

THE IMPACT OF GLOBAL AND REGIONAL INTEGRATION ON FEDERAL SYSTEMS

A Comparative Analysis

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Preface

The processes of globalization and regionalization of recent decades have spawned a huge literature, both academic and beyond. Some of that literature focuses on whether these processes represent a genuinely new international phenomenon or whether they constitute a return to earlier historical periods. Some of it is devoted to assessing the effects on public policy ("race to the bottom" argument, for instance) or on the quality of our democracies (so-called "democratic deficit" is an illustration).

This volume is motivated by a curiosity about the effects of these internationalizing processes on federal systems of governance. Do the processes of global and regional integration reinforce the kind of political pacts that underlie federal societies and politics or do they jeopardize them? Are they inherently centralizing or decentralizing? How do they affect identities? How would these questions be answered in different federations? Would the answers be different in multilingual and unilingual federations? Would they differ between wealthy and not-so-wealthy polities or between large and small ones?

These are large and important questions that potentially affect the workings of all federal systems. Close to half of the world's population lives in countries with federal systems of governance. And as federal solutions are being mooted as the appropriate answer, or at least part of the answer, for many of the global hot spots (such as Afghanistan, Iraq, and the Philippines), the relevance of these questions is likely to increase.

This volume tackles these questions in respect of eight different federal and federal-type political entities. The authors of the individual chapters are all leading federalism scholars in their own countries. They participated in a conference in December 2000 in Ottawa where early drafts of their papers were presented and discussed. The papers were subsequently revised for publication here.

My co-editors and I have organized the volume by grouping each of the federal or federal-type entities into one of four categories. They are:

centralizing, decentralizing, hour-glassing, and transforming. By its very nature, any typology simplifies a complex reality and each of the political entities examined here no doubt exhibits elements of all four categories. Nonetheless, on balance we consider that we have captured the broad tendencies exhibited in each federation. This does not necessarily mean, however, that global and regional integration — our independent variables in these studies — are responsible for the broad tendencies we have observed. The decentralization in Canada and India, for example, may have been initially motivated by domestic factors, but it is being reinforced by global and or regional integration. And while we have included the United States in the centralizing category, the author of that chapter is of the view that centralization there has been driven mainly, perhaps even exclusively, by domestic factors and not by global and regional integration.

We also chose to adopt a dynamic description (i.e., *centralizing*) as opposed a static description (i.e., *centralized*), even though the actual movement in most cases is modest and in some cases the movement may have actually ceased. Switzerland, for example, might not be actively decentralizing at present, but as a highly decentralized federation it seemed appropriate to include Switzerland in the same category as Canada and India, both of which are decentralizing.

For full information on the larger project within which this volume falls, the reader can go to the following Web site: <http://www.iigr.ca/>. Support for the project came from several sources including the Government of Canada, the Government of Alberta, the Business Council on National Issues (as it was then known), and the Social Sciences and Humanities Research Council of Canada.

We thank those associated with the publication process in the School of Policy Studies at Queen's University, including Mark Howes, Valerie Jarus, and Marilyn Banting. Their expertise has been crucial to the completion of this volume.

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October 2003

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Divergent Trajectories: The Impact of Global and Regional Integration on Federal Systems

Harvey Lazar,
Hamish Telford and
Ronald L. Watts

Globalization has been a major buzzword since the fall of the Berlin Wall, and various commentators have suggested that it will eventually spell the end for the nation-state model. This fear has perhaps been felt more acutely in federal states, which frequently struggle with questions of unity. This volume considers whether there is good reason for these fears by analyzing the impact of global and regional integration — we prefer these terms to the more generic globalization — through a series of case studies that cover a range of federal and federal-type political systems.

Three main conclusions emerge from the case studies. First, a substantial majority of the federations we have examined have adapted to global and regional integration change pressures without major transformations to their institutions. In most cases, the political actors have been able to modify old institutions for new purposes. This observation is less true, however, of some European political systems. Second, in all but one of the regions covered here, Europe again being the exception, there is little evidence that global and regional integration are fostering new transnational identities between the federal polities we examined and their global and regional partners. At the same time, such integration appears

to be modestly exacerbating traditional political cleavages *within* some federations, particularly multinational federations. Third, the impact of global and regional integration is not unidirectional. In any single federation, it will cause effective authority to move upward in some cases and to move downward or outward in others. The net effect is to support greater centralization in some federations and enhanced decentralization in others. That is, the trajectory of its impact is variable. But in no case has recent global and regional integration reversed the pre-existing centralization or decentralization process within a federation. In sum, to date at least, the federal systems of governance we examined have had the flexibility to adapt to international change pressures without undermining the federal bargains that are fundamental to their stability.

GLOBAL AND REGIONAL INTEGRATION IN THEORY AND PRAXIS

There are widely differing views about the ways in which "globalization" and "regionalization" may influence governance in the twenty-first century. At one end of a continuum are those who see the thickening of global and continental networks as heralding the demise or dramatic weakening of the state system as a primary basis for governing the peoples of the world (Ohmae 1990, 1995; Cable 1995; Friedman 1999 and 2000). At the other end are those who suggest that the state is likely to be a dominant institution for a long time to come (Keohane and Nye 2000). In between there are many permutations and combinations of views about the way in which these forces may play out (Keating 2003; Blatter 2001).

Many questions arise from the processes of global and regional integration (GARI). In the case of global integration, how different is its contemporary version relative to previous eras of global connectedness? How should modern globalization itself be governed (Keohane and Nye 2000)? Are globalization and regionalization in competition with one another or are they complementary and mutually reinforcing processes? What are their impacts on domestic governance?

It is a particular subset of the last question that this volume examines, namely, the way in which the forces that are propelling global and regional integration are affecting federal-type systems of governance.¹ What differences are these forces having on the institutions and behaviour of federal systems?

While there is a huge and growing literature about the effects of global and regional integration on democracy (Held 1998), we are not aware of any systematic examination of effects on systems of federal governance. The interest in effects on democracy is hardly surprising given that democratic values and processes are dominant for much of the world. At the same time, there are strong links between federalism and democracy. Federal solutions are frequently used to balance majority and minority interests, and if the constitutional bargains that underlie federal systems are impacted adversely by external forces, then the basic democratic consent of the affected political entities (whether at the level of federation or constituent unit) may be adversely affected. An enquiry into the effects of global and regional integration on federal systems of governance may thus also contribute to the literature on democratic impacts, even if only indirectly.

In tackling these questions, we assumed relatively broad definitions of global and regional integration. In both cases, the thickening of transborder connections and networks is interpreted here to be multi-dimensional, including growing economic and financial integration, closer ideational ties (including transborder sharing of ideas and values), and an increasing measure of cultural linkage, abetted in part by the emergence of English as a global *lingua franca* and in part by new technologies that allow for instantaneous communication among peoples around the world. Other linkages, for example, those associated with the environment and the spread of disease were also considered to be part of the multi-dimensional character of these phenomena. And in response to all of this is a growing body of international law, thus enhancing political interdependence across borders.

In some respects regional integration can be seen as a geographically limited subset of global integration, both being driven by similar forces, including the economics and technology referred to above. But regional integration can also be seen and used politically, culturally, and economically as a bulwark against global integration, serving as an instrument for geographically connected states to retain elements of distinctiveness and independence against homogenizing pressures that are global. Thus, in posing our questions, we did not necessarily assume that globally and regionally integrating impacts would be similar.

The initial motivation for this volume arose from a curiosity as to whether the constitutional and political bargains that underlie most federal

systems have been, or are likely to be, altered substantively by the processes of global and regional integration. Consider, for example, federations in which the constituent units may have *de jure* sovereignty (law-making power), and have traditionally exercised that sovereignty (*de facto*) for a particular class of issue. Items like public health, regulation of services, or law enforcement might be examples. In the current international environment, with the growing connectedness between economies, societies, cultures, and politics that are spatially separate, there may be pressures for aspects of these once domestic issues to be dealt with at the regional or even global level for functional reasons. In turn, this can result in international agreements (e.g., for controlling the spread of infectious disease or for removing barriers to trade in services). Typically, but not in all cases, only the federal government in the federation will have the constitutional power to negotiate and ratify such agreements. Through the avenue of treaty powers, therefore, federal governments may now be able to influence significantly classes of issues that were previously wholly or mainly within the purview of constituent units, thus upsetting the federal bargain.

An equally plausible case can be made, however, for the opposite conclusion. Constituent units may find that the internationalization of their constitutional responsibilities provides a *de facto* basis for them to enter the world of international diplomacy. In this alternative hypothesis, constituent units acquire an increasing international personality and effectively encroach on what had been the national government's monopoly or near-monopoly in the realm of international relations. There are also other reasons to think that international integration, particularly economic integration, may privilege constituent units. Improved access to regional and global markets may reduce the dependence of states, provinces, cantons, and Länder on federation-wide markets and thus facilitate the economic autonomy of such governments relative to their federal governments, while at the same time creating a strong rationale for them to become internationally involved.

There are other possible impacts as well. As a result of global or regional integration, for example, issues that were once within the domain of federal or constituent units may increasingly be subject to private forms of international governance or expert governance — technical solutions for issues that are at least in part technical, like how best to fight an international epidemic or to assess risk in relation to environmental challenges or genetically modified foods (Coleman and Porter 2000). While

such networked governance may have much to commend it, for purposes of this study what is relevant is its potential to weaken the territorial basis of governance and to diminish the effective role for autonomous decision-making by any individual order of government, or decision-making by national and constituent units acting jointly. In so doing, it also has the potential to impact on the nature of the constitutional bargain that underlies federal systems of governance.

In short, a range of plausible arguments can be proffered about the likely effects of global and regional integration. Some suggest that national governments may be privileged whereas others believe that constituent units are emerging relatively stronger. And others still make the case that all orders of government may be ceding effective authority to other actors — be they international organizations, non-governmental organizations (NGOs), or the private sector — as governance becomes more networked. The world of governance is rarely tidy, however, and our “going in” assumption was that all of these impacts may be happening to one degree or other. Part of what this volume is about, therefore, is to assess whether, as a matter of fact, the net impact of all these and other effects is changing the equilibrium point in the federations studied. Is global and regional integration centralizing or decentralizing federal political systems? Is GARI changing the fundamental constitutional bargain that is the bedrock of many federal states? And are the related attachments of the different peoples and regions to their common enterprise (the federal state) becoming stronger or weaker? And whatever the answer to these last two questions, what kinds of adjustment mechanisms are emerging, whether in political institutions or political behaviour, that are associated with these results? Thus, for most purposes, the federal system of governance is our dependent variable while growing regional and global integration are our independent variables.

The internationalization of activities that were once largely domestic is not, of course, a new phenomenon. The blurring of domestic and foreign policy has been with us for a long time. But what could be new is the sheer volume, weight, and speed of new international governance as this process has intensified. That is, more and more of the issues that were once the function of national governments or constituent units can only be effectively dealt with on some sort of international basis, whether global, regional or subregional. In Dani Rodrik's words, the “economic geography” of the world is becoming increasingly disconnected from its

"political geography" (Rodrik 1997). David Held argues similarly when he writes that political communities and civilizations can no longer be characterized simply as "discrete worlds"; they are enmeshed and entrenched in complex structures of overlapping forces, relations, and movements (2001).

If, as a matter of fact, Rodrik and Held are right and this disconnect is growing, the equilibrium point in federal systems may indeed be undergoing some kind of fundamental change, either becoming more dominated by their general (federal) governments as a result of their exclusive or overriding role in international relations or, conversely, more dominated by constituent units as their role in international relations expands. Or the equilibrium point could be changing for reasons related to a growth in private or expert governance. To the extent that such a shift is proceeding, this may well signal better governance from a functional perspective. But no system of governance is preoccupied solely with concerns for efficiency and effectiveness. In democratic polities, at least, the expanse of the territory over which a system of governance operates must also have the consent of the people who occupy it. In turn, this raises issues of identity and related symbolism (Blatter 2001). And in federal systems, that territory is variable. For some purposes, the whole of the federation is the relevant territory. For other purposes, the constituent units of the federation (states, provinces, cantons, etc.) and local communities (municipalities) are the relevant territory. In federations, the distribution of powers between orders of government is designed to reflect the desired balance between local and territorial self-rule, on the one hand, and shared rule on the other. And in the ideal case, the constitution will capture and reflect the fine balance between self-rule and shared rule (Elazar 1987; Watts 1998).

Well-established federations will normally have found an equilibrium between the concepts of self-rule and shared rule while newer ones will at least be attempting to do so. What is of interest here is what happens when this equilibrium bumps up against an agent of change, namely, the rapidly growing processes of globalization and/or regionalization. We can thus re-state our above questions in the following terms. Is the balance between self- and shared rule changing? Does this shift have legitimacy in the eyes of the people or are the federations in question experiencing stress as old relationships are eroded by new forces? How are federal systems adapting to global and regional integration? What difference, if any,

are the processes of global and regional integration making to federal governance?

The above discussion does not imply that, as a matter of fact, federal systems are being substantively altered. These systems may be relatively stable notwithstanding the change pressures exerted by global and regional integration. This could be the case, for example, if the disconnect between economic geography, or what we shall henceforth refer to as functional or instrumental geography, and political geography is being resolved (more often than not in favour of the existing political geography). Or stated slightly differently, when in competition, state or substate sovereignty may be trumping the functional argument for pooling or ceding such sovereignty to the international or supranational level. There may be "useful inefficiency" that leaves room for traditional equilibrium points to be preserved (Keohane and Nye 2000). Of course, not all inefficiency is useful and to the extent that state and substate sovereignty preclude the satisfactory management of serious policy challenges, we might anticipate evidence of a public debate about "policy deficits."

Path dependency may also have an important explanatory role in accounting for stability. To take one example, in some federations, including Australia and the United States, the constitution affords the national government the authority to sign, ratify, and implement international treaties. In others, like Canada and Switzerland, there is no distinctive constitutional authority for the national government to implement international treaties. The authority to implement is determined by which order of government is responsible for the subject matter of the treaty. In this example, therefore, it is easier for Australia's Commonwealth or the US federal government to enter policy domains that would otherwise be within the sphere of their states than it would be for the federal government in Canada or Switzerland to intervene in provincial or cantonal jurisdictions.

There is a third reason why federations may have exhibited stability in the face of global and regional pressures. It is that the impacts of global and regional integration may be varied and effectively counteract one another in relation to the overall balance of the federation. Moreover, there is no demonstrated correlation between shared rule and functional effectiveness, on the one hand, and self-rule and identity, on the other. For some kinds of issues, it may well be the case that functionality argues in favour of large territorial expanses as the appropriate unit of decision-making (e.g., some kinds of environmental issues and some aspects of

defence and security). But for others, functionality may argue for local preferences holding the trump card even if the challenge originates outside the territory that is affected. For instance, local authorities may be better able to deal with some types of international terrorism threats than national or international authorities precisely because local authorities are better able to identify non-locals in their midst than more distant officials. And even if environmental pollutants or epidemics come from a distance, they will be experienced in specific locales and part of the response may have to be local for functional reasons. Conversely, while it might appear intuitive that constituent units would normally be the lead actor in preserving and promoting identities, in some situations, this goal may privilege the national government, not the subnational government. This may happen, for example, when the impact of global or regional pressures impacts on that aspect of identity that is more state-wide than regional or local. To take one example, the impact of American cultural products is huge in the mainly English-speaking regions of Canada. People from the English-speaking regions see this as something that is more appropriately dealt with at the federal level even though, for many other purposes, they would often look first to provincial governments on cultural matters.

