armed forces, and of his powers to issue ordinances when parliament is not in session(2000).

In line with the constitution, the Prime Minister and the council of ministers hold executive powers. The President appoints from the majority party in the Lok Sabha, the Prime Minister, but in situations whereby there is no majority party the president appoints a person who has the confidence of the majority of the members of the Lok

Sabha. The Lok Sabha resigns as soon as it loses confidence, in line with collective principle. Though according to the constitution, they are asked to resign after a breakdown of power, they are asked by the President to continue until a new one is in place. The Prime Minister has the power to appoint ministers and also recommend their dismissal, subject to the President's approval.

There are two houses of parliament in India, the upper house called Council of States or Rajya Sabha, and the lower house called House of the people or Lok Sabha. The Lok Sabha is directly elected by the people for five years and there is no proportional representation. Members of the Lok Sabha must be at least twenty-five years of age, to occupy the 552 seats in the Lok Sabha. The Lok Sabha is chaired by the speaker who is elected from within them in the majority party; the deputy speaker is elected from the minority party. Bills must pass through both houses before it becomes law. The President also has to give his assent, and he also has the authority to send a bill back to parliament for reconsideration, once the bill is sent back again, the President cannot withhold assent.

All states have legislative assemblies, which consist of not more than 500 members. A few states also have second chambers or legislative councils. States have exclusive right to legislate on terms in the State list. They can also legislate on items in the Concurrent List but if there is a law passed by the Union parliament which is different from that passed by the state legislature, then the Union law stands. With the 73rd and 74th Constitutional amendments in 1993 over a quarter million local government units have been created in urban and rural areas to provide an enabling environment for decentralized provision of public services. The eleventh schedule also listed 29 items that were meant to be handled by the panchayats.

The Supreme Court established in 1950 is the apex court in the India, consists of the Chief Justice, who is the most senior justice, and twenty-five other justices appointed by the President after consultation with judges of the supreme and high court in India. They stay in office till sixty-five years of age and can only be unseated if two-third of parliament vote and a resolution is reached on the judge's improper conduct. The

Supreme Court has original jurisdiction also in all disputes between the Union and states as well as between states and original jurisdiction, and also in case of appeals or writs relating to enforcement of Fundamental Rights, that is, a person can straight away appeal to the Supreme Court without going through the normal layers of the judicial hierarchy [Article 32] (2000).

4.0 CONCLUSION

The experts that wrote the Indian constitution took from all other countries that practices federalism, what they found useful to them and did away with some features they felt unnecessary. For instance, in the USA, while some people consider themselves citizens of the US, they also see themselves as citizens of the state where they reside, whereas in India, there is no such thing, everyone is simply seen as citizens of India. Irrespective of whichever part you are from or reside. According to Stepan (1999), it is best to call India a holding together federation, not a coming together federation. The US is the prime example of the latter kind of federation.

5.0 SUMMARY

India operates a federal constitution, but it has embedded in it, structures of a quasi-federal system, what many would refer to as cooperative federal system. This has ensured that Indian can adjust to whatever situation when confronted with crisis. This may not be possible in a nation that practices a purely federal system. India's parliamentary system bears a striking resemblance to that of the British, the only difference is that the position of the President as is under the British monarch is not hereditary. In terms of exercising powers, only unstable or ambiguous political situations provide room for exercise of presidential discretion and hence potential abuse or misuse of powers.

TUTOR MARKED ASSIGNMENT

1. Give a brief account of the life, time and contribution of any one of India's nationalist leaders.
2. Write a short note on India's Lok Sabha.
3. Examine the relationship between the Prime-Minister and the President in India's federal constitution.

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UNIT 5: BRAZIL

MAINCONTENT

- 1.0 Introduction
- 2.0 Objectives
- 3.0 MainContent
- 3.1 PoliticalHistory
- 3.2 Evolution ofFederalism
- 3.3 Intergovernmental Relations
- 4.0 Conclusion
- 6.0 Summary
- 6.0 Tutor MarkedAssignment
- 7.0 References/FurtherReading

1.0 INTRODUCTION

The last unit in this module is about Brazil, the fifth largest country in the world. Brazil has a political history similar to the situation in Africa. The country was at some point in its history, a haven for slave trade, and at some other time, the country was under the colonial control of Portugal. The country also has a history of military dictatorship. There has however been a relative political stability since 1985. Though the country has explored various forms of governmental administration (presidential, parliamentary, and an admixture of both). However, federalism has always been the preferred form of political system. This unit explores the practice of federalism in Brazil.

2.0 OBJECTIVES

At the conclusion of this unit, you should be able to:

- (i) Understand the dynamics of Brazil's politicalhistory
- (ii) Explain the nature of federalism inBrazil
- (iii) The character of intergovernmental relations in Brazil.

3.0 MAINCONTENT

Brazil has a population of over two hundred and two million people. Within this population, there are distinctions across races, religious affiliations, culture and value, among others. As such, Brazil is a typical heterogeneous, plural and diverse country. In order to manage the contestations that normally arise from the plurality and diversity in heterogeneous states, federalism was institutionalised as a tool of political engineering. Brazil therefore has emerged as a nation-state of various nationalities.

3.1 PoliticalHistory

Ancient Brazil was discovered in 1500; however the entity was not established as a colony until 1532. Effective political domination by Portugal was entrenched between 1533 and 1807, thereby making Brazil a part of Portugal's Empire. By 1822, Brazil gained independence as a free Empire. Independence paved way for the adoption of the monarchical system

As the only political regime that could preserve the two basic elements of the colonial system deemed necessary to the maintenance of the dominant landed aristocracy-slavery and a unitary political administration.

The nature of political instability that would visit the state for decades soon reared its head through the overthrow of the Emperor in 1890. While the monarchical period was characterised by political and administrative centralisation, the overthrow heralded the birth of the First Republic, and a political system based of high level decentralisation of power to the states. This development became the hallmark of Brazil's federal system. The entrenchment of the policy of decentralisation arguably made states such as Sao Paulo and Minas Gerais more powerful than the federal government.

Again in 1930, a revolution arose as an aftermath of the disputed general elections. The military marched on Rio de Janeiro and took over power by deposing the incumbent and installing their preferred candidate, the relatively popular, Getulio Vargas. The military thus emerged a major player in Brazil's political environment. This meant that the military institution became the most relevant in the processes of decision-making and policy formulation and implementation. This explains why on

the suspicion of disrespect for the military institution by the Jaoa Goulart regime in 1964, he was toppled through a military coup de tat. However, by 1985, Brazil joined the democratic wind of change by ensuring the sustenance of democracy, rather than recourse to military dictatorship at any given opportunity.

3.2 Evolution of Federalism

The history of Brazil's federal system can be traced to 1889 after the military coup de tat that ousted the monarchical regime. The emergent republican alliance established a federal system that produced remarkable changes in Brazil's political environment. One of the most fundamental changes was the change of the provinces of the erstwhile empire into states. Beyond the change in nomenclature, the political relationship between the centre and the units was equally transformed. Furthermore, by the creation of the 1891 federal constitution, the autonomy of the states became relatively enlarged.

Under the new federal constitution, Brazil changed from the parliamentary system to a presidential format that accommodated a bicameral Congress, which comprises of the Chamber of Deputies and a Senate. The federal constitution also created an independent Supreme Court, thereby institutionalising a democratic federal arrangement. Even at periods when democratic ideals were truncated through military coup de tat, the structure of the federal system was always kept intact. Brazil is believed to be marked by a complex combination of majoritarian and consociative institutional arrangements. This arrangement is organised around:

1. A presidential system in which a strong President is sided by a symmetric, bicameral, multi-party and regionalist, legislative power and an independent judiciary; and
2. A federative system which reproduces the presidential division of powers at the state level (except that there is no state Senate) and accords considerable constitutional autonomy to states and municipalities.

In the final analysis,

The consociative arrangements mean that the dispersion of powers throughout the political system facilitates the incorporation of almost all political forces and economic and

social interests of the Brazilian society. The combination of a weak party system, low barriers to participation, and proportional representation at all levels (federal, state and local) produces some sort of compensation to the electoral force of Presidents, Governors and Mayors, who are directly elected.

Self-Assessment Question

Discuss the two main features of Brazil's federal system

3.3 Intergovernmental Relations

The nature of intergovernmental relations in Brazil is peculiar to the Brazilian environment. The government is composed of the Federal District; 26 states; and 5,561 municipalities. It is the relationship among these three levels of government that defines Brazil's federalism. Brazil arguably practices one of the most decentralised federal systems. The constitution gives autonomous broad powers to states and municipalities in respect of tax and expenditure functions, because the constitution recognises their independence and co-equal status. In respect of intergovernmental relations, the specific sections of the constitution states the various functions and jurisdictions of each level of government and by extension the nature of relationships among them. The provisions for these relationships are found in Articles 20 to 25.

Essentially, intergovernmental relations in Brazil are one the basis of cooperative federalism. This is exemplified in Article 23 where the various powers that should be exercised in common by the Union, states and the municipalities are listed. In Article 24, the concurrent legislative list, involving the Union, the states and the Federal District is presented. It is however instructive to note that the Union's legislation overrides those of states and municipal legislative authorities. Article 25 states the residual powers, which guarantee that all powers that are not reserved for the federal government or assigned to the municipal authorities should be taken up by the states. A peculiar aspect of the practice of federalism in Brazil is that:

... The Brazilian constitution provides detailed rules for the management of the over 5,500 municipalities that are autonomous in strictly local affairs. Each municipality operates under its own constitutional provisions, called Organic (Basic)

Law, which must be approved by a qualified majority in the Municipal Council.

In the final analysis, it will be observed that Brazil's federalism is built on a high-level of decentralisation, this is in spite of the experiences of the monarchical system and military rule. These two systems thrive on over-centralisation of powers. In a unique way, Brazil's states may be regarded as more powerful than the central government. Though a matured federalism, Brazil keeps adjusting its constitution to meet up with emerging challenges.

4.0 CONCLUSION

The unit deals with the peculiar nature of the practice of federalism in the fifth largest nation in the world. As expected, there are three levels of government that have responsibilities to the citizenry, but which also expects loyalty and obedience to the law from the citizens in equal measure.

5.0 SUMMARY

In summary, the unit traces the political history of Brazil from its discovery in 1500 and the gaining of independence in 1822. Of importance to us, is the 1891 adoption of a federal constitution. It is important to note the impact of monarchical rule and military dictatorship on Brazil's practice of democratic federalism.

TUTOR-MARKED ASSIGNMENTS

1. Write a brief note on Brazil's political history.
2. What does the majoritarian and consociative institutional arrangements in Brazil's political system mean?
3. Briefly explain the nature of intergovernmental relations in Brazil.

7.0 REFERENCES/FURTHERREADING

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MODULE 4: COMPARATIVE ISSUES IN FEDERALISM

- UNIT1: CONSTITUTIONALISM
- UNIT2: INTRA-GOVERNMENTAL RELATIONS
- UNIT3: DECENTRALISATION
- UNIT4: INTERGOVERNMENTAL RELATIONS
- UNIT5: DEMOCRACY

UNIT 1: CONSTITUTIONALISM

MAIN CONTENT

- 1.0 Introduction
- 2.0 Objective
- 3.0 MainContent
- 3.1 Meaning of Constitutionalism
- 3.2 Constitutionalism inBrazil
- 3.3 Constitutionalism inIndia
- 3.4 Constitutionalism in the United States ofAmerica
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor MarkedAssignment
- 7.0 References/FurtherReading

1.0 INTRODUCTION

As the final module, this part of the work is focused on the discussion of contentious issues in federalism. These issues are contentious to the extent that they do not have uniform practices across federal states. It is interesting to note that there are modifications that attend to local peculiarities in practice. The unit attempts to explain the meaning of constitutionalism as an essential element of federalism. In this regard, cases are drawn from Brazil, India and the US.

2.0 OBJECTIVES

At the conclusion of this unit, students should be able to:

- (i) Understand the meaning of constitutionalism
- (ii) Differentiate between constitutionalism and constitution
- (iii) Explain constitutionalism in Brazil, India and the US

3.0 MAINCONTENT

3.1 Meaning of Constitutionalism

The term, Constitutionalism is derived from the word 'Constitution'. Constitution can be defined as the collection of principles according to which the powers of government, rights of the governed, and the relations between the two are adjusted. It is the fundamental law according to which the relations of individuals to the community are determined. Constitutionalism on the other hand refers to strict compliance to the instructions provided by the constitution. Obedience to the constitution is what is generally referred to as constitutionalism. Judicial review especially in order to have justice in society.

For constitutionalism however to be functional it requires the rule of law. Although, the meaning and notion of a constitution is universal, however, the practice and workings of the constitution are determined by various factors that may include, the character of the political elite, history of the state, among other issues. We shall be drawing our examples from Brazil, India and the US.

3.2 Constitutionalism in Brazil

Brazil has a unique political history of which a number of constitutions have been adopted. This is the consequence of a hitherto unstable political terrain, made worse by incessant military incursions. The first in the series of constitutions is that of 1822, followed by the others that were adopted in the twentieth century, until 1988, which remains the last constitution to be adopted. In all of the efforts at evolving an acceptable and suitable constitution, attempts were made at institutionalising the principles of constitutionalism in the various constitutions, but these efforts could not

be considered to have been successful. The first attempt came immediately after independence from Portugal, with the setting up of a Constituent Assembly. The Constituent Assembly could not actualise the purpose, for which it was set-up, and as such, it was dissolved and subsequently, a new constitution was imposed by Emperor Pedro I.

The second attempt at Constitution making came in 1891, and this was fashioned after the 1787 United States Constitution. The new constitution made remarkable contributions to the political development of Brazil. This included the separation of powers between the office of the Emperor, and other important political offices. Secondly, the constitution changed the unitary system of government in place, to a federal system. Also, the justice system was carved in line with the American-styled Supreme Court, with the creation of Supreme Federal Court. The Supreme Federal Court was the highest judicial authority that could rule on high-level political cases. Some of the failings of that constitution include;

1. Absence of the provision of social rights.
2. Non-inclusion of Universal Suffrage.

A new constitution emerged in the twentieth century, precisely in 1934. The 1934 Constitution was remarkable for the inclusion of important democratic tenets. Firstly, the Constitution provided for a government with popular support, in addition to encouraging the principles of welfarism in governance, thereby, giving government the opportunity to reduce inequality in the society. Remarkably, the constitution provided for women suffrage. In contrast to the 1934 Constitution, the new Constitution of 1937 was an authoritarian constitution inspired by the 1935 Constitution of Poland. While the constitution provided for the recognition of some rights, it was not fully implemented.