Thus, while instrumentality and the promotion and protection of identities may be complementary roles of political institutions, it does not follow that functional gains always correlate with decision-making being located in the larger territorial units and identity gains always gain with decision-making being located in the subnational units. A more fine-grained analysis is required.²

One final note merits attention from a theoretical viewpoint. As already noted, we have been mainly motivated by a curiosity to understand to what extent and in what ways the forces of global and regional integration have affected federal systems of governance. At the same time, we have also paid attention to the opposite perspective, namely, the ways in which federal systems of governance may have influenced how global and regional integration are experienced in the states studied here. In this alternative view, the federal system is the independent variable and global and regional integration are the dependent variables.

The volume is comparative. It considers the effects of global and regional integration on five developed "federations," two developing countries that are federal or federal-like in structure, and the "federalizing" European Union. The first drafts of the country chapters were prepared

before the 2003 Iraq crisis. Were the authors of these chapters to re-write what they have said in the light of the events surrounding Iraq, including the strong disagreements between traditional North Atlantic allies, some might nuance their arguments differently. But their basic analyses remain intact. Indeed, in some respects, they may even be reinforced.

Enquiring about the effects of global and regional integration on federal systems is important. A large share of the world's population lives in federal-type polities. Moreover, in parts of the world that are affected by ethnic conflict (including Afghanistan, Cyprus, Indonesia, Iraq, the Philippines, Sri Lanka, and Sudan, to name but a few), federal solutions are being touted as possible compromises between a unitary state, on the one hand, and state disintegration (separation or civil war), on the other. If federal systems are themselves undergoing, or are about to undergo, fundamental change, this is worth understanding. And if they are not, it is equally important to understand how and why they are able to remain stable in the face of seemingly powerful change agents.

All the authors of the country chapters in this volume begin by outlining the relevant context for their case study. They discuss the history and geography of their federation, key constitutional provisions, and the extent of openness to global and regional integration. They pay attention as well to the unique characteristics of their federations. As a global hegemon, for example, the United States is the source of many of the globalizing forces, political, economic, and cultural. It globalizes more perhaps than it is globalized. Conversely, less populous states like Australia, Canada, and Switzerland, are much more the recipients of globalization. These differences and many others are reflected in the country studies. Nonetheless, the authors tackle a common set of questions that reflect the considerations discussed above. They include:

- Have the institutions or structures of the federation, formal or informal, been altered to manage international relations or for other reasons related to global and regional integration? And, if so, how?
- How extensively have constituent units, including local governments, become involved in external relations? Is the external sovereignty of states being handled differently?
- To what extent has a competitiveness agenda, emerging at least in part from economic globalization/regionalization, come to affect the working of the federation?

- Are the internationally integrating forces affecting the traditional balance between centralization and decentralization in the federation? If so, are there new tensions between the general government and constituent units for this reason?
- Have international institutions or processes emerged at the level of constituent units? In other words, are there new cross-border institutions/processes emerging between constituent units?
- Are these forces affecting identities and loyalties among the citizens of the federation and, if so, how?

Not all of these questions and issues have the same salience in each federation. And not all are dealt with as "stand alone" questions in the chapters that follow. But all these questions were on the radar screens of the authors as they undertook their enquiries.

This comparative analysis is part of a larger analysis about the effects of global and regional integration on federal systems of governance. As part of that larger project, a group of researchers was assembled to devise a set of scenarios for global governance in the year 2015. The country authors of this volume were invited, if they so wished, to include in their chapters a speculative discussion of how these alternative global futures might impact on their federation. Some of the country chapters that follow probe this issue carefully. Others give it less attention. Suffice it here to say that we summarize our scenarios synoptically later in this chapter and the full scenario document is available on-line.³

The purpose of the remaining sections of this introductory chapter is to compare the analysis across federations. How similar or different are the answers to the above questions from one federation to another? Are there clusters of federations that provide similar answers to the same questions? In dealing with these questions, we proceed as follows. First, we examine the impact of global and regional integration on institutional arrangements in federal political systems. Second, we explore the impact of GARI on political identity, both the development (or lack thereof) of new transnational identities as well as the impact on traditional political cleavages within federations. Third, we look at the impact of GARI on the political equilibrium in federal political systems. Finally, we speculate about the potential effect of alternative scenarios on the future of these federal systems.

THE IMPACT OF GARI ON FEDERAL INSTITUTIONAL ARRANGEMENTS

In studying the impact of global and regional integration on federal institutional arrangements, Brian Galligan notes that "we need to keep in mind the flexibility of institutions and the reflexivity of human agency ... up to a point," he continues, "human actors can use the same set of institutions for different purposes as well as different institutions for the same purpose." "Consequently," he concludes, "globalization as the independent variable does not have a direct causal effect on the structure and processes of federation as the dependent variable, but an effect that is mediated by human agency." In almost all the federations we examined, there is evidence of some institutional adjustment as a precondition to effectively dealing with global and regional economic forces, but on balance the changes have been modest. Only the EU has experienced massive change, much of it formal. On a lesser scale, Germany has also undergone some formal change, almost wholly in response to the deepening of the European Union. In the other cases, political actors have been able to adjust old institutions or create new institutional processes to complement the traditional institutions of federalism.

Of all of the federal-type systems examined in this volume, only the European Union has formally undergone major institutional innovation. The growth of European institutions is clearly a response to the challenges of globalization, and especially those that have emerged from the United States. On this point Hooghe writes boldly:

European integration accelerated in the mid-1980s, and again in the mid-1990s, and this acceleration was a direct response to problems attributed to globalization — augmented national vulnerability to trade and financial flows, eroding competitiveness for European firms, structural unemployment and labour market rigidities, and increasing immigration from its poorer eastern and southern Mediterranean neighbours into the European Union. I do not mean to say that globalization determined how Europe's institutions, policies, and politics changed. "Domestic politics" — national and European leaders' preferences, and societal interests as expressed by producer groups and political parties — has mediated these changes. Yet I will show that the European Union has become a battleground for opponents and proponents of globalization. Some want the

European Union to be a bulwark against global pressures, and others want it to accelerate the pace of increasing *global*, as opposed to national or European, interdependence.

To be sure, what has become the EU originated in the postwar *political* dream of ending historic intra-European enmities. But the motivation of much of its subsequent growth rested in a desire to respond to global challenges and opportunities in numerous spheres, with *economic* considerations often a priority, but issues like the environment, social policy, culture, and even military and security issues also finding their way onto its ever-expanding agenda. To the extent that the European Union can now be seen as a distinct polity, formal institution-building has been fundamental to that evolutionary process. In this vein, Hooghe writes, "substantive extension of European integration into all policy areas has gone hand in hand with an institutional transformation from a limited, primarily intergovernmental form of international cooperation to a system of multi-level governance, where autonomous supranational institutions — Commission, European Parliament, European Central Bank, and European Court of Justice — and institutions representing national governments, European Council and Council of Ministers, share authority."

The EU's new and strengthened institutions arguably are about moving from confederal to federal forms of governance, from interstate to intrastate modes of decision-making, and from state sovereignty to various forms of sharing and pooling of sovereignty. More than any other political entity examined in this volume, the European Union has turned to formal institutional innovation and development to bridge the gap between functional and political geography. And more than any other polity covered, it has recognized the need to ensure that these changed institutions deal not only with functional imperatives but also with issues of democratic deficit (a term initially coined to describe some of the EU's growing pains) and identity formation.

In the case of Germany, both global and regional forces have had a strong impact on its form of federalism. According to Rudolf Hrbek, the dynamics stemming from both forms of integration (economic globalization and the establishment of the internal market in the EU) have altered Germany's traditional interlocking and cooperative federalism (and related joint decision trap problems). The global economic pressures have

led the richer Länder to seek more autonomy to compete internationally and to limit horizontal equalization payments. The result is a more competitive federalism and there is pressure for this trend to continue. As regards the process of European integration, the massive institutional developments of the EU noted above have had their corollary in the need for institutional adjustment at the national and constituent unit levels. The German system of interlocking federalism has thus been modified as some legislative competencies have moved to the EU level. The resulting multi-level system of governance nonetheless still requires the federal government and Länder to work in an integrated and cooperative way. In other words, German federalism may have become more competitive but cooperation still remains one of its central characteristics.

These dynamics have played out in several ways institutionally. The enhanced powers of the EU include items that were once within the sphere of the Länder (such as culture, the media, and education). When the EU makes decisions in these areas, it is normally the federal government that is at the table of the Council of Ministers. Other things being equal, this would appear to constitute a loss of authority for the Länder. But they have made up for it in other ways. Future transfers of such Land jurisdictions require the approval of two-thirds of both chambers and thus of two-thirds of Land governments. This strengthens the role of Land governments in shaping the constitutional development of the Federal Republic and the EU. To varying degrees, the Länder have also secured the right to participate in EU affairs and be represented in EU bodies. They have as well negotiated the requirement that the federal government take into account, again to varying degrees, Bundesrat opinions (which the Länder control) when deciding on EU matters. The Länder themselves have also reorganized with European sections, EU coordination centres and intergovernmental offices, conferences of minister-presidents, and other innovations. It is also not unusual for them to maintain offices in Brussels to carry out lobbying activities.

Germany has generally been an enthusiastic supporter of a stronger EU. For this reason, it is not particularly useful to question whether and to what extent federal or Land governments have gained or lost authority relative to one another. Both orders of government have, in general, seen a strengthened EU as a good thing notwithstanding occasional political concerns. What is evident is that the combined regional and global change pressures are influencing the character of the German federation. It has

become perhaps a model of multi-level governance, with many of the changes being built into its constitutional structure. Finally, in the case of both the EU and its German member state, informal institutions have also been adjusting. For example, political parties and interest groups often organize on a Europe-wide basis as the nature of European politics has altered. In comparison with the European Union and Germany, institutional change among the other federations has been small, although in some cases intriguing.

John Kincaid, perhaps fittingly, titled an early version of his chapter "Atlas Shrugged." We say "perhaps fittingly" because Kincaid's analysis suggests that the effects of global and regional integration on the federal system of the United States are at most modest, certainly smaller than the other federations discussed here. Three mutually reinforcing reasons may help to explain the American case. The first is that as the world's only economic, military, and political hegemon, with powerful global cultural influence as well, the United States is the purveyor of globalization more than a recipient. The second and perhaps more pertinent point to this analysis is that the United States has historically been more sceptical of the benefits of the state as a servant of the public weal than have most of the other polities discussed here. Not surprisingly, therefore, it has also been less enthused about supranational institutions as vehicles for dealing with the growing incongruence between functional and political geography. Third, Kincaid notes that the Government of the United States resists international commitments that would have the effect of encroaching on the sovereignty of state governments under the US Constitution.

While the United States has on balance been a net exporter of globalization, the terrorist attacks on 11 September 2001 suggest that even the world's only remaining superpower is occasionally vulnerable to external shocks and in this case has led to the creation of the Department of Homeland Security. This development marks perhaps the largest reorganization of the American government since the reorganization of the military in 1947. The Homeland Security Strategy devised by the Bush administration entails an unprecedented level of federal-state-local collaboration. The strategy relies largely on central direction with much of the heavy lifting done by police and other emergency agencies at the state and local level. It is still too early to know fully what impact homeland security will have on American federalism.

In the case of Australia, three developments are of note. One is some centralization of power associated with the proliferation of international treaties. Galligan points explicitly to this as the basis under which the Commonwealth government has intervened in what would otherwise be state competencies. The second, however, has been an institutional reaction that has had the effect of softening this centralizing threat to the Commonwealth-state political equilibrium. This shows up in enhanced intergovernmental cooperation aimed at strengthening Australia's economic competitiveness. Galligan writes that the "outcome was a set of new intergovernmental organizations and rules that add up to a major restructuring of Australian federalism at the subconstitutional level." The states work with the Commonwealth in joint national bodies in a variety of areas including the environment, food standards, and road transport where there is provision for a majority of qualified majorities taking decisions. States have also participated with the Commonwealth in the broad area of competition policy, particularly with a view to enhancing the efficiency of government as a provider of services. This commitment to forging a more competitive economy contributed as well to the establishment of the heads of government Council of Australian Governments (COAG) and while COAG's role has since waxed and waned, its *raison d'être* is connected to Australia's need to fashion a coherent national response to global economic competition.

Third is the emergence of a variety of Australian-New Zealand relationships, a kind of regional integration with consequences for the way in which the Australian federation operates. While some of these are traditional bilateral international agreements, others are more unusual. For example, New Zealand participates in some Australian Commonwealth-state ministerial councils and agreements as if it were an Australian state. Another involves joint and shared institutions. Galligan writes: "Increasingly, Australian governance will be a system of complex and diffuse power centres with an intermingling and overlapping of jurisdictional responsibilities and policy activity."

Mahendra Singh's assessment of the transformation of the Indian federation differs markedly from Galligan's account of developments in Australia in the detail but not in overview. Thus, on the economic front Singh cites several examples of the Indian central state lightening the load of regulation, modifying the form of union regulation, and in other ways

providing more room for market forces. He explains that the initial pressure for economic liberalization originated in domestic influences, including the fragmentation of federation-wide political parties. But since then, this initial impetus has been reinforced by economic globalization leading to a relative decline in the economic role of the union government. Delhi's policies have also encouraged domestic and foreign investors to focus more on what individual states have to offer, which in the economic development sphere has increased competition among the states. Yet not all of the changes are in the direction of enhanced horizontal competition. While the overall trend has been to privilege state and private bodies relative to the Delhi authorities, in cases where new World Trade Organizations (WTO) commitments have been made, the union government (as in Australia) has acquired *de facto* powers that previously were state competencies.

In both Australia and India, therefore, some informal institutional adjustment has occurred. And while the basic direction of change between federal and subnational governments has been different, centralizing somewhat in Australia and decentralizing in India, in each federation the overall adjustment process has entailed effective authority moving in more than one direction.

The governing African National Congress in South Africa has chosen to work within the neo-liberal economic paradigm that characterizes economic globalization and it has been a leader in various forms of regional integration, both in southern Africa and the larger continent. This has led it to give attention to the efficiency of government operations. Given the limited human resource capacity within that federal-type arrangement, institution-building at the federal level, and to a lesser extent at the local level, has been privileged at the expense of the provincial sphere.

The Canadian constitution was substantially reformed in 1982, and major revisions were proposed in 1987 and 1992, but these were motivated purely by domestic factors: the desire to patriate the constitution from the United Kingdom and to adopt a charter of rights. After a decade of strenuous constitutional debate, the Government of Canada, under the leadership of Jean Chrétien, deliberately pursued a policy of non-constitutional reform (Lazar 1998). For example, the federal government and all the provinces negotiated an agreement to remove barriers to internal trade in the early 1990s. The Agreement on Internal Trade, however, was adopted only after the North American Free Trade Agreement

(NAFTA) negotiations had been completed. Without the example of the regional treaty, the domestic arrangements would have not, in all probability, been implemented.

Given some of our earlier more theoretical discussion, it might be thought that some of the analysis above, particularly in regard to informal institutions, is linked to the way in which treaty-making powers are constitutionally allocated. In four of the federations studied (Australia, India, South Africa, and the United States), the federal government has broad and exclusive or close to exclusive treaty-making authority and extensive authority as well to implement the treaties it has made (either through separate legislation or self-executing provisions). In Canada and Switzerland, the power to negotiate and sign treaties is not paralleled by similarly broad provisions to implement. In these two cases, the constituent units must legislate if treaties affecting their competencies are to be implemented. As for Germany, the Bundesrat ensures that the Länder have a say in implementation with the result that, *de facto*, its situation is similar to that of Canada and Switzerland. (The EU is *sui generis* in relation to this kind of analysis.)

The question considered here is whether these particular constitutional treaty provisions help to explain some of the above analysis. The answer here appears to be a qualified affirmative. The trend toward some centralization of authority in Australia and South Africa has been reinforced by the ease with which the federal governments in these countries can implement what they sign. While we did not detect any large trends in the United States, the self-executing nature of US treaties may strengthen the authorities in Washington. In Canada and Germany, we noted a trend to decentralization and Switzerland remains highly decentralized. These three federations are the ones where constituent units have important implementation powers. The outlier in this analysis is India, where the government in Delhi has strong powers of implementation but where there has been a shift to decentralize. But even in the case of India, notwithstanding the decentralization on economic matters, the centre has maintained firm control on security issues. In short, there appears to at least be a correlation between treaty powers and the broad trends noted above. Of course, it could be that the treaty powers were established to reflect the underlying constitutional deal between the general government and constituent units. If that were the case, the way the treaty powers are assigned would be more of a symptom of the essential character of these

different federations than an explanation of recent trends. It is our sense, however, that the truth lies between these two views and that, at the margin, at least, the happenstance of treaty powers may be reinforcing other factors that help to explain the institutional adaptations in the different federations.

In summary then, only the EU has experienced massive change, much of it formal. Germany has also undergone formal change but on a lesser scale than the EU. Australia and India have experienced modest informal change. In almost all the federations, however, there is also evidence of some degree of adjustment in institutional structures and arrangements as a precondition to dealing effectively with global and regional economic forces.

THE IMPACT OF GARI ON POLITICAL IDENTITIES IN FEDERAL SOCIETIES

Citizens of federations enjoy multiple identities. With enhanced global and regional integration, one might expect to see the development of new transnational identities. But, with the important exception of Europe, transnational identities are weak to non-existent between the federations we examined and their global and regional partners. On the other hand, there is some evidence to suggest that relations between regions and communities *within* federations are coming under moderate stress, we emphasize the word *moderate*, from GARI, especially in the more diverse or multinational federations.

In Switzerland, Steiner sees new attachments arising between the French-speaking Swiss and counterparts in France, as well as between Ticino and Italy. Even among German-speaking Swiss, the young professional classes are also more open to Europe. He argues that these new attachments are in opposition to the traditional Swiss identity forged on independence and neutrality. There is thus an emerging cleavage about Swiss identity that has the potential, over time, to put strains on the Swiss Confederation.

The impact of the EU has also been influential in Germany, although in a somewhat different way than in Switzerland. The emergence of transnational politics and organizations has fostered a European identity. With these developments, differences of political opinion are experienced, at least in part, on a Europe-wide level. To date, however, this has not created a major strain within the German federation. The

German people appear to be at ease with the idea of multiple levels of attachment. But the integration of the eastern Länder has been more challenging, which raises questions about how swiftly a common European identity will evolve as the borders of the EU move eastward.

The notion of a European demos is found in Hooghe's tale of the federalizing of the EU, a process that may lead to a full federal state in the coming decades. In her account, the evolution of the EU is a story of political competition between the neo-liberal right and social democratic left. For neo-liberals, an integrated Europe is a free-trade enterprise that should be respectful of traditional national identities. For social democrats, the purpose of economic integration is to regulate capital, but the left also wants the EU to foster a European identity. This kind of right-left and traditional-post-modern political competition is what one would expect in a national polity. This, in and of itself, speaks to the evolution of a European identity, an identity that is reflected concretely in the EU passport. The development of the European identity, however, could be challenged by the rapid expansion of the EU in eastern Europe.

Outside Europe, there is little evidence that transnational identities are forming between the federations we examined and their global and regional partners. In South Asia, the legacy of partition, which segregated the dominant communities, has limited regional integration and prevented the emergence of transnational identities in the subcontinent. And where they do exist (i.e., Kashmir) they tend to be a source of friction. At the global level, the Indian Diaspora has generated a new class of citizen, the non-resident Indian, who connects India to countries around the world and who will likely reinforce India's economic liberalization through huge financial remittances. South Africa similarly displays relatively weak regional integration but, unlike India, South African émigrés are probably too few to have a significant impact on the federal-type constitutional arrangements.

Australia's self-perception appears to have been little changed by the forces of international integration, despite closer economic links with Asia. Australia has long relied on alliances with like-minded and culturally similar countries to protect its territorial integrity. Close ties to the United States in recent decades are in many respects only a replacement for previous linkages to the United Kingdom. And what is true of Australia is even truer in the United States where there is no evidence of any sort of transnational identity emerging (Kincaid, this volume).

The differences between North America and Europe are striking. In the latter, transnational institution-building has purposively impacted identities and helped to create a European identity. Arguably, Canadians and Americans have more in common with one another than do the peoples of Europe, but in North America there has been virtually no transnational institution-building. As such, identities in Canada and the United States have remained more national than they have in Europe. For the foreseeable future, the likelihood of a new North American identity that parallels what is evolving in Europe remains remote.

While Americans have not considered the question of cultural integration in North America, the subject has been intensely debated by the major political parties in Canada, and it has strained the principal linguistic cleavage in the country as well. For Americans, culture tends to be a commodity that properly should be regulated by global and regional trade agreements. For many English-speaking Canadians, culture is a matter that should be protected by national sovereignty. This, in fact, is an article of faith for the liberal-left in English-speaking Canada and even the political-right has historically treaded carefully around this issue.

The people of Quebec, who have in recent decades shaded to the political left in the Canadian political spectrum, tend to be more sanguine about North American integration than left-leaning English-speaking Canadians, believing as they do that American culture does not pose a particular threat to the French language. It is, therefore, not surprising that the Government of Quebec supported the Canada-US Free Trade Agreement and the subsequent NAFTA. A much higher share of Quebec's output is sold outside Canada's borders than was the case 20 years ago. Indeed, Jean-Francois Lisée (2003) suggests that Quebec supported these trade liberalization measures because they promised to reduce Quebec's economic dependence on the rest of Canada. In short, some Quebec nationalists concluded that the cause of independence would be furthered by North American free trade (Meadwell 1989, 1993). It would thus seem that North American integration has served to support Quebec's sense of distinctiveness.

While free trade may realize economic benefits for a federation, constituent units made up of minority nations that are distinct from the dominant linguistic, ethnic, or religious groups nationally may feel emboldened to seek more autonomy, including independence, because they may come to believe that their economic security can be assured through

free trade with regional markets as opposed to relying on domestic markets. We may therefore speculate that, over time, the economic liberalization in India might give some succour to the various autonomist movements in states outside the Hindi-speaking heartland.

The interaction of autonomist movements and transnational free trade is evident as well in some countries not covered in this volume. The unrestricted access of Scotland, Flanders, and Catalonia to EU markets has made it easier for the nationalist movements of these regions to demand enhanced autonomy from the larger societies in which they are located (Keating 2001). The United Kingdom, Belgium, and Spain were all highly centralized unitary states only a few decades ago. Today, two are federal-type states and the UK is in the process of substantial devolution. It would thus seem that international economic integration has supported the federalizing processes of these countries. Whether enhanced autonomy will satisfy the subnationalist movements in the rest of Europe or whether they will press for full independence, with all of its limitations in the modern world, remains to be seen (*ibid.*). Whatever the answer to this question, global and regional integration appears to be a source of strain, at times real and at others only hypothetical, in diverse societies, whether federal or otherwise.

There may be similar tendencies in unilingual federations. In such cases, the motivation may be economic not cultural. Hrbek writes that some Land governments in Germany are seeking to increase their relative role in economic policy in that federation as a result of global and regional integration.

A related impact on intrafederal relations flowing from international economic integration is to put more strain on systems of interregional sharing within federal systems. With ever growing global and regional competition, prosperous constituent units tend to pursue policies that will reduce tax burdens that affect their competitiveness. This is especially the case in relation to those taxes that are redistributed to less prosperous constituent units. Thus, wealthier Länder in Germany, such as Bavaria and Baden-Württemberg, and provinces in Canada, including Alberta and Ontario, have been pressing for less generous systems of either explicit or implicit equalization. In fact, Courchene (1998) has argued that Ontario is developing its own economic strategy, one that is heavily influenced by its need to compete with neighbouring American states. As for the case of India, Singh observes that, starting in 1995, fiscal transfers

from the centre began to reward efficiency and performance, perhaps signalling that similar political forces are at work in the subcontinent. The richer states in India have certainly come to resent subsidizing the poorer states, some of which (especially the smaller hill states in the northwest and northeast of the country) rely almost entirely on transfers from the central government. In short, the impact of global and regional integration is not even and it may exacerbate the tensions between rich and poor regions in federal systems, although the impact to date has been relatively modest.

THE IMPACT OF GARI ON THE INTERGOVERNMENTAL BALANCE IN FEDERAL POLITICAL SYSTEMS

The case studies presented here suggest that the impact of global and regional integration is not unidirectional. Federalism is not a static arrangement. Federations go through periods of centralization and decentralization over time. These fluctuations have been referred to as the "federal process" (Friedrich 1968). In each federation, the federal process is motivated by a mix of internal and external variables. If one or more of those variables is increased, the centralization or decentralization processes already underway will in most cases be accentuated. Consistent with these theoretical observations, we have found that, other things being equal, external pressures will lead centralized federations to become even more centralized and vice versa. (Everything is not always equal, of course, and war is likely to lead to centralization in federations, whether they are disposed to be more decentralized or more centralized.) The point of the scenarios exercise in the next section is to try to assess how federations would react with more extreme changes in the global arena (although none of the scenarios involve war).

Canada and Switzerland have long been among the most decentralized federations. Under global and regional pressures, Canada may be becoming more so. While there does not appear to have been a significant change in the intergovernmental balance in Switzerland, the deepening linguistic cleavage observed by Steiner suggests that the Swiss federal society may be modestly fragmenting or decentralizing although economic integration within Switzerland (for example, the way in which large cities serve as a magnet for surrounding cantons) may be a counterbalancing

factor. On balance, India has also decentralized since the decline of the Congress Party. Some of the recent changes in India have been associated with a shift away from the state to the market. In this instance, domestic politics were the initial trigger but since then external (especially global) forces have reinforced the twin processes of economic liberalization and political federalization discussed by Singh.

Australia has been a somewhat centralized federation, at least since World War II, and under global pressures it seems to have become more centralized. John Kincaid believes that the United States has experienced "substantial centralization in the twentieth century," but he maintains that this centralization cannot be attributed to global and regional forces.⁴ Kincaid acknowledges that globalization has had an impact on American *society*, but he argues that the structure and operation of American *federalism* has been unaffected by recent global forces for a number of reasons. First, he reports that Americans "adapted their federal system to the kinds of challenges associated with globalization" in response to the economic conditions of the early twentieth century and the great wars. He also suggests that the American Constitution was designed to sustain "a great commercial republic," one that was compatible with the project of globalization. And perhaps most importantly is "the absence of fundamental cultural and intellectual contradictions between American federalism and globalization."

In South Africa, global and regional forces appear to be strengthening the central government and local governments at the expense of the state level. Steytler describes this as "hourglass federalism." After the apartheid regime, there was a desire to avoid a splintering of the new polity. Powers were thus allocated to ensure a strong general government, which in turn favoured strong cities over strong provinces.⁵ This "pre-existing tendency toward centralization and localization," Steytler argues, "may be reinforced by the pressures of global integration."

The EU is the only political system we examined that is undergoing strong centralization as a result of regional integration, and its federalizing process is both an independent variable, an agent of regionalization, and a dependent variable, impacted by global forces.⁶

Germany is perhaps the most difficult case to assess. Examined in isolation, Germany appears to be decentralizing, with the central government gradually ceding power to the Land governments. In the European context, however, we might conclude that Germany is also experiencing

an hourglass process with the powers of the central government shifting up to Brussels and down to the *Länder*. Regardless of how we characterize Germany, the transformation of Germany is being powerfully shaped by regional integration (i.e., the development of the European Union), which in turn is partly motivated and reinforced by global economic integration.

While the emergence of the EU and the concomitant institutional harmonization in Germany has been profound, we would stress that these developments are the result of deliberate human agency and endorsed by freely democratic processes. The adjustments in the equilibrium of European governance have not been foisted on the unwilling nations or peoples of Europe by the impersonal forces of regional and global integration. To the contrary, Europeans have controlled the processes of regional integration, speeding it up and slowing it down when desired.

Much of what has just been said about the EU is true in a more modest way about Germany. The governance of Germany has been transformed because of the emergence of the EU. There is a large difference in what Germans could once decide on their own acting through their federal and Land governments and the kind of shared and pooled sovereignty that now applies as a result of the large and growing role of the EU, but Germany's decision to join the EU was voluntary. Internal cohesion in Germany thus remains strong (notwithstanding the challenge of integrating the eastern *Länder*). The German experience is instructive for other polities. It suggests that political integration is not inevitable, it is voluntary. But if transnational political integration is pursued, domestic institutions will almost certainly have to be modified accordingly.

These findings from our case studies can be compared to the so-called "glocalization" thesis. It argues that the traditional nation-state is no longer large enough to deal with some big issues for which the solutions must necessarily be international in scope (e.g., global warming, spread of disease) and too large to handle many other issues where local solutions are more appropriate — a viewpoint that is consistent with our earlier discussion about the growing incongruence between functional and political geography. While this viewpoint may well have some merit, the case studies here do not emphasize that theme. Perhaps it is because nation-states are not powerless in the face of these forces that appear to privilege constituent units and that they are able to take offsetting measures. Perhaps it is because path dependency causes change pressures to be muted or diffused.

Whatever the full explanation, the overriding message that emerges from our case studies is that *apparently* similar change pressures produce divergent outcomes in different federations. It would appear that external change pressures are mediated through the uniqueness of each political entity's domestic reality, as Richard Simeon notes in his chapter on Canada. Since the endogenous conditions differ markedly from one federation to another, it follows that the effects of external forces on domestic governance are experienced differently in each federation.

The divergent responses to global and regional integration may also reflect the different starting points for each federation. It is understandable that a highly centralized federation like India would decentralize somewhat, while a highly decentralized system such as the European Union would find some advantage in centralizing. It would also appear that the long-established federations (those that pre-date World War II) have been influenced relatively lightly by international change pressures, while the more newly established federal polities are more heavily affected. The relatively smaller changes experienced in the developed federations may reflect the fact that their "growing pains" occurred well before the period of modern global and regional integration. To the extent that this point has weight, South Africa might be expected to continue to strengthen its central institutions for a while as it develops. Depending on its success on that front, it might subsequently decentralize somewhat, as happened in India after the decline of the Congress Party.

A final and more speculative observation is that federal systems may find it easier to accommodate global and regional integration than unitary states, at least in some respects. Unlike unitary states, most federal states have experience in multi-level governance at the domestic level. They are used to the unique complexity of shared sovereignty. They are accustomed to intergovernmental processes between federal and regional governments. In short, federalism approximates the complex multi-level reality of the modern world. "Adding a global sphere extends the complexity," Brian Galligan argues, "but in ways that are not so foreign to the already complex system."

In sum, the variable impact of global and regional integration on federal political systems does not lend itself to simple messages, mainly because common external forces are mediated through very different domestic political arrangements. Perhaps the single strongest conclusion to emerge from this analysis, therefore, is that while the forces of international

integration are influencing the processes of centralization and decentralization in federal-type systems, to date they have not been powerful enough to alter the basic political equilibrium within the political entities we analyzed in this volume. Put another way, the pre-existing direction of movement has not been reversed in any of the systems we examined.

These general conclusions raise an important question: Are these benign observations falsely reassuring because the nation-states of the world are still in an early phase of global and regional integration? In recent years we have seen what may only be the beginning of the globalization of communication, finance and commerce, terrorism, disease, and other environmental problems. There are many other examples. Regional integration is in some cases proceeding even more quickly. If the issues are tackled 10 or 15 years from now, might we expect to find different answers? This is what we hoped to learn from our scenarios exercise.