The country was presented with another opportunity in 1946, with the enactment of a constitutional charter that returned the country to democratic practise. Among others, the constitution adopted multiparty democracy, and provided for the respect of individual rights. Unfortunately, the constitution did not make provisions for illiterates and people that could not express themselves in the national language. The 1964 coup

led to the suspension of the 1946 constitution. For the purposes of legitimacy, the military junta adopted a constitution in 1967. True to type, the constitution was a reflection of military dictatorship with no regards for the rule of law and the fundamental human rights of the citizens.

This constitution was in place for over two decades, until it was replaced by the 1988 constitution. The 1988 constitution is arguably the closest to the practise of constitutionalism in Brazil.

Indian constitution is described as a transformative constitution. Transformative constitutionalism is a long term project of constitutional enactment, interpretation and enforcement committed to transforming a country's political and social institutions and power relationships in a given direction. The constitution emphasised the necessity of state involvement in the regulation of society and the evolution of social injustice. It was seen as a tool for social revolution, as such, the Indian legislature used it to assure the people of its willingness to renovate and rebuild society on new principles.

In this respect, some remarkable elements formed part of the constitution. Among these are: First, the preamble of the constitution acknowledges the people as a source of power. It not only signified independence of the Indian people but also the legality of the constitution. Secondly, the constitution introduced universal adult suffrage which was something new in the context of previous arrangement in India where there was so much discrimination based on the caste system. Third, the new constitution also recognised the right to equality; creating special protective legislations that advance the interest of the disadvantaged groups.

The constitution also recognises the multicultural nature of India. It grants and protects not only the rights of individuals but also of communities, importantly, the constitution empowers the state through its policies to facilitate freedom of the masses. It is important to note that as lofty as the Indian transformation agenda is, it has not completely achieved what it has set out to achieve. This inability questions the level of adherence to the tenets of constitutionalism.

3.4 Constitutionalism in the USA

The United States of America emerged from the union of a thirteen-member states that were members of a convention in 1787 that agreed to adopt the constitution under the presidency of George Washington. In the United States of America, Congress is the primary custodian of the constitution. It consists of two bodies, the Senate and the House of Representatives. Constitutionalism in the US has its focus on the individual. It is based on the thought that individual liberty is sacrosanct. Hence, fundamental human rights are enumerated in the Bill of Rights. The constitution emphasises the equality of men. The constitution sees the individual as supreme and, the bonding of these individuals and the laws they agree to, creates the state.

Since adoption however, the constitution has remained a respected document. While the constitution exists as an eternal and living document, it often undergoes amendment to meet existing realities. Different factors play important roles in ensuring the institutionalisation of Constitution in the United States. They include;

1. The opportunity for formal amendment - giving legitimacy to the constitution remains easy as through formal amendments, very key aspects that encourage the principles of individual freedom have been undertaken in the past. For instance, the inclusion of fundamental human rights, the abolition of slave trade, the adoption of female suffrage etc.
2. Judicial Interpretation - the use of this instrument by the Judiciary has been effective in helping people appreciate the constitution even in the light of changing contemporary situations.

Self-Assessment Question

List two methods of amending the US Constitution.

4.0 CONCLUSIONS

In conclusion, we can observe that beyond the need to adopt a constitution which is legally and legitimately authoritative reference point for the conduct of relationship in a democracy, there is also the need for the institutionalisation of constitutionalism. It is when the tenets of constitutionalism are entrenched, that the state can regulate the relationships between the governed and the governors.

5.0 SUMMARY

This unit has inadvertently exposed the students to issues of constitutionalism. Specifically, four federal countries were assessed on this basis, and the outcome is that, despite the existence of constitutions in all of them, some of these countries are found wanting in the process of entrenching constitutionalism.

TUTOR-MARKED ASSIGNMENTS

1. List the major focus of the rule of law.
2. List five of the distinct elements in the proposal for Indian Constitution?
3. Highlight the major failures of the first constitution in Brazil.

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UNIT 2: INTRA-GOVERNMENTAL RELATIONS

MAIN CONTENT

- 1.0 Introduction
- 2.0 Objectives
 - 3.0 Main Content
 - 3.1 Define Separation of Powers
 - 3.2 Separation of Powers in Nigeria
 - 3.3 Separation of Powers in India
 - 3.4 Separation of Powers in Brazil
 - 3.5 Separation of Powers in the United States of America
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

The second unit deals with the issues of intra-governmental relations in federal systems. Specifically, the focus is on power relations among the three arms of government, with special emphasis on the principles of separation of powers. We are however mindful of the fact that federal states practise both the presidential and cabinet systems of government. Despite the claim of the fusion of powers in the cabinet system of government, power remains separated between the judiciary and the other arms of government. We shall be treating this issue from the experiences of Nigeria, India, Brazil and the United States of America.

2.0 OBJECTIVES

At the conclusion of this unit, students should be able to:

- (i) Understand the meaning of the separation of powers principle.

- (ii) Articulate the measures taken by our selected cases in ensuring adherence to the principles of separation of powers
- (iii) Identify constitution provisions relating to separation of powers.

3.0 MAIN CONTENT

3.1 SEPARATION OF POWERS

Baron de Montesquieu is credited as the creator of the principle of separation of powers. Montesquieu's argument is that in order that liberty may be preserved, there ought to be separation of powers. He stated that when the legislative and executive powers are united in the same person or in the same body of magistrates, there can be no liberty. What separation of powers implies is that the powers of the executive, the legislature and the judiciary should not reside in the same person or body of persons neither should one of the powers be so much to make one or both of the powers of the other two powers subordinate to its whims and caprices. Instead, different people with distinct authorities should hold such powers. By this, the body of persons holding executive power should be different from the body of persons holding legislative powers and likewise the power of the judiciary.

Separation of Powers in Nigeria

Nigeria is a federation of 36 states, a federal capital territory and 774 local government areas. Before now, Nigeria had operated on various constitutions. As a matter of fact, the 1999 constitution is a revised version of the 1979 constitution. Apart from the few new provisions and innovations contained in the 1999 constitution, one can conclude that the 1999 constitution is a verbatim reproduction of the 1979 constitution. In between constitutions however, Nigeria has witnessed various military coups and military regimes. These regimes had contempt for the constitution. Usually when a military government takes over power, the constitution is suspended indefinitely. The military head thus become lord and judge.

Some Elements of Separation of Powers in the 1999 constitution.

Legislative Powers

The legislative power is vested in the National Assembly which consists of a Senate and a House of Representatives. The House of Assembly legislates on matters such as the following:

- 3.1.1 Any matter not included in the exclusive legislative list set out in part 1 of the Second schedule to the constitution.
- 3.1.2 Any matter included in the concurrent list set out in the first column of part ii of the Second schedule to this constitution to the extent prescribed in the second column opposite thereto; and
- 3.1.3 Any other matter with respect to which it is empowered to make laws in accordance with the provisions of the constitution.