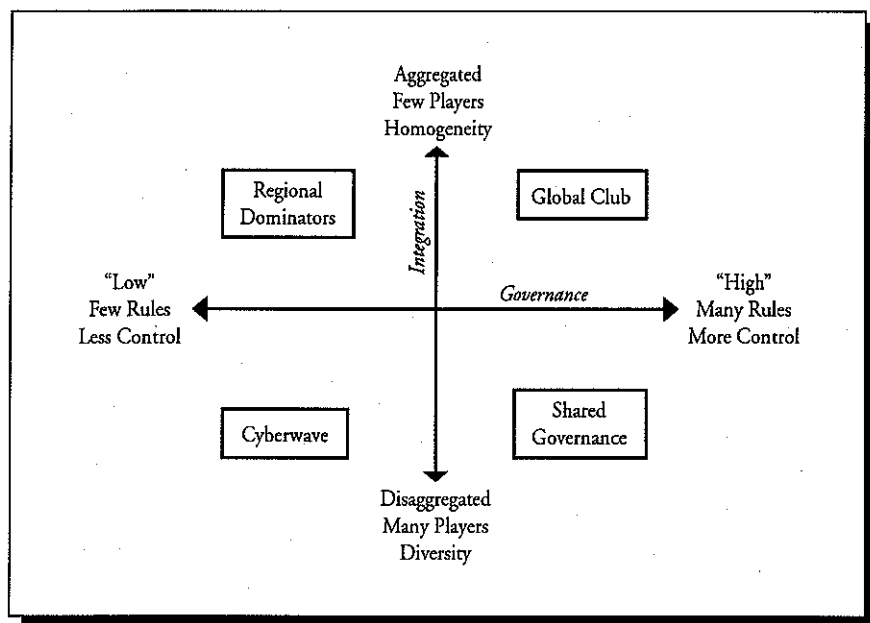
LOOKING AHEAD: SOME SCENARIOS FOR THE FUTURE

There is obviously no certain answer to this last question, but we attempt to speculate about the future for our federations with a scenarios exercise that was undertaken in connection with this volume and a wider research project of which it is part. This involved the creation of four different scenarios for global governance in 2015. The process through which these scenarios were created and the details of their content are found elsewhere.⁷

Scenarios are based on the premise that the future is inherently uncertain. This means that a range of future outcomes is possible. Scenarios attempt to capture that uncertainty by developing multiple descriptions of the future. The focus in developing scenarios is to understand the forces driving change and the key uncertainties that lead to different outcomes.

The number of uncertainties affecting global and regional integration is large. From the array of possibilities, we selected two sets of uncertainties and built our scenarios around them. One had to do with whether power in global governance would become more concentrated or more dispersed. The second was whether the world would move toward more extensive regulation or less (more reliance on market forces and individual choice). By combining these two sets of uncertainties, four scenarios were created. Figure 1 and the immediately following summary provide key highlights.

FIGURE 1
Global and Regional Integration, Scenario Matrix



The global club scenario is characterized by a concentration of wealth and power in a few hands. Major powers and corporate leaders form a "club" — initially informal and then more formal — to resolve critical issues decisively and effectively. The club creates a highly regulated world with global standards and strict international rules in many fields. A few international institutions oversee these regimes and manage their implementation; and they are controlled by the club. Voices of discontent are discounted. Most national states are marginalized. Their capacity to devise standards or choose the parameters of public policy shrink as international regimes reduce their effective freedom to act. The result is an increasingly integrated global economy governed by a small number of actors committed and willing to use their power to ensure order, stability, and growth.

The shared governance scenario is characterized by widely diffused economic and political power exercised within a "balanced" system of

global governance. The equality and responsibility of states is recognized. National governments balance sovereignty and independence against the need for growth and international stability. International organizations gain influence. Rules are defined, supported, and enforced. Major powers recognize the need to adhere to the rules and accept compromises in reconciling trade and political disputes. Subnational governments, multinational corporations, and NGOs are all recognized as legitimate players and included in this more networked system of international decision-making.

There is an "egalitarian" push, tempered by self-interest, to accelerate economic growth and social development, including in poor countries. Grass-roots citizen organizations are also increasingly influential, leading to more effective democratic processes and strengthened social programs. Human rights are recognized globally. The result is a complex yet orderly and balanced world in which rules are respected and transparent. Countries adhere to the rules in part because their capacity to act independently is eroded and in part because breaking the rules threatens growth and stability. States recognize their interdependence and the real limits to their economic power in an increasingly integrated global economy.

The cyberwave scenario is characterized by rapid, unpredictable, and continuous technological change that drives business and stimulates growth. It also outstrips the ability of public institutions to stay abreast of change and respond effectively. Individualism and libertarianism are celebrated. There is an ongoing effort to streamline market regulations and increase competition. There are few economies of scale in the new technologies, which are relatively easy and inexpensive to adapt for those with the requisite human capital. Speed and flexibility are more important than size and financial resources. This leads to a proliferation of economic players aggressively exploiting new technology and undermining the dominance of traditional, gigantic international enterprises.

The dynamism of markets and intense competition leads to a wider polarization of well-being within individual countries and exacerbates the north-south income divide. Within the north, there are multiple centres of power and a tendency toward social and political fragmentation. The result is bursts of strong economic growth flowing from markets, an innovative culture and support for individual liberties and initiatives, but it is unclear whether this growth is sustainable (much volatility) given the

absence of appropriate regulation of markets. The scope for international governance narrows dramatically.

The regional dominators scenario is characterized by major geopolitical blocs sparring for position and dominance. Blocs are highly integrated internally but externally they jockey for economic and political advantage in aggressive, confrontational neo-mercantilist resurgence. Bloc policies are often designed to support their large and increasingly powerful corporate sectors. Inter-bloc relationships are characterized by conflict rather than cooperation. Multilateral policy coordination across blocs is consciously rejected. Instead, issues are addressed on a bilateral basis between blocs. Bilateral trade restrictions proliferate. International institutions are increasingly irrelevant and largely moribund. Blocs try to access competitors' markets while minimizing concessions. Economic growth is low and uneven. Discrepancies between rich and poor countries are exacerbated.

The question that arises here is whether and how these alternative global futures might affect the federal systems of governance that we examined. The first thing we must acknowledge is that such analysis is necessarily speculative. A second is that the scenarios would impact differentially on the polities studied. For example, in a regional dominators scenario, Germany and the United States could be expected to be lead powers on their continents. The same may be true of South Africa and India. Conversely, Switzerland and Canada would not be in that position. And Australia would be excluded or would be a relatively small power in a bloc with which it might not be geographically contiguous. To provide a second example, the cyberwave scenario would be less of a cultural shock to the United States than it would be for any of the European polities. Given these kind of considerations, what lessons appear to emerge from this exercise?

Consider first the two scenarios that concentrate power (global club and regional dominators). Other things being equal, one might expect them to lead to relatively more centralization of power within the individual federations. This indeed is what our country authors tend to think in cases where the federation is a large one, either in global or regional terms. But for the less powerful federations, the analysis suggests otherwise, with the most likely reaction being for the balance within the federation to remain as it is or to be further accentuated. Thus, for Canada

and Switzerland, which begin as relatively non-centralized federations, the authors lean to the view that, under both scenarios, their constituent units are likely to be privileged, in relative terms, while the federal authorities are likely to be weakened. In the relatively centralized Australian federation, the expectation is that the Commonwealth government is more likely to increase its relative stature or at least preserve it.

Consider next the two scenarios that lead to a de-concentration of power (shared governance and cyberwave). In these cases, for most federations, there is a shift of relative power away from the federal government. Other things being equal, this is what we might expect given that these scenarios are inherently decentralizing. And we find assessments for Canada, the EU, India, South Africa, and the United States consistent with that assumption. But the uniqueness of political cultures from one polity to another means that this result is more problematic in other cases. Thus, Galligan speculates that cyberwave would, in relative terms, strengthen the Commonwealth authorities in Australia as the relative weakness of states would make them less well able to function at all in this particular scenario. And Hrbek wonders whether this same scenario might not strengthen the existing cooperative model of German federalism as a necessary response to the threat that cyberwave would pose to German solidarity. Similarly, Hooghe sees a global shared governance model as reinforcing the shared governance that has been evolving in the European Union and thus as potentially reinforcing the federalizing process in that polity, with Brussels growing in relative importance. In other words, in these latter three cases, the scenario serves to reinforce essential features of the polity as it now exists.

This exercise, while speculative, tends to reinforce the analysis earlier in this chapter in a couple of respects. First, when put under stress, there is a tendency for federal systems to accentuate current characteristics. Second and consistent with the first, similar processes of global and regional integration may lead to dissimilar responses from one federation to the next. These forces are mediated by domestic institutions and cultures and they are, of course, variable.

CONCLUSIONS

Federal systems, like all polities, are subject to pressures from within and without. This volume explores the effects of the growing influences from

without — the strong recent trends toward regional and global integration — and how they affect federal systems of governance. This study points to the fact that global and regional integration are related but distinct phenomena, and it would seem that most federations are impacted by one more than the other. Canada, Germany, and Switzerland all seem more affected by regional integration, while Australia, the European Union, India, and South Africa are affected more by global integration. As for the United States, it is least affected by these pressures.

Perhaps the single strongest message to come from the chapters here is that federal and federal-like systems have been highly stable in spite of the huge growth of global and regional influences on their polities, economies, and societies. In particular, there is little evidence of external pressures forcing major changes to basic institutional features of the countries studied. In the case of the EU and Germany, there have most certainly been transformative institutional innovations, and they have been influenced by globalizing pressures. But these changes originated in domestic factors, not global forces. In almost all of the other federations, there is evidence of some degree of adjustment in institutional structures and arrangements as a precondition to effectively dealing with global and regional economic forces. But on the whole these changes have been modest.

The effects on identities have been modest. New transnational identities have only been observed with the emergence of the European Union as a distinct entity. Outside Europe, there is little evidence that international integration is having similar effects. While there is reason to believe that global and regional forces are reinforcing traditional cultural and political cleavages within federations, especially the more diverse federations, such as Switzerland, Canada, and India, even in these examples the reinforcement has, at least to date, been modest. Moreover, developments such as the 2003 elections to the Scottish and Quebec assemblies and the ongoing negotiations for a European Union constitution suggests the effects might remain modest.

Our earlier theoretical discussion set out rationales that would support divergent trajectories — trends toward both centralization and decentralization. Indeed, *within* individual federations, we anticipated that the mix of external forces might result in both tendencies operating at the same time, some elements of governance becoming more centrally ruled while others were becoming less so. This is in fact what the evidence shows.

We live in a highly complex world and such a result should not be surprising.

Perhaps a little more surprising to us was that global and regional integration have contributed to divergent trajectories *among* federations. Overall, the net effects of centralizing and decentralizing forces have been to help centralize governance in some federal entities, to help decentralize others, to promote an hourglass phenomenon in at least one setting, while contributing to more transformative effects in two others. The specific situational context of each political entity determines the direction of change.

Federal structures are normally found in societies that include substantial diversity. A question of primordial interest here is whether the federal bargain that underpins each of these societies is being undermined or at least significantly affected by the forces of global and regional integration. We found no support for this idea. To date at least, the forces of global and regional integration have not eroded the political stability that is required to sustain the federal systems we have examined.

A quite separate question is whether this stability is sustainable. The forces that underlie global and regional integration appear to be systemic and possibly cumulative. If that is the case, the gap between functional geography and political geography could reach a tipping point that leads to a new dynamic, one that puts into question the political structures and political equilibrium associated with contemporary systems of federal governance. But we are not there yet.

Notes

1. Not all of the polities we examine in this volume define themselves as "federations." All of them, however, have federal-type features. Hence we use the term "federal-type." To keep things simple, we normally use the word "federation" here to include polities that are self-described federations (including Australia, Canada, Germany, India, Switzerland, and the United States) and two that do not so describe themselves, namely the European Union (which is in reality a confederal-federal hybrid) and South Africa (a federal-unitary hybrid).
2. In this respect, we differ from Blatter (2001, pp. 182-83).
3. Available at <http://www.iigr.ca/publication_detail.php?publication=270>.

4. This observation relative to the United States is consistent with the chapter by John Kincaid in this volume. That chapter was written before the events of 9/11 and its aftermath.
5. Even before apartheid was defeated, the South African government was more centralized than is the case today.
6. Even this analysis understates the complexity of what is happening. We have already observed that India has been decentralizing in relation to economic issues. But regional tensions on matters of security have worked in the opposite direction leading to some centralization.
7. See <http://www.iigr.ca/publication_detail.php?publication=270>.

References

- Blatter, J.K. 2001. "Debordering the World of States: Towards a Multi-Level System in Europe and Multi-Polity System in North America? Insights from Border Regions," *European Journal of International Relations* 7 (2):175-209.
- Cable, V. 1995. "The Diminished Nation-State: A Study in the Loss of Economic Power," *Daedalus* 124:23-53.
- Coleman, W.D. and T. Porter. 2000. "International Institutions, Globalisation and Democracy: Assessing the Challenges," *Global Society* 14 (3):377-98.
- Courchene, T.J. and D.J. Savoie, eds. 2003. *The Art of the State: Governance in a World Without Frontiers*. Montreal: Institute for Research on Public Policy.
- Courchene, T.J. with C.R. Telmer. 1998. *From Heartland to North American Region State*. Toronto: Centre for Public Management, Faculty of Management, University of Toronto.
- Elazar, D.J. 1987. *Exploring Federalism*. Tuscaloosa, AL: University of Alabama Press.
- Friedman, T.L. 1999 and 2000. *The Lexus and the Olive Tree: Understanding Globalization*. New York: Anchor Books.
- Friedrich, C.J. 1968. *Trends of Federalism in Theory and Practice*. New York: Praeger.
- Held, D. 1998. *Democracy and the Global Order*. Stanford: Stanford University Press.
- . 2001. "The Changing Contours of Political Community," in *Global Democracy: Key Debates*, ed. B. Holden. London and New York: Routledge.
- Keating, M. 2001. "Nations without States," in *Minority Nationalism and the Changing International Order*, ed. M. Keating and J. McGarry. Oxford: Oxford University Press.
- . 2003. "The Territorial State: Functional Restructuring and Political Change," in *Governing in a World Without Frontiers*, ed. Courchene and Savoie, pp. 329-52.

- Keohane, R.O. and J.S. Nye. 2000. "Introduction," in *Governance in a Globalizing World*, ed. J.S. Nye and J.D. Donahue. Washington: The Brookings Institution, pp. 1-41.
- Lazar, H., ed. 1998. *Canada: The State of the Federation 1997: Non-Constitutional Renewal*. Kingston: Institute of Intergovernmental Relations, Queen's University.
- Lis  , J.-F. 2003. "Is Quebec a North American Region State? A Preliminary View," in *The Art of the State: Governance in a World Without Frontiers*, ed. Courchene and Savoie, pp. 353-63.
- Meadwell, H. 1989. "Cultural and Instrumental Approaches to Ethnic Nationalism," *Ethnic and Racial Studies* 12 (3):309-28.
- 1993. "The Politics of Quebec Nationalism," *World Politics* 45 (January):203-41.
- Ohmae, K. 1990. *Borderless World: Power and Strategy in the Interlinked Economy*. New York: Harper Perennial.
- 1995. *The End of the Nation State: The Rise of Regional Economies*. New York: The Free Press.
- Rodrik, D. 1997. *Has Globalization Gone too Far?* Washington, DC: The Institute for International Economics.
- Watts, R.L. 1998. *Comparing Federal Systems*, 2d ed. Montreal and Kingston: McGill-Queen's University Press and the School of Policy Studies, Queen's University, pp. 6-14.

CENTRALIZING SYSTEMS

2

Globalization and Federalism in the United States: Continuity in Adaptation

John Kincaid

INTRODUCTION

To date, globalization has had no impact on the constitutional design or basic institutional structure of the federal system of the United States of America, nor has it significantly altered domestic intergovernmental relations. Instead, American federalism can be said to have had an impact, though indirectly, on the world insofar as the United States has driven globalization more than it has been driven by globalization. Most of the forces and technologies associated with globalization emanated from the United States. Although many factors account for America's powerful status, one factor has remained virtually constant for 212 years — the US federal system. Despite tremendous change in American society and in domestic conceptualizations and operations of US federalism, including substantial centralization during the twentieth century, no amendments to the US Constitution, significant congressional enactments, or major US Supreme Court interpretations of the Constitution with respect to federalism can yet be attributed to globalization.

This is not to say that globalization has had no impact on American society. There have been many impacts, but this chapter focuses only on the impacts of globalization on American federalism, impacts that have been minimal, in part because intergovernmental responses to globalization have been consistent with intergovernmental responses to other

challenges. For example, global competition contributed significantly to the devastation of the steel industry in my area of residence, the Lehigh Valley, Pennsylvania. This devastation produced political rhetoric hostile to globalization, but federal, state, and local responses to the devastation have been forged within long-standing patterns of intergovernmental relations, and the Commonwealth of Pennsylvania and the many local governments in the Lehigh Valley formulated policies to cope with this devastation in much the same manner as they formulate new policies to cope with purely domestic socio-economic challenges. Thus, having identified global economic competition as a new challenge more than 30 years ago, the commonwealth and its localities developed, among other things, programs to increase exports of state products abroad and to attract foreign (and domestic) investment as well as foreign (and domestic) tourists. However, these policies entailed no significant changes in intergovernmental relations or in the distribution of powers among the federal, state, and local governments.

Determining why globalization has thus far had a minimal impact on American federalism, and why American federalism has adapted to and facilitated monumental global change during the past two centuries, is, in the end, a speculative exercise. One can only pose hypotheses.

Part of the answer for today lies in the \$9.4 trillion gross domestic product (GDP) and still largely autarkic position of the US economy, which can absorb global economic shocks more easily than most nations and shield the federal system from excessive global turbulence. Despite the near-collapse of the European Exchange Rate Mechanism in 1992–93, the Latin American Tequila Crisis that followed Mexico's peso devaluation in 1994–95, and the Asian financial crisis of 1997–98, the US economy grew by 29 percent from 1992 to 1999, achieving the longest continuous peacetime growth in US history. Likewise, US state economies are huge. In terms of 1998 GDP, California is the world's seventh largest economic power (with Canada ranking 12th, Mexico 14th, India 17th, Australia 20th, and Russia 24th). New York and Texas rank tenth and eleventh, and New York City alone ranks nineteenth. Even the economy of the nation's poorest state, Mississippi, is larger than that of about 120 nations.

Nevertheless, why did this huge economy grow and continue to function within the framework of a federal constitution implemented in 1789? The answer lies partly in the original intent of the American

Constitution, a key purpose of which was to build a great commercial republic. The vision of that republic embedded in the Constitution is expansive, both economically and geographically. In addition, Americans tend to be systemically conservative and operationally liberal, clinging to the structural integrity of their constitutional framework while adapting it to social change. Constitutional change, moreover, is a concurrent federal-state process requiring extraordinary-majority consent in the federal and state arenas.

As a result, when post-World War II globalization first hit hard in the United States with the Arab oil embargo of 1973, Americans — in having responded to late nineteenth-century globalization, World War I, the Great Depression of the 1930s, World War II, and the Cold War — had already adapted their federal system to the kinds of challenges associated with globalization. Massive immigration and economic turbulence associated with the first wave of globalization during the late nineteenth century, which lasted until 1914 (Keynes 1919), contributed to the rise of the Populist and Progressive reform movements, which initiated nationalization of the federal system, obtained federal and state legislation to cope with the nation's new national urban-industrial economy (e.g., federal anti-monopoly laws still used today, as in the Microsoft case), established important new institutions, such as the Federal Reserve System (1913) that figures prominently in today's global economy, and secured two amendments to the Constitution in 1913 (i.e., Amendment XVI, federal authority to tax income, and Amendment XVII, direct election of US senators by state voters), which fostered substantial centralization during the twentieth century. The Great Depression induced a significant centralization of economic regulation in Washington, DC, which produced new federal laws and institutions equipped to cope with later globalization, while, nevertheless, preserving substantial economic and political autonomy for the constituent states (Kincaid 1993), which the states today wish to protect against new global institutions such as the World Trade Organization (WTO).

In turn, discussions of contemporary state and local government involvements in international affairs date back to World War II. The first tangible steps toward such involvement occurred during the 1950s. Republican President Dwight D. Eisenhower (1953–61) encouraged state international activity and helped establish the Pearson Fellowship Program, which funds foreign-service officers to spend a year working with a state or local government. The

program is consistent with intergovernmental personnel exchanges that date back to 1803. Under Democrat John F. Kennedy's administration (1961–63), the US Department of Commerce encouraged states to become involved in international economic affairs. Commerce was then headed by Luther Hodges, former Governor of North Carolina, who led one of the states' first trade missions to Europe in 1959 (Kincaid 1999). In short, the United States had substantially prepared its federal system for today's globalization, in part because it responded to the first wave of globalization and, then, to the tragic global crises that resulted, in part, from the collapse of that first wave.

Perhaps more important is the absence of fundamental cultural and intellectual contradictions between American federalism and globalization. The United States is a product of early modernity; globalization is a product of late modernity fostered substantially by the United States. The founders reinvented federalism for modernity in the context of a religious belief system moulded by Reformed Protestantism which, with its covenant or federal theology (Elazar and Kincaid 2000), helped usher in modernity, and in the context of a secular political thought system based on productive tensions between Lockean liberal individualism and Machiavellian civic republicanism. The founders' invention of modern federalism was a theoretically and theologically informed and modernly "scientific" approach to the challenges of creating the world's first continental-size republic and of ensuring both individual and communitarian liberty through mechanisms of anti-imperial political, social, and economic integration. US federalism is based, as well, on what Americans regard as universal truths of nature, such as human equality, natural rights (rather than Natural Right), and individual liberty. Coincidentally, though auspiciously, when Americans promulgated their Declaration of Independence in 1776, Adam Smith published the bible of modern capitalism, *The Wealth of Nations*.

American federalism, therefore, did not emerge from a pre-modern society or in revolt against feudalism, nor was it imposed on a pre-modern society. Furthermore, while the United States is a multinational or multicultural society, it is not a multinational or multicultural federation established to accommodate territorially distinctive linguistic, national, or religious states having primordial identities and/or roots in antiquity. The federal union was established to protect individual liberty and the needs that individuals have for local self-government and larger collective

action in a continental republic. The original 13 states were simply states, not nationality states; they were collections of individuals living within arbitrarily and imperially determined boundaries that had become political communities by virtue of voluntary political, social, and economic interaction. The existence of the states was constitutionally guaranteed, not to protect ancient communal liberties or primordial identities, but to protect individual liberty and communitarian liberties of local self-government against a tyrannical majority or national imperial centre. This difference between the United States and many other multinational countries is reflected in the international activities of the states. These activities are highly pragmatic and heavily economic, and unconcerned with projecting any nationality or distinctive cultural identity abroad.

The one partial exception to the union's modernity, which jeopardized the union from the outset, was the semi-modern society based on slavery. This society was accommodated at the beginning, but conflict was irrepressible, and the South's slave society was crushed militarily during the Civil War of 1861–65 and buried constitutionally during the civil-rights struggle of the 1960s. Likewise, another partial exception, Mormon Utah, was admitted to the union only after the Mormons were compelled to capitulate to modernity by abandoning polygamy (Gordon 2001).

The Civil War also demonstrated the continuity of American federalism and durability of the Constitution despite the trauma of a bloody war. It also revealed the ferocity with which Americans fight what they regard as righteous wars; it forged new modes and weapons of modern warfare; and it set the United States on the path to twentieth-century superpower status. Equally important for contemporary globalization, the federally imposed Reconstruction of the South that followed the war (1865–77), as well as the federally imposed Mormon theological capitulation of 1896, reflected the aggressiveness of American modernity and its expectation that pre-modernity must capitulate to modernity for the sake of individual liberty. Yet, these events also demonstrated generosity toward defeated combatants and US willingness to reintegrate them (i.e., the South) or integrate them (i.e., the Mormons) on terms of equality and with nostalgia about concluded hostilities.

Generally, American values are also consistent with the values commonly associated with globalization. The free-market values associated with contemporary globalization are consistent with American free-enterprise values, just as protests against globalization — all of which

include substantial participation of American citizens — are consistent with historic struggles within the United States over free enterprise versus social justice. Indeed, some US advocates for the poor and low-income workers argue that globalization is little more than an expansion and intensification of historic labour struggles. “The worker strategies constructed in the industrial age have been undermined not because globalization has eviscerated labor power but because it weakened old labor strategies and spurred aggressive new elite strategies with which labor has yet to cope” (Piven and Cloward 2000, p. 414).

American values are also largely consistent with what a recent study of non-governmental organizations (NGOs) worldwide concluded is an emerging world culture displaying “five fundamental cultural themes”: universalism, individualism, rational voluntaristic authority, the dialectics of rationalizing progress, and world citizenship (Boli and Thomas 1999). Only “world citizenship” lies outside the zone of comfort for most Americans.

Another factor protecting US federalism is that the United States projects its culture onto the world more broadly and deeply than other nations can project their cultures onto the United States. Even opponents of the United States find it impossible to avoid the ubiquitous products of American culture. During the war against the French in Indochina, Ho Chi Minh smoked American cigarettes. During the war with the United States in Vietnam, he did not switch to French cigarettes; he switched to another American brand (Salems). While many critics view American behaviour as proof that globalization is a project of US hegemony, cultural imperialism, and offensive moralism, American leaders tend to view globalization as a natural, even inevitable, process of modernization and expansion of what Americans regard as the universal principles of their own founding. Repeatedly during US history, one finds proclamations such as that of former President John Quincy Adams on 4 July 1831, “our country and her people have been selected as instruments for preparing and maturing much of the good yet in reserve for the welfare and happiness of the human race” (quoted in Jones 1960, p. 11). Arrogant as this must be to the world, it is the product of the Puritans’ “errand into the wilderness” (Miller 1964) in which construction of the American federal polity has been understood as a project undertaken on behalf of humanity primarily, and not merely on behalf of the immigrants from every part of the world who constructed that polity.

SITUATIONAL CONTEXT

Territorially, at 9,666,532 sq. km., the United States is the world's third largest nation (behind Russia and Canada). Occupying the temperate zone in mid-North America, warm climates prevail in the sunbelt states, colder climates blanket the snowbelt states. The east enjoys ample rainfall; the west is arid and, thus, dependent on federally funded water and irrigation projects. The Appalachian Mountains run north-south near the east coast, while the Rocky Mountains run north-south in the west. The country's great heartland river of commerce is the Mississippi, flowing south from the Great Lakes region to the Gulf of Mexico. Historically, the United States has had three great sections: east, south, and west. However, there are many regional classifications, which vary according to the purposes of classification.

As a result of eastern-state cessions of their western land claims pursuant to ratification of the Articles of Confederation in 1781, the US government held original title to all territories acquired outside of the original 13 states. Western land sales were a significant source of revenue for the federal government during its first century of existence. During the nineteenth century, the federal government made massive homestead grants to families to encourage settlement and, then, massive land grants to railroads to facilitate continental integration. The federal government also made large land grants to most of the new states that were admitted to the union. In many states, land grants produced sufficient revenue for four to five decades to minimize state own-source taxation. During the Civil War, the federal government also initiated land grants for all states to establish agricultural research and educational institutions. Today, most of these land-grant institutions are large state universities, some of which are among the world's leading universities.

By the end of the nineteenth century, however, the federal government reduced its land grants substantially, including grants to states entering the union. Consequently, the federal government still owns one-third of the land area of the United States. Nearly all federal land is located in Alaska and eight states of the Rocky Mountain West. Environmental conservation was the principal reason for ending the land grants, and controversies over environmental protection, natural-resource development, and federal land management are continuing flashpoints in relations between the federal government and these states. Globalization has exacerbated these intergovernmental tensions because (i) these states wish

to succeed in the global economy; (ii) most are experiencing the country's most rapid population growths; (iii) global tourism, especially to the west's popular sites (e.g., the Grand Canyon in Arizona), is distressing fragile environments; and (iv) environmental advocates now view federal lands as global assets, and they link local environmental problems, such as glacier erosion in Alaska and in Glacier National Park in Montana, to global events, such as global warming. Western growth has also provoked some tension with Canada over American proposals that Canada sell water to the US west.

Canada and the United States share the world's longest unfortified border and have enjoyed peaceful though not always conflict-free relations since the War of 1812. The United States is Canada's dominant trading partner, accounting for about 85 percent of Canada's foreign trade and 42 percent of its GDP. Mexico borders the United States along the southwest. The border has been militarily peaceful since 1917, but politically contentious for decades. Key border issues include illegal migration into the United States, drug trafficking, water rights, environmental protection, and Mexican trucks entering US highways pursuant to the North American Free Trade Agreement (NAFTA). Efforts have been made by governors of the contiguous Mexican and US states to resolve border issues, but key decisions remain to be made in Mexico City and Washington, DC. President Vincente Fox has proposed a deepening of NAFTA into a European Union (EU)-style common market with open borders, expansion of NAFTA's North American Development Bank along the lines of the EU's structural funds, and hemispheric economic union. His proposals have received a cool reception in Washington.

The United States has some 286 million people, approximately 80.3 percent of whom are white, 12.3 percent black (or African American), 12.5 percent Hispanic origin (mostly Mexican American), 3.6 percent Asian and Pacific Islander, and 1 percent Indian, Eskimo, and Aleut. About 9.7 percent of the population is foreign born; 915,900 legal immigrants entered the country in 1996; 1,044,689 persons became US citizens through naturalization in 1996; and some 32 million persons age five and over spoke a language other than English in the home in 1990, including 17.3 million who spoke Spanish; 1.7 million, French; 1.5 million, German; 1.3 million, Italian; and 1.2 million, Chinese. The United States has no official language.

Some demographic factors salient to federalism include the following.

The United States has been predominately Protestant and culturally religious. In 1990, 63 percent of the population belonged to religious institutions: 55 percent Protestant, 38 percent Roman Catholic, 3.8 percent Jewish, and 2.5 percent Orthodox Christian. International opinion polls consistently show the United States being the world's first or second most religious nation in terms of popular beliefs in a Supreme Being, life after death, and the like, as well as participation in religious activities. The Jewish-Christian concept of covenant underlies not only American federalism but also Americans' liberal individualist tradition derived from the civil covenant and compact theories of Thomas Hobbes and John Locke.

The US population is dispersed nationwide. There is no dominant state or metropolitan population centre and, thus, no *de facto* political asymmetry in the federal system. Even the less populated prairie centre of the United States is triangulated by huge metropolitan centres — Chicago, Illinois, to the north, Dallas-Ft. Worth and Houston, Texas, to the south, and Denver, Colorado, to the west, with medium-sized metropolitan centres, such as St. Louis, Missouri, interspersed throughout the region. (In contrast, Ontario comprises nearly 40 percent of Canada's population while the six neighbouring US Great Lakes states account for 18 percent of the US population. Similarly, Ontario produces about 55 percent of Canada's manufacturing output, while the Great Lakes states comprise about 25 percent of US manufacturing.) In turn, the United States has no state like Quebec positioned to be a political or cultural barrier between sections of the nation.