Executive Powers

The executive authority of the federation is vested in the President and according to the constitution, may be delegated to the Vice-president, ministers, or officers in the public service of the federation. While the State Governors shall exercise the executive powers of a state either by himself or through the Deputy Governor, commissioners or officers of the public service of the state.

Judicial Powers

The Judicial powers of the federation shall be vested in the courts, being courts established for the federation. The apex court in the country is the Supreme Court so named after the Supreme Court of the United States of America.

DISCUSSION

Like many countries, the constitution of Nigeria stipulates the existence of a separation of powers. This is a fundamental principle that underlines the constitution. The constitution clarifies the roles and boundaries of the three arms of government.

The system works by way of checks and balances. For instance, whereas the executive has the power to convene the legislature, the executive has the power to veto the decision of the legislature; the legislature in turn has the power to impeach the executive. This in itself keeps the parties in check. The judiciary, seen as the hope of

the common man helps to assure justice within the country. The judiciary operates on set laws as established by the legislature and the authority of the executive. Hence, even though the three arms have separate powers, there are other aspects of the constitution which make interaction between the three arms inevitable for the execution of the provisions of the constitution.

Another instance is that the President, being the Commander in Chief of the Armed Forces of the federation cannot declare war without the prior knowledge and approval of the legislature. Similarly, the legislature and the judiciary get approval for their security details from the President. Another area of interest is the budget which can only emanate from the executive; it must however pass through the legislature before the final assent by the executive is sought. From the foregoing, it is quite obvious that separation of power is often imperative for achieving necessary decorum in governance. It is however necessary to point out that a strict adherence to separation of powers will merely stifle the governing processes. However what is often obtainable is both a separation and fusion of powers; here fusion of powers means the arms of government acting on specific issues as checks on each other.

3.2 Separation of Powers in India

The Indian constitution is fashioned after the constitution of their previous colonial masters- Britain. Hence, India operates a parliamentary federal union. There is a President and a Prime Minister. The President is the Head of the Executive. The Prime Minister is the Head of the Legislature. In India, the concept of separation of power is not explicitly backed up by the constitution though to some extent, it is in operation. A causal look at the Constitution though suggests the intention for a separation of power. At the onset of constitutional making by the constituent assemblies, agreement could not be reached as to how to separate the powers of the three arms of government. What then exists is a government with its arms having separate yet overlapping powers.

The doctrine of separation of power is not fully accepted. The Indian constitution does not indeed recognize the doctrine of separation of power in its absolute rigidity but the functions of the different parts or branches of the government have been sufficiently

differentiated and consequently it can be said that one organ or branch of the government understands better than to assume the responsibilities of other arms of the government. In other words, separation of powers is practiced in India but not necessarily rigidly. Like other constitutions, the executive power is vested in the President. However there is no corresponding provision vesting the legislative and judicial powers in any particular organ.

The legislative and executive arms are closely related with each other. For instance, the President is merely theoretically the Head of the Executive, in practice however, on a closer look at the political operations of India, it is clear that the Prime Minister and his cabinet of ministers exercise deeper executive powers than the President. On the other hand, on specific matters, the President also performs legislative and judicial functions. What then exists is a separation of powers that is mute yet operational. It is followed without necessarily mentioning it. What has really informed this is the incredibly large size of the country and the multiplicity and complexities of its cultures. The separation of powers is necessary to create balance.

The judiciary enjoys a fair share of autonomy. The High Courts and Supreme Court have powers of judicial review which empowers them to declare any legislation of the legislature unconstitutional if they so decide. Of India, one can then say that the doctrine of separation of powers has not been strictly implemented owing to the non-inclusion of its requirements in the constitution. However government practices portrays a form of diluted separation of powers.

Self-Assessment Question

Analyse the nature of the Principle of Separation of Powers in India

3.3 Separation of Powers in Brazil

The Brazilian federal system is built around a union of semi-autonomous entities. All of the operations of the Brazilian government derive authority from the Federal constitution which is the Supreme law of the land. Brazil has had eight constitutions since independence in 1822, beginning with the constitution of March 25, 1824. The 1988 Citizen constitution recognises the three arms of government- the executive, the

legislature and the judiciary. The executive as recognized by the constitution is headed by the President who is both the head of state and government. He is to be advised by a cabinet of ministers. The legislative power is exercised by the National Congress of Brazil which operates from two chambers- the Federal Senate and The Chamber of Deputies.

Judicial power is exercised by the judiciary consisting of the Supreme Federal Court, the Superior Court of Justice and other superior courts, the National Justice Council and the Regional Federal Courts. It is safe to surmise that the Brazilian constitution allows for relative autonomy in the workings of the different arms of government.

3.4 Separation of Powers in the United States

The philosophy of the separation of powers heavily influenced the making of the United States constitution. Although the inspiration for the constitution was drawn from the constitution of the United Kingdom, the constitution embraced a distinct separation of powers unlike what obtained in the United Kingdom which is a bit of fusion of the powers of the executive and the legislature. The three arms of government of the United States function in the following manner:

Legislative Powers

Congress has the sole power to legislate for the United States. This is enshrined in the non-delegation doctrine which states that congress may not delegate its law making responsibilities to any other agency.

Executive Powers

This is vested, with exceptions and qualifications in the President. The President is the Commander in Chief of the Armed Forces. The presidency has powers to make treaties, and also ensures that laws are properly executed.

Judicial Powers

This resides in the Supreme Court and other inferior courts established by congress. The operation of the separation of power principle is controlled by the existence of checks and balances among the three arms of government. The legislative arm is empowered

to make and enact laws whereas, the executive headed by the president has the power to veto laws made by the Congress. The judiciary on the other hand is empowered to declare the legislation of the Congress unconstitutional. The President may settle disputes between the two houses of congress. For instance, when the two houses cannot agree on a date for adjournment, the president may intervene. The president is also empowered to convene either or both houses for emergency sessions.

Though it is generally understood that the President has the authority to command the army and the navy to take appropriate military actions in time of sudden crisis, the constitution also provides that the legislature has the sole power to declare war. The legislative arm of government is also empowered to make rules for the military. Such rules include the Uniform code of military justice. All Generals and Admirals appointed by the president are also confirmed by a majority vote of the senate before they can assume office.

The courts are a check on both the Executive and the Legislature through judicial review. In this regard, the courts may strike out a legislation it deems to be unconstitutional. Though all courts as established by congress have power to question the constitutionality of legislation, only the decision of the Supreme Court is binding on all stake holders. The congress may set limits on the jurisdiction of courts thus limiting their ability to apply judicial reviews. However, the congress is limited when it comes to setting restrictions for the Supreme Court. For the judiciary, the executive appoints judges, as well as executive departmental heads. However, these appointments are subject to congressional considerations. The president also has the power to issue pardons and reprieves. Such pardons are not subject either to confirmation by either the House of Representatives or the Senate or even to acceptance by the recipient.

All in all, the principle of separation of powers allows for a more balanced and democratic government. It is however not always the case that checks and balances engender smooth operation process.