The United States is now a suburban nation; about 55 percent of the population lives in suburbs outside both central cities and rural areas. (Approximately 23.8 percent of the US population is rural.) Although the United States is officially 76.2 percent urban, this figure is misleading because the US Bureau of the Census defines "urban" as any place having 2,500 or more residents. No American regards a town of 2,500 people as "urban" or as a "city." Sprawling low-density settlement in small to medium-sized cities (50,000 people or less) is the overwhelming residential preference. Never in the history of the United States has more than one-third of the population lived in urban places having 100,000 or more

residents. Although images of the United States often feature big cities like New York City, fewer than 20 percent of Americans live in such cities. One characteristic of big cities, however, is that they have high proportions of poor and minority people, as well as immigrants.

One federalism consequence of sprawling settlement is a continuing preference for local control of certain public matters and ferocious resistance to consolidations of local governments. Advocates of metropolitan consolidation and regionalism have added globalization to their century-old arguments, maintaining that successful competition in today's global economy requires strong subnational regions or "citistates" (Peirce 1993); yet, voters remain deaf to these arguments. Interlocal cooperation has increased, but it has not been induced by globalization; it has been induced by fiscal pressures arising from voter resistance to tax increases and from a precipitous decline in federal aid to local governments since 1978. Recent research, moreover, suggests that global economic activity has had only weak effects on US metropolitan areas because it is too small in magnitude compared to the domestic economy (Eisinger and Smith 2000). It has been estimated, for example, that the GDP-equivalent of the narrowly defined Los Angeles metropolitan area alone is about the 25th largest in the world. A survey of US mayors in 1996 found overwhelmingly that they regarded their main sources of economic competition to be domestic rather than foreign (Kincaid with Handelsman 1997).

Americans are also mobile; nearly one-fifth of the population changes its county of residence each year. This is an historic pattern, not one induced by globalization. This mobility weakens federalism insofar as it weakens citizen ties to states and localities and erodes sectional and regional subcultures; however, it also strengthens federalism insofar as mobility spurs interstate competition for innovation and efficiency in state and local government. Although critics of competitive federalism argue that it induces "races to the bottom," especially in business regulation, social welfare, and environmental protection, there is, to date, little evidence of negative downsides (e.g., Kenyon and Kincaid 1991).

This mobility also helps to explain a distinctive feature of American federalism, namely, the absence of federal fiscal equalization for the constituent states. Most federations, such as Canada and Germany, engage in fiscal equalization. Given that mobility compels no one to live in a poor state, the US government and wealthy states are not seen as being obligated to supply poor states with revenue to provide services equal to the

national average or to a constitutional command for "uniformity of living standards" as in Germany's Basic Law (article 106[3]2). (Per capita income ranged from \$38,480 in Connecticut to \$19,012 in Mississippi in 1998.) Although, as a practical matter, some states, especially in the northeast, have been long-term fiscal donors while some states in the south and west have been immortal vampires, the historic tendency in Congress has been to treat all states roughly equally or in proportion to population with respect to federal largess. Furthermore, unlike some federations (e.g., Canada and Germany) for which fiscal equalization is a key component of the "social compact," this has never been relevant in the United States. The key component of the American "social compact" is the ability of the federal government and Constitution to deliver individual liberty, economic opportunity, and social welfare, plus national security. As a result, rather than redistribute federal revenues to places via fiscal equalization, revenues are redistributed to persons via welfare programs. Such redistribution is the US government's single largest function, consuming 55–70 percent of the federal budget, depending on how one defines redistribution.

Because business is also mobile, there is competition among the states and their localities for investment. State and local subsidies to attract investment are decried as wasteful by virtually all economists and are under threat from international trade agreements; yet, state and local officials continue to offer subsidies. Political and educational efforts to reduce subsidies and to recover subsidies from failed investments have been somewhat successful, but efforts to eliminate subsidies via federal legislation or interstate compacts have failed. Such subsidies long predate globalization, although exaggerated fears of globalization exacerbated the problem in the 1970s and 1980s as states and localities felt pressed to compete more aggressively for foreign direct investment (FDI).

Citizen and business mobility, coupled with economic growth and governmental reform since World War II, have produced profound changes in most states, particularly economic diversification and party competition. Prior to the war, most states were dominated by one economic factor, such as cotton in many southern states, cattle and then oil in Texas, and copper in Montana. Likewise, most states were dominated by one political party, such as solidly Democratic states in the south and solidly Republican states in the north. Growing economic diversification and rising two-party competition, however, contributed greatly to the late twentieth-century "resurgence of the states" (Bowman and Kearney 1986)

as more reformed, efficient, and effective democratic polities. The governmental capacities and abilities of most states now equal or exceed those of the federal government.

A looming demographic problem is the country's aging population, which will increase dramatically after 2010 when the first "baby boomers" (1946-64) reach age 65 and, then, live increasingly longer. As of 1996, life expectancy for women was 79 years; for men, it was 73 years. In 1998, some 63,000 persons were age 100 or more (compared to 37,000 in 1990). Because senior citizens, who make up about 14 percent of the population, have a high voting rate and a strong interest in social welfare, the aging population is likely to further centralize tax revenues and weaken state and local revenue bases. More than 50 percent of the federal budget is already dedicated to entitlement payments to individuals, mostly senior citizens who receive old-age assistance (Social Security), health-care assistance (Medicare), and other assistance. Hence, the United States spends about half, nearly \$1 trillion, of its federal budget on 14 percent of its population. Social Security and Medicare, which are federal programs, were two of the leading issues in the 2000 presidential election. The federal Social Security and Medicare taxes, which are already the largest tax bites for the majority of taxpayers (i.e., larger than their federal income-tax payments), could become onerous burdens for non-seniors. At the same time, senior citizens exert downward pressure on state and local revenues because they tend to resist property taxes and extension of the sales tax to services, vote against school bonds and general-obligation bonds for capital investment, and lobby effectively for exemptions from state and local income taxes. In addition, Medicaid, which is an intergovernmental health-care program for the poor partly financed by the states at rates of 50 percent to 21 percent (depending on state per capita income), is now the second largest category of state spending (after K-12 education). Approximately 75 percent of Medicaid spending goes to about 25 percent of Medicaid's beneficiaries, namely, persons in long-term care or nursing homes, most of whom are senior citizens, and many of whom were previously middle-class but became eligible for Medicaid by spending down their assets on late-life health care and/or transferring assets to their children.

As of 1999, 11.8 percent of the US population (32.3 million people) was classified as poor, the lowest poverty rate since 1979. The real level of poverty is lower, however, because the official measure of poverty excludes

non-cash assistance (e.g., housing vouchers and Medicaid) which constitute the bulk of social welfare. In addition, Congress has increasingly alleviated poverty through tax credits. The federal Earned Income Tax Credit (EITC) now lifts more people out of poverty than any other single federal poverty program. Many states have an EITC as well.

Average annual unemployment was 4.2 percent in 1999, the lowest since 1969; median household income reached a new high, with gross national product (GNP) per capita purchasing power parity dollars (PPP\$) reaching \$28,020 (compared to \$21,380 for Canada and \$7,660 for Mexico); and the income disparity between the rich and the poor, which had widened between 1973 and 1993, has remained unchanged since 1993. The 1990s marked the longest period of continuous peacetime economic growth in US history, and the federal budget showed a surplus in 1998 for the first time since 1969. This surplus was a major issue in the 2000 presidential election, with Republican Governor George W. Bush proposing to use part of it for a tax cut and Democratic Vice President Al Gore proposing to use part of it to reduce the national debt.

How much of this economic growth can be attributed to globalization is difficult to say. US exports as a share of worldwide exports increased only from 15.7 percent in 1993 to 17.7 percent in 1999, compared to 34.7 percent to 38 percent for the European Union, although the rest of the world's share of exports declined from 49.6 to 44.3 percent. At the same time, the United States incurred continual trade deficits during the 1990s, with a record trade deficit of \$34.3 billion recorded in September 2000. Most economists, though, attribute these deficits to a robust economy that has grown faster than the economies of America's trading partners. During the 1970s and 1980s, US corporations appeared to be stagnant, bloated, and lagging behind Japan and Germany in innovation and product quality, but by the 1990s, US corporations had responded to perceived threats of global competition by restructuring, downsizing, and improving productivity, especially through the introduction of computer technology. The US marketplace also became extraordinarily receptive to entrepreneurial innovation and to foreign entrepreneurs who found it easier to build a new business in the United States than in their home country.

Perhaps the leading political issue has been whether globalization favours the rich and powerful, thus accounting for the depression of real-wage growth for the average American and for the income-disparity growth that occurred between about 1973 and 1993, in particular because of

declining manufacturing due to low-wage competition and other forms of "unfair" competition (e.g., lax environmental regulation) from abroad. Third-party candidates Ross Perot and Pat Buchanan made much of such issues in the 1994, 1996, and 2000 presidential elections. Each employed inflammatory rhetoric, such as Buchanan's claim that cheap "communist crawfish from China" are undercutting Louisiana's crawfish industry and Perot's 1992 claim that the approval of NAFTA with Canada and Mexico would produce a "giant sucking sound" of US jobs draining into cheap-labour, environmentally decadent Mexico. Although Perot and Buchanan failed to win the White House, one consequence of their concern was congressional refusal to renew "fast-track" negotiating authority on free-trade agreements for President Bill Clinton in 1994 — one year after congressional approval of NAFTA. President Bush is seeking reauthorization of fast-track authority, just as Gore, if elected, would have requested reauthorization, although he would have been constrained by key constituents in his party, especially labour unions.

There are, in reality, two answers to the question of whether globalization has reduced US wages and increased income disparity: empirical and political. The results of empirical research are mixed, but the weight of evidence suggests that real-wage depression and income disparity arose primarily from domestic social and economic factors, especially technological change and the shift toward a service economy, and only secondarily from economic globalization (e.g., Feenstra 2000). Although manufacturing's "current prices" share of GDP declined to 16.4 percent in 1998 (down from 18.7 percent in 1987 and 26.9 percent in 1947), its GDP share in 1996 constant dollars has remained at about 17 percent since 1977; the number of workers on manufacturing payrolls has hovered at about 18.5 million since 1970; America's 380,000 manufacturing firms produced 50 percent more than Japan's firms and one-third more than the combined output of France, Germany, and the United Kingdom during the 1990s; manufacturing productivity increased by 31.6 percent between 1992 and 1999 (50 percent higher than Canada or the UK and one-third higher than Japan); manufacturing accounted for about 80 percent of America's \$696 billion of 1999 exports; total hourly compensation for hourly manufacturing employees averaged \$23.74 in 1999; for every \$1 invested abroad in manufacturing in 1998, US manufacturers invested \$7 at home; and while some \$147 billion was invested abroad by US manufacturers from 1994 to 1998, foreigners invested some \$209 billion

in US manufacturing. Furthermore, of some \$27 billion US investments in foreign manufacturing in 1998, about 80 percent went to high-wage countries; only 7 percent went to Mexico and China (Siekman 2000). Canadian direct investment in the United States increased by 82 percent from 1994 to 1998, and the United States remains the largest host country for Canadian FDI, while Canada's share of US direct investment abroad declined from 66 percent in 1987 to 52 percent in 1997 (Testa, Oppedahl and Merkel 2000).

The political answer is that so long as the US economy remains robust, Americans will be little concerned about economic globalization. Public approval of free-trade agreements stood at 61 percent in 1997, 59 percent in 1998, 60 percent in 1990, and 57 percent in 2000 (Sarpolus 2000). However, if the current slowing of the economy becomes a recession or worse, protectionist sentiment for tariffs, import restrictions, and export subsidies to boost employment will gain political ground.

This points to a precarious feature of the global economy: the behemoth position of the US economy and US dollar. Although many observers, such as Thomas Friedman (1999), argue that no one is in charge of globalization, this is not exactly true. Alan Greenspan, chairman of the Federal Reserve Board is, *de facto*, in charge. His command position is also due to changes in world monetary policy and to the shift away from fiscal policy and toward monetary policy as the principal mechanism of domestic economic regulation. A failure by the Federal Reserve Board to prevent a US recession would reduce US imports (with Canada and Mexico being the most dependent on these imports), reduce the value of the dollar against other major currencies, pull down stock markets elsewhere, and reduce capital flows, especially into developing economies, thus driving the global economy into recession and sending many developing countries into depression. Given the dependence of the US economy on oil, the one exogenous factor that could trigger a recession would be a sharp increase in oil prices.

If voters respond to recession with demands for protectionism, globalization could give way to balkanization and cause serious political, diplomatic, and military problems. The potential magnitude of the impact of protectionism is highlighted by the fact that Americans already produce 88 percent of what they buy and that some 82 percent of Americans are employed in sectors scarcely involved in global trade, namely, government, non-profits, construction, utilities, and wholesale and retail

trade (Lawrence 1997). "The United States is still almost 90% an economy that produces goods and services for its own use" (Krugman 1997, p. 166). Whether the EU and European Monetary Union (EMU) are strong enough to counterbalance a recession is uncertain.

Politically and militarily, the United States is the world's single most powerful national actor, although, like all major powers historically, it does not always get its way. Americans are also ambivalent about their political and military roles in the world. This is largely why, since the end of both the Cold War and the Persian Gulf War in the early 1990s, US foreign policy has lacked consistent, coherent direction. Although Americans generally support globalization, they fear adverse consequences for the United States and are highly suspicious of efforts to strengthen or establish international institutions to govern globalization. They are, in effect, latter-day Anti-federalists, and refuse to rush into international governmental arrangements, especially with 190-some co-equal partners, most of which are undemocratic. Furthermore, given US emphasis on free-market principles in the global economy, Americans are just as reluctant to vest too much regulatory authority in international institutions as they are in their own government institutions.

Historically, isolationism has been a strong tradition, derived partly from George Washington's warning that the nation not become entangled in permanent alliances. Most early leaders preferred neutrality as the policy response to the powerful conflicts in Europe, especially between Great Britain and France, both of which posed military threats to the United States on North American soil and on the oceans. The French Revolution of 1789 had also divided Americans between those who celebrated the revolution and those who were appalled by its terror. Nevertheless, President Thomas Jefferson's naval response to the so-called Barbary Pirates in 1804 and President James Monroe's 1823 declaration that European powers stay out of the Western Hemisphere's internal affairs reflected US willingness to defend its commercial and national interests. For the remainder of the century, however, the United States was preoccupied with nation-building such that, by the mid-1890s, the United States had concluded its Indian wars, consolidated its continental union, and achieved its economic independence.

This isolationist tradition had disastrous consequences for the United States and the world when, after World War I, the nation, despite Democratic President Woodrow Wilson's internationalism, demobilized

its military, refused to join the League of Nations, amended the Constitution to impose alcoholic-beverage prohibition nationwide, and then raised tariffs. A period of economic globalization, which had begun in the 1880s and could have been revived after the war, remained moribund.

Arguably, World War II marked the onset of globalization for the United States and its campaign of global modernization. Having learned costly lessons from World War I, the United States pursued an aggressive postwar foreign policy involving, among other things, establishment of the United Nations, creation of security alliances such as the North Atlantic Treaty Organization (NATO), economic reconstruction of Western Europe and Japan, transformation of Germany and Japan into democratic polities, repeated encouragement for Europe to forge a "United States of Europe," development of instruments of international monetary stabilization, promotion of free trade, recognition of Israel, the face-down of the USSR during the Berlin Crisis of 1948, and promulgation of notions of international justice and universal human rights. This was the golden age of US foreign policy. The results were remarkable and unprecedented in history. At the same time, there were significant failures, especially the rise of the Cold War and its nearly 50-year threat of nuclear annihilation. The United States also failed to compel its European allies to liberate all their colonies — a failure that later had costly foreign and domestic consequences for the United States in Vietnam and elsewhere.

Culturally and sociologically, World War II was an important nation-building event in US history. In effect, America entered the war as *these* United States and ended the war as *the* United States. Prior to the war, the average American had had little contact with the federal government outside the Post Office. Furthermore, up until the mid-1930s, state and local governments had accounted for more than two-thirds of all own-source revenues in the federal system, with local governments accounting for more than 50 percent alone. The United States became a world power by the early twentieth century even while its governmental system was financed predominately by local taxes and secondarily by state taxes, and without the federal government crossing the 50 percent own-source revenue threshold until the enactment of the federal Social Security tax in 1935 and, then, the tax increases needed to finance World War II.

During the war, massive societal mobilization was necessarily led by the federal government; federal regulation of the economy and of consumer behaviour became omnipresent; Americans united behind the

war effort as never before; millions of men and women served in the US armed forces under presidential command and were also exposed to foreign cultures, including those of their forebears' homelands; the federal income-tax was expanded to embrace all Americans; and the introduction of tax withholding from wages suddenly gave Americans a weekly reminder of the federal government's existence. Before the war, the army was essentially a federation of state units under presidential command in time of war. The famous Rainbow (42nd) Division formed in World War I of volunteers from all the state units was a precursor of the post-World War II integration of state units into the total force structure of the military under a unified command situated in the Pentagon, though with state army and Air National Guards continuing under gubernatorial command in the absence of wartime call-ups.

The war also engendered social transformations. Black soldiers who had fought for freedom abroad revolted against racial discrimination at home. White-ethnic veterans (e.g., Irish, Italian, and Polish Americans) often revolted against corrupt urban political machines, which were powerful county party organizations. Women who had worked in factories and offices during the war asserted new rights. The two-front (Atlantic and Pacific) war required expansions of military facilities and stimulation of economic development in the south and west, thus opening these regions to massive postwar in-migration. Federal legislation to repay veterans contributed to massive expansion of higher education and massive suburbanization via subsidized home ownership. War-time transportation problems helped stimulate establishment of the massive federal-aid highway program of 1956 — the Dwight D. Eisenhower System of Interstate and Defense Highways — which further aided suburbanization and metropolitanization and gave rise to America's automobile culture and increasing greenhouse gas emissions. Federal support for research and development (R&D) during the war demonstrated the critical importance of R&D not only for the military but for the economy as well. The war also weakened America's limited government tradition, especially limited federal government, by demonstrating government's capacity to deliver public goods at home and abroad. This new vision of government achieved its last great expression in Democratic President Lyndon B. Johnson's Great Society of the mid-1960s and in the Vietnam War, both of which divided Americans into today's limited-government and capacious-government camps. In summary, before World War II, the average American was either

a poorly educated rural hick, small-town boob, or not-very-urbane city slicker. The war, however, not only unified the nation of immigrants in a new way sociologically but also propelled the polyglot nation's cultural passage into modernity.

Nevertheless, the basic structure of American federalism and its Constitution remained intact. Compared to the challenges to American federalism of World War I, the Great Depression, World War II, and the Cold War, therefore, contemporary globalization is not yet a serious threat.

CONSTITUTIONAL/FEDERAL FRAMEWORK

The United States was born in revolt against global colonialism rather than against domestic feudalism. The seeds of American identity were planted during the war that Americans call the French and Indian War (1754–63), known also as the Seven Years' War, which raged along the western frontier of eastern North America and embattled regions from Canada to the West Indies and West Africa and from Great Britain and across Europe to India and the Philippines. It was the first world war of the modern era, with Great Britain, Hanover, and Prussia aligned against France, Austria, and Russia. The war achieved nothing but the *status quo ante* for Europe's combatants, but in what is now the United States, it gave George Washington his first military-command experience as a junior officer, as well as knowledge of British military strategy; resulted in Britain's conquest of New France in North America; sounded the death knell of the Iroquois confederacy; forged bonds and a nascent common identity among the American colonists; gave birth to visions of an American "manifest destiny" (i.e., westward conquest); and produced postwar tensions between the American colonists and their mother country with which they had fought and won the war.

Prior to the Declaration of Independence in 1776, the 13 colonies had established a loose alliance under two Continental Congresses. During the Revolutionary War, the newly independent states formalized their relationship under the Articles of Confederation of 1781, which created a "perpetual union." Immediately after the war, leaders in various states, who later called themselves Federalists, advocated a stronger federal union. The confederation government was, in their view, too weak, especially with respect to commerce and national defence. The Constitutional Convention that met in Philadelphia in 1787 produced a constitution for "a more perfect

union," which was ratified by 1788 and went into operation in 1789 with the installation of the first Congress, inauguration of George Washington as the first president, and appointment of the first justices to the Supreme Court. The constitutional ratification campaign produced the greatest work of American political theory, *The Federalist Papers*, written by Alexander Hamilton, James Madison, and John Jay under the name Publius.

The framers of the Constitution sought principally to achieve four objectives: (i) establish a free, continental, common market that would enable the new nation to become a great commercial republic; (ii) protect individual and community liberty under a federal republican government of strong but limited, delegated powers; (iii) ensure the defence of the republic against the superpowers of that era — France, Great Britain, Russia, and Spain — all of which had military forces on what is now US soil as well as navies on sea lanes vital to US commerce and defence; and (iv) manage the expansion, pacification, settlement, and admission to the union of vast western lands.

The most singular innovation of the new Constitution, according to Hamilton, was the authority of the new "federal" government, unlike the old federal (i.e., confederal) government, to legislate directly for individuals (i.e., levy direct taxes, regulate individual and corporate entities, and conscript citizens). The Constitution established dual sovereignty and dual citizenship in which the federal government was delegated limited but potentially expansive powers (via the elastic "necessary and proper" clause of article I, section 8) to legislate for citizens nationwide. Within the realm of federal sovereignty, the US Constitution, treaties, and federal statutes are "the supreme Law of the Land" (article VI). Outside that realm, the state constitutions and state statutes are the supreme laws of the nation's constituent lands. The Tenth Amendment (1791) to the Constitution, moreover, explicitly reserves to the states or to the people (who are ultimately sovereign) all "powers not delegated to the United States by the Constitution, nor prohibited by it to the States." Much of the history of US federalism, therefore, is one of friendly debate and vigorous conflict over which constitution and which law should prevail — federal or state.

The Constitution also embodies the separation of legislative, executive, and judicial powers, in which it pioneered the modern idea of a strong, independent judiciary. All 50 state constitutions also embody the separation of powers, more and less sharply than the US Constitution.

The addition of the Bill of Rights (first ten amendments) to the Constitution in 1791 reflected an effort to address Antifederalists' fears that the founders had engineered a *coup d'état* to consolidate power and suppress liberty. The Bill of Rights was of virtually no consequence for some 150 years, partly because each state constitution has a Declaration of Rights, but since World War II, the federal Bill of Rights has assumed enormous constitutional, political, and social importance.

The powers delegated to the federal government fall into two categories: first, interstate and foreign commerce and second, national defence and foreign affairs. Likewise, most of the Constitution's restrictions on state powers fall into these categories, and are intended to prevent states from erecting barriers to common-market integration (e.g., the "full faith and credit" and the "privileges and immunities" clauses of article IV); to prevent state legislatures from "impairing the Obligation of Contracts" (article I, section 10) — given that contracts are the foundation of a free market and free society; and to ensure that states support but not obstruct national defence. As per the Constitution's roots in modernity, both the federal government and the states are prohibited from granting titles of nobility, and the United States is obligated to "guarantee to every State in this Union a Republican Form of Government" (article IV, section 4).

The limited government tradition in the United States is reflected not only in the limits placed on the federal government, which Alexis de Tocqueville called an "incomplete national government," but also in the language employed by Americans. For example, unlike Europe, the concept of "the state" has never had a place in American popular discourse. What others call "the state," Americans call "the government" (often "the damn guvment"). To an American, the word "state" means New Jersey, Iowa, and the like. Similarly, discourse in the EU refers to allocations of "competences" among levels of government; Americans have customarily used the word "powers," and not even "power" because all power resides in the people, who can choose to parcel out pieces of their power to governments. Traditionally, most Americans never assumed that government is inherently competent or naturally disposed toward competence; instead, government — especially big, distant government — is a necessary evil that wields always potentially dangerous powers. One change that has occurred since World War II, however, is that many Americans, mostly in the Democratic Party, now believe that government is able to exercise comprehensive power competently and benignly. The concept of "the state"

has also gained currency among American political scientists, most of whom vote Democratic. The roots of this view lie in the late nineteenth century when the emergence of big corporations and monopolies was seen as a threat to democracy, thus requiring the public power of government, the instrument of the people, to counterbalance private power. The anti-trust case brought against Microsoft was based on federal statutes enacted during that era.

Although the world (and many Americans) might regard the United States as having very big government, all governments in the US federal system remain generally less regulatory and less tax costly than their foreign democratic counterparts. The gigantic size of the United States and its economy also creates misleading perceptions. What looks large outside the United States may be small or insignificant within the United States. For example, while the country maintains the world's most powerful and far-flung military establishment, it does so with less than 10 percent of the federal government's budget and only 3.2 percent of its GDP (down from its last peak of 6.5 percent in the mid-1980s during Republican President Ronald Reagan's military buildup).

Furthermore, the American approach to empowering government to perform more expansive functions is not to load powers into one government but rather to multiply governments to perform more specific functions and to intergovernmentalize the exercise of power. The United States has more than 87,000 local governments, with local special-district governments procreating rapidly. Local government is nowhere mentioned in the US Constitution because it falls within the purview of state constitutional sovereignty. Each state is, strictly speaking, a unitary polity; however, all states accord their general-purpose local governments (i.e., counties, municipalities, and townships) substantial self-governing autonomy, including their own tax, budget, borrowing, and police powers. (There is no federal police force in the United States. The FBI, Secret Service, and other federal agencies having arrest authority perform investigative or protective functions, not general police functions.)

Despite considerable centralization of the federal system during the late twentieth century (Kincaid 1993), the 50 states continue to be significantly sovereign in many respects. In revenue matters, for example, there are only a few inconsequential federal constitutional restrictions on state tax powers (mostly to protect commerce against discriminatory and retaliatory state taxation). Consequently, states levy nearly 40 different

taxes, with the income tax and sales tax being the principal sources of state revenue. The property tax is reserved mainly for local governments, although some local governments have been granted modest sales-tax and income-tax powers as well. There are no significant federal restrictions on state and local borrowing, although states impose restrictions on local borrowing. However, the principal mechanisms of fiscal discipline for state and local governments are the bond market and voters (who must approve general-obligation debt, which is paid off with tax money).

Autonomy also allows state and local governments to engage globalization. A key additional factor is that most states are large in their own right; most have larger economies and larger government budgets than most of the world's nation-states. The leading example is California, whose population exceeds Canada's 31 million people. If California were an independent nation, it would have the world's seventh largest economy and one of the world's largest government budgets. The 50 states, moreover, manage and invest nearly \$1 trillion in public pension funds plus about \$700 billion in annual operating funds. Consequently, the states together, large states such as California and New York alone, and several big cities such as New York City alone can wield substantial financial clout in global markets. For example, threats by a handful of states and New York City to exercise this clout on behalf of Jewish Holocaust victims and their families living in the United States compelled Swiss banks and the government of Switzerland to begin disclosing bank assets seized from Jews during World War II and to pay compensation. Given the increasing domestic social activism of state attorneys general, treasurers, secretaries of state, and others — many of whom are elected executive officials in most states — there will be more such social-conscience forays into international markets by the states.

No amendments to the US Constitution can be attributed to globalization, nor have any amendments altered the basic structure or institutions of the federal system. The most recent amendment (XXVII, 1992), concerning pay increases for members of Congress, was one that had failed ratification in 1791 as part of the Bill of Rights but had no ratification limit. This dormant amendment was discovered by a university student in Texas while writing a term paper. He launched a successful campaign to complete ratification of the 200-year-old proposal.

Three amendments, however, have had profound impacts on the federal system. The Sixteenth Amendment (1913) gave Congress the

"power to lay and collect taxes on income, from whatever source derived." This amendment had little domestic consequence until after World War II when the federal income tax became a tremendous fiscal vehicle for regulating the economy, entering policy fields customarily reserved to state and local governments via grants-in-aid, and placing downward competitive pressure on state and local income taxation. The Seventeenth Amendment (1913) provided for the direct election of US senators rather than their selection by the state legislatures. Thus, senators were converted from being ambassadors of their states *qua* states to being direct representatives of the people of their states. These two amendments were products of the Progressive Movement, which advocated a new democratic nationalism, a stronger national government, federal regulation of the economy, the vesting of more power in voters, and redistribution of income from the rich to the poor.

More important is the Fourteenth Amendment, which states, among other things, that no state shall "deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." This amendment was ratified in 1868 to protect the newly freed blacks in the southern states. The amendment did nothing for blacks for a century, but it did generate two social revolutions. First, the US Supreme Court used it to promote *laissez faire* economic development in the late nineteenth and early twentieth centuries by striking down many state efforts to regulate economic matters (and doing the same to the federal government by defining the interstate commerce clause narrowly). This line of jurisprudence was overturned by the Court itself in 1937 when the Court was under enormous pressure to do so by Democratic President Franklin D. Roosevelt's New Deal forces during the Great Depression. Second, and at the same time, the Supreme Court began to use the Fourteenth Amendment to apply the Bill of Rights to state and local government action. This line of jurisprudence, which has, in its fundamentals, enjoyed popular acceptance, is the legal basis for the civil rights, civil liberties, and equality revolutions that transformed American society during the 1960s and, as noted earlier, finally buried the remains of southern slavery.

This constitutional rights revolution has allowed Americans to reconceptualize and nationalize the federal system in fundamental ways without rewriting the federal Constitution. This judicially induced revolution, coupled with the direct election of senators and the federal

individual income-tax power, might have rescued the federal system from possibly strong postwar pressure to amend the Constitution fundamentally. As such, the judicial revolution inadvertently allowed federalism — even the presumed dead notion of dual sovereignty — to be resurrected (controversially) by the Supreme Court during the 1990s.

The United States is in the midst of a significant debate about the nature of its federal democracy, a debate well reflected in the contested 2000 election. Gore and most Democrats believe not only that Gore would have won the election if votes had not been undercounted in Florida but also that he should have won the presidency because he won the national popular vote. Bush believes that he won the presidency because he won in 30 of the 50 states, including Florida, and, hence, won the majority of electoral college votes needed constitutionally to capture the White House. A majority of Americans now oppose the electoral college because it is archaic and undemocratic. The mantra of Gore's post-election campaign was that everyone's vote should count, and count equally.

Abolition of the electoral college would be a significant structural change in the federal system because there has never been a means for the American people as a whole to express a direct majority or plurality will. As Madison argued in *The Federalist*, a principal rationale for the federal system was to rescue democracy from itself and to protect individual liberty by making it impossible for a simple (50 percent + 1), and possibly simple-minded, national majority to rule the country. Hence, the president is not elected by a direct national popular vote but rather by majorities or pluralities within enough states to gain a majority of the electoral college votes. US senators are elected by the people of each state, and US House of Representatives members are elected by the people from districts within each state. US Supreme Court justices and federal judges are nominated by the president and confirmed by the Senate, and they are term-limited only by death, resignation, or impeachment. Amendments to the US Constitution require a two-thirds vote of each house of Congress and ratification by the state legislatures or popularly elected conventions in three-fourths of the states. There are no national referendums, initiatives, or recalls — although mixes of such mechanisms exist in all the states and in most general-purpose local governments.

The current debate reflects a two-century debate over the meaning of the preamble to the Constitution: "We the People of the United States." Does this phrase mean "we the whole people of the whole United States" or "we the people of the several states of these united states?" Nationalists

from Hamilton to Gore have emphasized the former; anti-nationalists (and southern secessionists) have emphasized the latter. The anti-nationalists have a slight factual edge because there are no mechanisms for the whole American people to express a majority will, and the federal Constitution itself was ratified by a popularly elected convention in each state. A state rejecting the Constitution would not have joined the union. The nationalists respond, however, that once the people of a state vote to join the union, their decision is irrevocable, as reaffirmed by the union's victory in the Civil War, and they become citizens of the United States and, thus, a part of the whole American people of the whole United States, even while they also remain citizens of the states. The US government, therefore, is a direct expression of the will of the American people. Even so, the preamble does not say, "We the American People."