4.0 CONCLUSION

The underlying philosophy of the principle of separation of powers is the need to ensure that the powers of the arms of government do not reside in any particular arm. Essentially therefore, no one person or group of persons can be in total control of government. However, there can be no strict adherence to the principles of separation of powers, even in a presidential system where powers are not expected to be fused. A strict adherence has negative implications, because each of the arms would exist in isolation, and therefore, cause distortion and gridlock in governmental processes.

5.0 SUMMARY

This unit deals with an element that is essential for federal states run under the presidential system of government. Although, it equally accommodates federal states under the cabinet system of government, essentially because, the judiciary does not fuse its powers with either the executive or the legislature. The unit focused on the practise of the principles of separation of powers in four federal states; Nigeria, India, Brazil and the United States of America.

TUTOR-MARKED ASSIGNMENTS

1. Discuss what you understand by Separation of Powers
2. What is the peculiar nature of power relations in India?
3. Briefly explain the dynamics of the separation of powers principle in the United States of America.

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UNIT3: DECENTRALISATION

MAINCONTENT

1.0 Introduction

2.0 Objectives

3.0 MainContent

3.1 What is Decentralisation of Government?

3.2 Decentralisation of Government in Switzerland

3.3 Decentralisation of Government in Nigeria

4.0 Conclusion

5.0 Summary

6.0 Tutor Marked Assignment

7.0 References/Further Reading

1.0 INTRODUCTION

This unit deals with one of the most important and fundamental elements of federalism. The decentralisation of governmental powers, authorities and jurisdictions set the federal system of government apart from other systems, such as the unitary or the confederal systems. It is the pattern of decentralisation that determines the extent to which the federal practise is being adhered to. We shall be analysing the attempts of Nigeria and Switzerland in the efforts towards decentralisation.

2.0 OBJECTIVES

At the conclusion of this unit, students should be able to:

- (i) Understand the meaning of decentralisation.
- (ii) Explain the major issues of decentralisation in Switzerland.
- (iii) Explain the major issues of decentralisation in Nigeria.

3.0 MAINCONTENT

3.1.1 Decentralisation of Government

Decentralisation may be defined as a conscious effort that takes away the focus of power from one level of government- the centre, and spreads it to lower levels of

government in order to provide a robust, effective and efficient administration. It is a general belief that decentralisation of government is capable of addressing the need of the poor, the need of those who are at the periphery of society, of those who have been cut off from the centre, and may never have access to the centre. It is therefore necessary to decentralise power so that this category of people can feel the impact of the government. The focus of decentralisation is to ensure the effective administration of development, national cohesion and national integration. The process of decentralisation of power often requires the existence or creation of different levels of government.

3.1.2 Decentralisation in Switzerland

The federation of Switzerland was created in 1848. It was formed by several independent states. These states are known as Cantons. These Cantons retain relative autonomy even within the federation. In return, they give some high-tasking authorities to the federal government. The Cantons retained their right to enact their own laws, create their own political organisation- their own executive, legislature and judiciary. The Cantons may have right of secession by way of referendum. They also enjoy right of initiative to make decisions best suitable for them. As such, techniques and strategies applied by the various Cantons towards development tend to be varied. The Cantons are further divided into 3,000 communes or local governments. These communes also enjoy a degree of autonomy. There is however no definite size for each commune. Hence a commune could be as small as having 100 inhabitants or as large as having 400,000 inhabitants. Their political autonomy is derived from an unwritten tradition within the communes. Their autonomy is based on the following:

1. The right to exist- The communes have the right to make decision on whether to remain as they are or become a part of another Commune through a merger. Neither the Cantons nor the Federal government can alter the nature of their existence without the consent of the people of the affected commune.
2. The freedom to choose their political structure- Within the legislation of the Cantons, the Communes have the power to choose their own political structure.
3. The freedom to legislate, plan and to implement within the boundaries of Cantonal legislation- The communes have responsibilities to their constituents. These include; constructing and maintaining local roads, developing local

transportation, collecting garbage and managing general sanitation, running and maintenance of primary and secondary schools, planning of land use, providing of public assistance to the poor.

4. The right to impose taxes- They decide on how a tax rate to be collected is calculated. These rates are however subjected in some areas to ratification by a citizensassembly.
5. The right to act on all areas which are not covered by cantonal or federal legislations. Functions not exclusively reserved to the federal or Cantonal governments.
6. The communes have the right to seek judicial remedy in times of disputes- All its rights are constitutionally protected and could be redressed at the Swiss federalTribunal.

3.1.3 FINANCIAL DECENTRALIZATION

Income

Income is split among the federal, cantonal and communal governments. The manner in which this is shared, gives room for the various levels of government to be able to function. The federal government gets 30%, cantonal government gets 40% while the commune gets 30%.

Expenditure

The relationship among the three arms is similar in this respect as it is with how income is shared. While the cantons spend as much as 40% of the total expenditures the communes and the federal government also spend as much as 30% each of the total expenditure. It is safe to surmise that Switzerland is a model decentralised government. This is attributable to several factors. Some of these factorsinclude:

1. A tradition of participation at the local level- In Swiss communities, the local people can directly take part in government through a community assembly or make important decisions by way of referendums or right ofinitiative.
2. A strong identification of elected political leaders at the local level with their communities- Officers at the local level often get to such position not because of their political ambitions rather by their identification with the common ideals of the people at the local level. Many times, they are members of the same community groups and associations that perform nongovernmental aid within suchcommunities.

3. A strong identification of citizens with their communal or cantonal government- Because of the autonomy enjoyed by Swiss communities the people can easily identify with their local government before the federal government and as such pursue development at every level.
4. A strong tradition of constitution making at the local level.
5. The bottom up approach of the Swiss constitution. What this implies is that unlike a country like Nigeria where power emanates from the centre to the states, in the Swiss case, power emanates from the states to the centre.
6. Also the communes have the power to implement federal law. They exercise initiative on how best to apply laws made by the federal government. The federal unit may however act as supervisor. Another factor is the institutionalized possibility of the Cantons and communes to influence decisions at the federal level. Both the Communes and the Cantons are represented at the federal level.
7. Lastly, at the central level, government and parliament have to share their power with the people who can interfere through initiative and referendum. Parliaments consists of two chambers- the National Council representing the people and the Council of States representing the cantons. The federal court which is the highest court in Switzerland, reflects in its composition the relative strength of political parties, cultures and regions.

Self-Assessment Exercise

Highlight Switzerland's decentralisation format.

3.2 Decentralization in Nigeria

Nigeria's experience with decentralisation cannot be compared to the Swiss case. This is because; in practice there is more of a superior-subordinate relationship, rather than a coordinate relationship among the layers of government. The federal government has excessively strong control over the operations of the states and local governments. The central government exercises unlimited control over the affairs of the other levels of governments. Unfortunately, part of the control is constitutionally derived. The nature of the relationship between these levels of government has prompted analysts to attribute it as a major factor in the underdevelopment of sub-national levels in Nigeria. The strangle hold of the federal government on other levels of government is felt by the constitutional restrictions in many areas, one of which is the monthly allocation of funds from the Federation Account.

This form of distorted decentralisation is often the case in developing countries. In most cases, the constitutions of these countries originate from dictatorial and authoritarian regimes- some of these include; military regimes and one-party civilian dictatorships, in which the makers and framers of the constitution are those that hold power at the centre and are usually bent on retaining power and even adding more powers by reducing the powers of other layers of government. The case has been that of forced democratisation process from both internal and external forces, and the result has always been a democratic façade made up of faulty political power sharing arrangements. Examples of this scenario have played out in Nigeria, Kenya, D.R Congo, among others.

3.2.1 INCOME OF THE DECENTRALIZED GOVERNMENTS

In the sharing of income by the Nigerian federation, there exists a disproportionate sharing formula. While the federal government gets 56% gross revenue, the state and local governments have 24% and 20% respectively. Theoretically, this is thought to be enough to carry out their projects. However what this creates is a relationship of dependency on the federal government by the states and local governments. It is no news that both the state and local government expenditures usually exceed the revenue. This in essence is in sharp contrast with what obtains in Switzerland where the local government is quite responsible for substantial level of development of the country.

4.0 CONCLUSION

In this unit, effort has been made to highlight the importance of one of the critical elements of federalism. Essentially, decentralisation is meant to emphasise the necessity for adequate power-relationship among the layers of government. This power relationship includes; the functions to be performed by each, and the jurisdiction to be covered by each. In an ideal situation, the power relationship is meant to be coordinated, such that none of the layers or levels of government is superior or subordinate to the other.

5.0 SUMMARY

In the effort to explain the meaning of decentralisation, we articulated the cases of two federal countries- Nigeria and Switzerland. From all indications, Switzerland is closer to the ideal practise of decentralisation than Nigeria. It is made clear in this unit, that Switzerland's constitution accords adequate and requisite respect to the three layers of government, while the Nigerian constitution resides disproportionate power with the central government. This continues to be one of the weaknesses of Nigeria's federalism.

TUTOR-MARKEDASSIGNMENTS

1. Explain decentralisation
2. Discuss how decentralisation works in Switzerland
3. Briefly highlight the income arrangement for the layers of government in Nigeria

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UNIT4: INTERGOVERNMENTALRELATIONS

MAIN CONTENT

1.0 Introduction

2.0 Objectives

3.0 MainContents

3.1 Meaning of IntergovernmentalRelations

3.2 Intergovernmental Relations inBrazil

3.3 Intergovernmental Relations in the United States ofAmerica

3.4 Intergovernmental Relations inIndia

4.0 Conclusion

5.0 Summary

6.0 Tutor MarkedAssignment

7.0 References/FurtherReading

1.0 INTRODUCTION

This unit deals with the totality of relationships among the layers of government in federal states. In this respect, the mix is usually in the format of federal-state relations; state-state relations; federal-local government relations; state-local government relations; local government-local government relations. These various forms of relationship are complex and intertwined. While federalism supports a modicum of cooperation and collaboration laced with some level of autonomy, it is the constitution of each country that determines the extent of both the collaboration and the autonomy.

2.0 OBJECTIVES

At the conclusion of this unit, students should be able to:

- (i) Understand the meaning of intergovernmentalrelations.
- (ii) Articulate the importance of intergovernmental relations tofederalism
- (iii) Provide perspectives on intergovernmental relations in Brazil, India and the United States ofAmerica.

3.0 MAINCONTENT

3.1 Meaning of IntergovernmentalRelations

Inter-governmental relations refer to the interaction that takes place amongst the different levels of government within a country (Ugoh, 2011:18). By this simple definition, the need for intergovernmental relations in any country, therefore, presupposes the existence of at least two levels of government within the country. Usually, we talk about intergovernmental relations where different levels of government exist. In essence, intergovernmental relations is a concept used to associate states or regions having a federal administration where the constitution spells out the functions of each tier of government (Ugoh, 2011:18). In other words, it is the governmental system associated with the relationship which exists between the federal government and state as well as local governments.

According to William Anderson (1960), intergovernmental relation is an important body of activities or interactions occurring between governmental units of all types and levels within the federal system. The flow of relations or interactions will, therefore, involve federal – state relations; state – local relations; federal – state – local relations; federal - local relations, inter-state relations; and inter – localrelations.

Self-Assessment Question

What is Intergovernmental Relations?

3.2 Intergovernmental Relations inBrazil

Brazil has been a Federal State since 1891. Brazil is composed of 26 states and the Federal capital district of Brasilia. Federalism in Brazil evolved from the country's experience with decentralized colonial administrations under Portugal. Unlike the experiences of the United States and Canada where there were provinces that had once been autonomous political entities, federalism in Brazil was a technique for dividing what had always been a unitary system of government.

According to its 1988 Constitution, Brazil is a federal republic with administrative powers and responsibility as well as fiscal control divided among three levels of

government - central, state and municipal. Each of the 26 states has its own administration with defined powers compared to the Federal Government. In essence, the Brazilian constitutional federalist decentralization distributes powers among the 26 states and the over 5,000 municipalities of the Federation. This current federalist character was energized by the 1988 constitution with, for instance, increase in fiscal resources for the states and municipalities, at the expense of direct and indirect taxes formerly collected by the Federal Government.

In effect, intergovernmental relations in Brazil centre on the interaction between and among the central, state and municipal levels of government. As earlier noted, the central issue in intergovernmental relations includes division of administrative responsibilities, power sharing, fiscal allocation and resource control. On the issue of fiscal or financial relations, for instance, the Brazilian model is particularly and interestingly unique because it departs widely from the theoretical models and experience of most countries, where decentralization is generally a process planned and coordinated by the central government (Shah, 2003). Furthermore, financial transfers between the different levels of government are normally for purposes related with general or sectoral public policies. In Brazil, financial transfers are designed above all to ensure the fiscal and financial autonomy of the sub-national levels of government (Afonso, 2014, p.134).

The most outstanding feature of the Brazilian fiscal system is that its decentralization is not based on political and economic policies formulated and implemented under the orders of the Federal government. On the contrary, most of the intergovernmental relations cannot be established or modified by the federal political and economic authorities according to their own arbitrary wishes (Afonso, 2004, pp.134 – 135). The division of the main fiscal flows and stocks among the different levels of government highlights the considerable relative importance of the sub-national levels. The states and municipalities directly collect 31% of the high global tax burden.

Before the radical decentralization provided for in the 1988 constitution, the Union directly collected 70% of national taxes (Afonso, 2004, p.138). The municipalities, in contrast, were the main beneficiaries of the tax reform, increasing their proportion of

national taxes received from 11% to 17% in the first ten years of operation of the new system. Finally, there is a system of intergovernmental relations in Brazil which mobilizes a considerable flow of resources for the purpose of vertical and horizontal decentralization of the tax system.

3.3 Intergovernmental Relations in the United States of America

The United States of America (US) operates a federal system of government where the states and national government exercise separate powers within their own spheres of authority. The framers of the U.S. Constitution sought to create a federal system that promotes strong national power in certain spheres, yet recognizes that the states are sovereign in other spheres. The U.S Constitution delegates specific enumerated powers to the national government (also known as delegated power), while reserving other powers to the states (reserved powers). Thus, American Federation is seen as a governmental mechanism in which all powers play their constitutional roles of promoting individual freedom; since individual liberation is the ideological foundation of the American system.

American federalism features mainly three levels of government - the US national government, states governments and local governments. However, there are other levels within the local units. These include; county, municipal, township, and district. The co-existence of these various levels of government implies intergovernmental relations (as a corollary of federalism) especially as it borders on power (administrative) and fiscal matters.

As a matter of fact, it has been claimed that intergovernmental relations is a term indigenous to the United States (Anderson, 1960). In the US, states governments have the power to make laws that are not granted to the federal (national) government. These include education, family law, contract law, and most crimes. Unlike the federal government, which only has those powers granted to it in the constitution, a state government has inherent powers allowing it to act unless limited by a provision of the state or national constitution. The constitutions of the various states differ in some details but generally follow a pattern similar to that of the federal constitution, including a statement of the rights of the people and a plan for organizing

the government. However, state constitution is generally more detailed.

The third level of government in the US is the local government. There are 89,500 local governments in the US, including 3,033 counties, 19,492 municipalities, 16,500 townships, 13,000 school districts, and 37,000 other special districts that deal with various, e.g., issues like fire protection. Local governments directly serve the needs of the people, providing everything from police and fire protection to sanitary codes, health regulations, education, public transportation, and housing.

3.4 Intergovernmental Relations in India

By virtue of its federal nature, India is another country where intergovernmental relations is a massive issue. The Indian constitution divides the country into three levels of governments – federal (the centre), state and local – and defines the power distribution as well as fiscal arrangement between the federal government and the states. This power is divided among legislative, administrative and executive. The legislative section is divided into three lists: Union list, States list and Concurrent list. Unlike the federal governments of the US, Switzerland or Australia, residual powers remain with the central government. This is similar to what is obtainable in Canadian federalism.

The Union list consists of 100 items on which Parliament has exclusive power to legislate including; defense, armed forces, arms and ammunition, atomic energy, foreign affairs, war and peace, control of industries, citizenship, extradition, railways, shipping and navigation, airways, posts and telegraphs, telephones, wireless and broadcasting, currency, foreign trade, inter-state trade and commerce, banking, insurance, regulation and development of mines, mineral and oil resources, elections, audit of Government accounts, constitution and organization of the supreme court, High courts and union public service commission, income tax, customs duties and export duties, duties of excise, corporation tax, taxes on capital value of assets, estate duty, terminal taxes (Fadia, 1984).

The State List consists of 61 items. Uniformity is desirable but not essential on items in this limit. These items include; maintaining law and order, police forces, healthcare,

transport, land policies, electricity in state, village administration, etc. The State legislature has exclusive power to make laws on these subjects. But in certain circumstances, the federal parliament can also make laws on subjects mentioned in the state list. Then the parliament has to pass a resolution with 2/3 majority that it is expedient to legislate on this state list in the national interest. The Concurrent List consists of 52 items. Here again, uniformity is desirable but not essential on items in this list which include; marriage and divorce, transfer of property other than agricultural land, education, contracts, bankruptcy and insolvency, trustees and trusts, civil procedure, contempt of court, adulteration of foodstuffs, drugs and poisons, economic and social planning, trade unions, labour welfare, electricity, newspapers, books and printing press, stamp duty (Fadia, 1984).

Furthermore, Article 356 of the Constitution of India provides that states must exercise their executive power in compliance with the laws made by the central government. Article 357, therefore, calls upon every state not to impede on the executive power of the Union within the states. In short, Articles 352 – 360 contain provisions which empower the centre to take over the executive of the states on issue of national security or on the breakdown of constitutional machinery. Governors are appointed by the Central government to oversee states. The president can dissolve the state assembly under the recommendation of the Council of Ministers by invoking Article 356 if and when states fail to comply with directives given by the centre (Fadia, 1984).

Apart from administrative and legislative power relations, between the levels of government, another very crucial aspect of intergovernmental relations is the fiscal arrangement between these governmental levels. Basically, as a federation, India practices fiscal federalism, which deals with allocation and sharing of financial resources of the country among the levels of government. Specifically, Articles 267 – 281 of part XII of the Indian Constitution deal with the centre – state fiscal relations and constitute the heart of the debate on fiscal federalism in India.

Though, according to the India Constitution, India is a federal country, there are criticisms that it is a unitary or quasi-federal state and much of this criticism stems

from the functioning of centre-state fiscal/financial relations. As against legislative and/or executive supremacy of the centre, much of the criticism on centre-state fiscal/financial relations and fiscal federalism in India stems from the process of economic policy-making. Some of it is due to the emergence of the Planning Commission of India playing dominant role in economic policy making and disbursing a large sum of central funds to state governments as non-plan expenditures. Unlike the Finance Commission of India, the backbone of centre-state fiscal/financial relations, the Planning Commission is a body not envisaged in the India Constitution.

In India, the centre is bound to collect certain taxes on behalf of the states and must share a substantial portion with the state governments. And while deciding taxation such loss to the state governments. Furthermore, in the name of a plethora of centrally sponsored schemes, the centre has systematically eroded fiscal autonomy of states (Fadia, 1984).

4.0 CONCLUSION

This unit reiterates the nature of relationship that should exist under a federal system. At the level of intergovernmental relations, it is made clear that there must be mutual respect among the levels of government, since ultimately; it is not so much about the system of government in place, but more about the level and extent of development that can be provided by each administration.

5.0 SUMMARY

The unit commenced with the articulation of intergovernmental relations. This is followed by the experiences in the three federal states of Brazil, United States of America and India. It is observed that despite recognising the necessity for coordinate relationship among the levels of government, the practice of intergovernmental relations among the three states differ to the extent to which the peculiarities of each state allows. We must therefore keep in mind that there is no ideal form of intergovernmental relations.

TUTOR-MARKED ASSIGNMENTS

1. Explain intergovernmental relations in Brazil.
2. Explain aspects of intergovernmental relations in India.
3. Explain aspects of intergovernmental relations in the United States of America.

7.0 REFERENCES/FURTHER READING

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UNIT5: DEMOCRACY

MAIN CONTENT

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
 - 3.1 Meaning of Democracy
 - 3.2 Democracy in Brazil
 - 3.3 Democracy in India
 - 3.4 Democracy in the United States of America
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

The assurances of result-oriented federalism can only be guaranteed only in a democratic environment. The democratic ethos and principles must be entrenched in any federal state; otherwise the structures and institutions of federalism may be in place, while the functioning and processes of the state may not be federal. In other words, democracy is crucial to the practise of federalism. This unit explicates democracy, and highlights its practise in the three federal states of Brazil, India and the United States of America.

2.0 OBJECTIVES

At the conclusion of this unit, students should be able to:

- (i) Understand the meaning of democracy
- (ii) Explain the relationship between federalism and democracy
- (iii) Explain democratic practices in Brazil, India and the United States of America

3.0 MAINCONTENT

3.1 Meaning of Democracy

The word democracy originates from two Greek words – *demos*, which means the people, and '*kratia*', which means rule. In the literal sense, therefore, the word —democracy means—rule of the people. It is in this sense that we always remember the popular definition of democracy by the former American President, Abraham Lincoln. It says; —democracy is the government of the people, by the people, and for the people. In theory, democracy is a government in which people are powerful and a government in which everyone has a share. Democracy is a form of government in which the ruling power of a state is largely vested not in any particular class or classes, but in the members of the community as a whole (Bryce, 1921). In short, democracy as a form of government implies that the ultimate authority of government is vested in the common people so that public policy is made to conform to the will of the people and to serve the interests of the people (Gaub, 2003, p.421).

—bourgeois democracy. To them, liberal democracy brings about class struggle, and that the only way to ensure social equality is to operate a socialist system whereby it is only the state, no individual, determines the political, social and economic destiny of the people. This model was in practice in the old USSR, Poland, former Czechoslovakia, Hungary, Romania, Bulgaria, Albania and East Germany (Johari, 2011, p.495). However, this model has seen its grand failure and most of these countries have embraced liberal democracy. In fact, the gap between liberal and social democracies is shrinking by the human face which now characterizes liberalism.

Generally, in practice, however, democracy may be considered an ideal of representation in governance. While democracy is indeed a culture, history, ideology, and a procedural method of organizing popular rule, there is never a uniformly accepted form of it anywhere (Onuoha, 2011, p.139). It is on that note we shall consider the democratic culture and practice in Brazil, India and United States.

3.2 Democracy in Brazil

Brazil operates a democratic republic, with a presidential system. The president is both the head of state and head of government and is elected for a four-year term, with the possibility of re-election for a second successive term. The president appoints the ministers of state, who assist in government. Legislative houses in each political entity are the main source of law in Brazil. The National Congress is the Federation's bicameral legislature, consisting of the Chamber of Deputies and the Federal Senate. Judiciary authorities exercise jurisdictional duties almost exclusively. The military, which seized power through a coup d'état in 1964, relinquished power after two decades precisely in 1985, to usher in a democratic rule. Since then, Brazilians have enjoyed broader political freedom, and violations of traditional civil liberties declined sharply. The Brazilian adult population now enjoys political participation through elections and voting.

However, in the immediate post-military era, there were problems associated with Brazil's march toward a full democracy. While Brazil had made the passage from authoritarian to democratic government, it found it difficult to develop a well-defined and institutionalized democratic regime at the early stage of democratization (Hapogian and Mainwaring, 1987). Political institutions, particularly congress and parties, at times more closely resemble objects of authoritarian rule than pillars of a democratic order. Unlike the cases of most Latin American countries that underwent transitions to democracy, in Brazil, authoritarian political actors and arrangements were still thriving under the democratic government. The military retained veto rights over key legislations, and most important decisions were taken by bureaucrats in economic and planning ministries and central bank without public or party debate. There were severe restrictions on human rights, and immense political, economic, and social inequalities persisted. There was a mix of democratic procedure and authoritarian practice. This impeded the transformation of institutions necessary for a consolidated democracy and thwarted policy changes that might upset an extremely in-egalitarian social order.

3.3 Democracy in India

India is the second most populous country in the world after China. By this very fact, India may be a young democracy, but it is the world's largest democracy by the number of electorate. As a democracy, India operates a parliamentary system of government where there exists the position of the prime minister as the head of government enjoying a majority in the parliament, and the president as the head of state. One of the basic features of Indian democracy is its periodic elections. Elections to Indian parliament are held once every five years. The country has six main political parties; the Bhartiya Janta Party (BJP), Indian National Congress (INC), Communist Party of India (CPI), the Communist Party of India Marxist (CPIM), Bahujan Samaj Party (BSP) and the Nationalist Congress Party (NCP). At the level of its constituent Federating states, many regional parties exist and stand for elections to state legislatures, every five years, while the Rajya Sabha elections are held every six years.

Just like Brazil, India is another robust and fully consolidated democracy. In the two countries, the path to democratic deepening is obstructed by high levels of social inequality and deeply entrenched practices of social exclusion (Heller, 2010). However, in India, the basic institutions and procedures of electoral democracy have been firmly entrenched. There are no significant social or political forces in India (and same goes for Brazil) that do not accept the basic legitimacy of parliamentary democracy.

Secondly, the basic principles and institutions for the rule of law, including a forceful constitution and a sovereign independent judiciary are solidly grounded, and have acted as effective and significant counterweights to excesses of political power. For instance, it is notable that formal legal procedures have been used in India to force a Prime Minister, Indira Gandhi, to leave power (Heller, 2010).

Democracy in the United States of America

One of the very core aspects of American democracy is the issue of suffrage. In America, the right of suffrage is a universal right for citizens 18 years of age and older. Today, all adults, including women and men of any colour have the right to vote during elections. All states contribute to the electoral vote for President. However, the

District of Columbia, and other US holdings like Puerto Rico and Guam, lack federal representation in Congress. These constituencies do not have the right to choose any political figure outside their respective areas.

The US operates a multi-party system. *Ab initio*, there were no political parties in America because the Founding Fathers did not originally intend for American politics to be partisan. In fact, the first president of the US, George Washington, did not emerge from the platform of any political party and was not a member of any throughout his tenure as president. But the American two-party system later emerged from Washington's immediate circle of advisers. Today, two political parties, the Democratic Party and the Republican Party continue to dominate American politics since the American Civil War. Other smaller political parties in American democracy include; the Libertarian Party, the Green Party, and the Constitution Party.

On election and voting, unlike in some parliamentary systems, Americans vote for a specific candidate instead of directly selecting a particular political party. With a federal government, officials are elected at the federal, state and local levels. On a national (federal) level, the president is elected indirectly by the people, through an Electoral College. In modern times, the electors virtually always vote with the popular vote of their state. All members of congress and the offices at the state and local levels are directly elected.

American democracy also has a large space for different political pressure groups. These groups, otherwise known as interest pressure groups, advocate the cause of their specific constituency. Business organizations, for instance, will favour low corporate taxes and restrictions on the right to strike, whereas labour unions will support minimum wage legislation and protection for collective bargaining. Other private interest groups, such as churches and ethnic groups, are more concerned about broader issues of policy that can affect their organizations or their beliefs.

It is important to note, however, that at the base of American democracy is the ideology of liberalism. To this extent, what is being practiced in the United States is liberal democracy. Liberal democracy is a form of government in which representative

democracy operates under the principles of liberalism, i.e. protecting the rights of the individual, which are generally enshrined in law. It is characterized by fair, free, and competitive elections between multiple distinct political parties, a separation of powers into different branches of government, the rule of law in everyday life as part of an open society, and the equal protection of human rights, civil liberties, and political freedoms for all persons.

4.0 CONCLUSION

The learning point in this unit is that democracy is one of the most important elements of federalism. It is the virtues of stability, freedom, justice, equity and fairness that democracy promotes that can sustain a federal system. Any other system other than democracy would have negative consequences on the practise of federalism.

5.0 SUMMARY

It is apparent from this unit that democratic principles are universal, however, the practise of democracy differ from one country to another, as depicted in our case-studies. The differences may be as a result of any of the following factors, historical antecedents; prevailing societal values and norms; the character of the political culture of the people, etc.

TUTOR-MARKED ASSIGNMENTS

1. Explain your understanding of democracy
2. Provide a brief explanation of democracy in India
3. Explain liberal democracy in the American context.

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