As Tocqueville predicted, the people's desire for equality, the power of majority opinion, and the complexity of federalism, which is beyond the ken of the average citizen, would likely erode Madison's conception of federal democracy and press the federal system toward a more centralized national democracy. Vast expansion of federal power was the hallmark of twentieth-century US federalism. In a general way, the Democratic Party has come to represent the national democracy view while the Republican Party has come to represent the federal democracy view (although there are important qualifications to this generalization). The battleline between these views was drawn unusually sharply in the 2000 election, though not explicitly, with both sides having roughly equal public support. The Supreme Court's recent federalism jurisprudence is a bellwether indicator of this divisive debate; every one of its state-friendly, dual-federalist decisions, which began to be issued in 1991, has been a five-to-four ruling.

In the debate about the electoral college, which is the most vulnerable structure of US federalism because it can easily be criticized as undemocratic, some critics will employ the rhetoric of globalization. President Clinton stated that the 2000 election was an international embarrassment. However, the electoral college has not been an obstacle to the rise of the United States as a viable federal democracy and world power. It caused no serious problems or constitutional crises for two centuries, while producing a decisive result in 49 (91 percent) of 54 presidential elections. Since popular voting for electors was widely implemented in the 1820s, the popular vote winner has also been the electoral victor in 41 (91 percent) of 45 elections.

From the perspective of globalization, this is perhaps an argument for retaining the electoral college because direct popular election of the president could generate instability and weakened legitimacy by producing plurality-winning presidents or by requiring run-off elections, and by opening the political arena to divisive third-parties, all of which could weaken or complicate America's global role. Arguably, the electoral college also has direct relevance to foreign affairs insofar as it magnifies the voice of certain states and minorities in presidential elections. This is one reason why California, which has the single largest impact on presidential elections, has been able to shield some controversial tax policies affecting international business from federal assault. Neither Reagan nor Clinton wished to risk California's wrath by vigorously opposing its tax policies. Likewise, minority groups, such as blacks and Jews in New York and Mexican-Americans in Texas, can, by voting as blocs, carry a large state for a presidential candidate and, thus, claim a right to influence the administration's policy toward Israel, Africa, or Mexico and Latin America.

REGIONAL AND INTERNATIONAL RELATIONSHIPS

The United States is a member of more than 120 multilateral international organizations, including the United Nations (with a permanent seat on the Security Council and current participation in 16 UN peacekeeping missions), African Development Bank, Asian Development Bank, Inter-American Defense Board (the oldest permanently constituted, international military organization), Inter-American Development Bank, Inter-American Investment Corporation, International Bank for Reconstruction and Development (i.e., the World Bank), International Finance Corporation, International Monetary Fund (IMF), International Organization for Migration, NATO, Organization of American States, OECD, and World Trade Organization (WTO). The United States is also a member of five bilateral organizations: International Boundary Commission with Canada, International Joint Commission with Canada, Permanent Joint Board on Defense with Canada, International Boundary and Water Commission with Mexico, and Joint Mexican-United States Defense Commission (US. Office of the Federal Register 2000).

Although the United States is criticized for refusing to pay its full dues obligation to the United Nations, the United States is often the largest financial and military supporter of international organizations. It is also well-known that the United States devotes a comparatively small portion

of its national budget and GDP to foreign aid. However, from a US perspective, American defence costs for Western Europe, Japan, and other countries since 1945 must be added to the calculation. Furthermore, the economic benefits of US security guarantees for other countries' national economies exceed what could be achieved by foreign aid. US defence has also relieved many nations of the need to divert large portions of their GDP to defence for the past 55 years. Additionally, US citizens, foundations, and corporations contribute billions of dollars annually to international governmental and non-governmental organizations and have been the prime movers behind many prominent international NGOs such as Amnesty International, Greenpeace, and the Red Cross. Immigrants to the United States and their descendants send billions of dollars abroad to their families, and some ethnic or religious groups provide enormous support to homelands, such as Jewish support for Israel and Arab support for Middle East countries.

With respect to globalization, several observations might be made about US concerns and approaches. For one, the United States is extremely sensitive about international encroachments upon its constitutional sovereignty. This has been a significant factor in the US Senate's refusal to ratify treaties that might subject the country or its citizens to international legal action (e.g., the International Court for Crimes Against Humanity), a concern heightened by the fact that criminal and civil law are predominantly state powers. Governors and state legislatures are reluctant to surrender their sovereignty as well. Hence, the United States prefers confederal international arrangements in which international institutions lack authority to legislate for individuals, at least within the United States. This attitude might change if democratization spreads and strengthens worldwide, but Americans have also been unwilling to submit to international confederal institutions in which the United States can be outvoted on consequential matters by undemocratic regimes. So long as such institutions remain hortative debating and educational organizations, the United States acquiesces to equal confederate membership. Second, therefore, within consequential institutions, the United States usually insists on a veto power (e.g., the UN Security Council), supreme military command, or weighted voting consistent with what it regards as its economic and military status. Third, this also means that the United States is unlikely to support a transformation of NAFTA into an EU-equivalent. NAFTA is a free-trade area, not an economic union, and it is

a trilateral relationship consisting of three bilateral agreements: US-Canada, US-Mexico, and Canada-Mexico. Given the giant size of the US economy in the western hemisphere, any expansion of NAFTA will have to conform to the US preference for the hub-and-spoke model in which each nation concludes a treaty or agreement with the United States and then with each other.

Fourth, consistent with the nation's commercial-republic rationale, Americans believe that economic development is vital for democracy and that economic development and democracy ensure peace. These are among the major reasons why the United States has supported economic development abroad since World War II. It has often done so by extending into the global arena equivalents of its own principles and institutions, such as the promotion of free trade, the support for regional commercial unions such as the EU, the establishment of international institutions such as the IMF (created in 1945) along lines similar to the US Federal Reserve system, the creation of the World Bank in 1945 to provide loans to developing countries, and the provision of grants-in-aid. The United States supported the establishment of the Multilateral Investment Guarantee Agency in 1988 to facilitate private investment in developing member countries by offering long-term political risk insurance against expropriation, currency transfer, and war and civil disturbance.

Such institutions and their policies are often criticized as US efforts to dominate the world. For Americans, they are efforts to apply federal-like principles from their own continental integration to global integration. What others may view as self-serving policies might, in fact, be self-serving; US foreign policy is not driven by pure altruism. But such policies are often viewed in the United States as Tocquevillean "self-interest rightly understood," namely, that world peace and security ensure US peace and security and that by tying nations to international institutions able to foster peace and prosperity, the citizens, if not always the leaders, of nation-states will develop a vested self-interest in maintaining peace. Research supports Tocqueville's theory that democracies are much less likely to wage war against each other than are non-democracies (Hensel, Goertz and Diehl 2000). During the Cold War, the United States had only a secondary self-interest in promoting democracy because its primary interest lay in maintaining friendly regimes and geo-political stability. Now, in the post-Cold War era, the United States has a stronger self-interest in promoting democracy and economic development in order to integrate China and

Russia into a pacific trading regime and to reduce ethnic warfare, which is difficult to prevent diplomatically and to suppress militarily, and for which political support for military intervention is weak at home.

Every country brings its traditions into the global arena; the United States is no exception, but it happens to be the biggest player. American reluctance, for example, to forgive a country's debt is consistent with American domestic tradition. The federal government is not obligated to rescue debt-ridden state or local governments. When New York City teetered on the edge of bankruptcy in 1975, Republican President Gerald R. Ford refused to help the (hugely Democratic) city, prompting a famous *New York Daily News* headline: "Ford to City: Drop Dead." Likewise, state governments are not obligated to bail out municipal governments. Most states monitor municipal budgets to prevent bankruptcy, and a state government will take over a fiscally stressed city, but this is more difficult in the case of fiscally stressed nations. The IMF has been criticized for imposing stringent financial rules on distressed nations similar to those New York State imposed on New York City when it took over the city's financial affairs in 1975.

The United States was also crucial to the establishment of the WTO and remains the principal political decisionmaker on admitting new members, such as China and Russia. The WTO is not, strictly speaking, a *de jure* surrender of national sovereignty because a member nation can refuse to comply with a ruling and, thus, allow itself to be subject to retaliation or, alternately, pay compensation. For the United States, the WTO is not much of a *de facto* surrender of sovereignty either because its economy can absorb retaliation or pay compensation more easily than any other national economy. To date, the WTO has had no adverse impact on the United States. During WTO's first five years (up to 18 April 2000), the United States was a single party in 42 of 187 complaints filed with the WTO. According to the US General Accounting Office:

As a plaintiff, the United States prevailed in a final WTO dispute settlement ruling in 13 cases, resolved the dispute without a ruling in 10 cases, and did not prevail in 2 cases. As a defendant, the United States prevailed in 1 case, resolved the dispute without a ruling in 10 cases, and lost in 6 cases.

Overall ... the United States has gained more than it has lost in the WTO dispute settlement system to date. WTO cases have resulted in a

substantial number of changes in foreign trade practices, while their effect on US laws and regulations has been minimal (US General Accounting Office 2000).

Fifth, the United States insists that private investment and free markets are the best routes to economic development and to democracy, in part because the voluntary behaviours and individual rights needed to sustain a market economy are also needed to sustain democracy. This dimension of the US approach to globalization has been subject to immense criticism, however, not only outside the United States but also within the country, as reflected in the riotous protests at the WTO meeting in Seattle, Washington, in 1999. Yet, such criticism is also consistent with US tradition, such as the Populist and Progressive movements of the late nineteenth century, the labour union movement of the mid-twentieth century, and the social protest movements of the 1960s. While most of the US corporate sector will campaign for the freest unfettered global trade possible, increasingly assertive citizen organizations will campaign for global labour and human rights, environmental protection, social welfare, and the like. US government policy-making will be whipsawed between these poles.

Sixth, Americans have vigorously projected the third sector of their political economy into the global arena, namely, the non-profit, non-governmental sector. Because the tradition of voluntary citizen associations (i.e., NGOs) performing public functions and, hence, often substituting for government action, is deeply rooted in US history, this tradition strongly colours how Americans look at globalization and respond to it. Americans and their governments have been significant actors in creating and strengthening NGOs in the international arena and within other countries, especially democratizing countries where the recovery or discovery of civil society is deemed essential (although "civil society" is another term unknown in American popular discourse because there is no "state" in the United States).

Likewise, although the global projection of American culture is well-known and often resented, less recognized is that most of this projection has no relation to government or US foreign policy. It is a product of a free-enterprise economy and free society. This is true, for example, for American religions, especially America's home-grown religion, the Mormon Church, which is believed to have assets of \$25–\$30 billion and annual revenues of \$6 billion. The church owns more than 12,000 meetinghouses

worldwide, and has some 11 million members, with 5.1 million in the United States and 157,000 in Canada (Ostling and Ostling 1999). In 1999, the church dispatched 58,600 missionaries across the United States and into 119 other countries. If current worldwide recruitment rates are sustained through this century, by 2100 the Mormon Church will be the second largest Christian denomination (after the Roman Catholic Church) and the first major world faith established since Mohammed founded Islam 1,400 years ago.

Seventh, underlying America's global engagements is the notion of individual rights, a concept that has expanded and deepened enormously within the United States since World War II and, hence, coincidentally with globalization. Although the United States is an easy target for charges of hypocrisy about these matters, individual rights are fundamental to the American psyche. In the final analysis, the American conception of individual rights is the key flashpoint in US relations with the world because this conception is central to America's understanding of modernity and of the struggle between modernity and pre-modernity. The American conception of individual rights, moreover, is primarily negative rather than positive; it prohibits government interference with freedom of speech, press, religion, and the like while giving less weight to government obligations to ensure positive rights, such as provision of food, clothing, and shelter. The US conception of individual rights contradicts pre-modern cultures and rests uneasy with modern democratic cultures, such as those of Europe, which have statist conceptions of government's social welfare obligations. This also distinguishes the United States from Canada and Mexico. Indeed, many Canadians take pride in their social welfare tradition and of not being American in this respect.

This conception of individual rights is a threat to all historic cultures and an anathema to pre-modern cultures because it holds that all persons should be, among other things, free to see, hear, read, and eat whatever they desire. US promotion of women's rights, for example, is a cultural time-bomb because the position of women in society is fundamental to all cultures. Pre-modern cultures and religions are almost uniformly patriarchal, as were modern cultures until recently. The rise of feminism has irrevocably transformed American society. Feminism has also moved American political culture in a stronger social welfare direction, as reflected in the gender gap evident in US elections since 1980 in which women ordinarily vote in larger proportions than men for Democrats, the

nation's social welfare party. Women's support for social welfare and opposition to war are having impacts on US foreign and military policy. American women also placed feminism on the global agenda, and now, together with women in other democratic societies who rapidly embraced feminism, they are not likely to rest until they have rooted patriarchy out of all cultures. As such, the US women's movement reflects three other facets of individual rights and modernity, facets rooted in Hobbes' and Locke's assaults on antiquity: (i) belief that individual rights rather than culture are natural or God-given and, thus, also universal; (ii) belief, therefore, that culture, like government, is a human artifice constructed to benefit individuals; and (iii) belief in the inevitable triumph of individual rights over pre-modernity and its vestiges.

Consequently, Americans are likely to continue pressing for free-trade agreements that ensure free flows of ideas and information, and to assault efforts by political, cultural, and religious leaders elsewhere to erect ideological, technological, and legal defences against their citizens' exposure to American culture. Americans are not hostile to other cultures per se and are eager to consume them as tourists, but, in the final analysis, culture is viewed as a product that should be constructed voluntarily and democratically and should compete for human affection just like other goods, services, and ideas compete for consumer allegiance. From a US perspective, the appropriate response to American "cultural imperialism" is not to impose state protection but to build a better product.

America's social and cultural integration with the world is, for the most part, the reverse of its economic integration. The United States is a net exporter rather than importer of intellectual and cultural products. In turn, no new transnational identities have emerged in the United States except insofar as many corporations now regard themselves as global citizens and many NGO leaders regard themselves as world citizens having global responsibilities to promote democracy, economic development, individual rights, environmental protection, and so on. Old and new transnational identities are also evident among ethnic groups that maintain ties with their homelands. One change, though, has been increasing US tolerance for dual citizenship. US citizenship is based on the principle of *jus soli* with a right of naturalization for the foreign born but no right of dual citizenship outside dual (federal and state) citizenship within the United States. This change, however, was due largely to desires of many American ethnics to hold citizenship and a passport in their country of

origin without renouncing their US citizenship. Meanwhile, federal, state, and local legislative and judicial officials remain mostly inward-looking, in part because the US system of legislative representation, weak non-parliamentary political parties, and single-issue interest groups emphasize accountability to local constituents. Executive officials are somewhat more outward-looking — the president for obvious reasons, and governors and mayors for economic reasons.

IMPACT OF GLOBAL AND REGIONAL INTEGRATION ON INTERGOVERNMENTAL RELATIONS

No changes in the constitutional design or basic institutional structure of US federalism have been made to manage international relations. Global and regional integration have been absorbed into the nation's system of intergovernmental relations rather cooperatively. Issues of global and regional integration have thus far been subject to less intergovernmental and interjurisdictional conflict than domestic issues.

Several factors probably account for this intergovernmental accommodation of global integration. One is that global integration is, in many respects, similar to the country's history of continental integration. Patterns of intergovernmental relations forged during continental integration have been adaptable to regional and global integration. Also, the size of the United States and its economy shields intergovernmental relations from exogenous shocks that might distress intergovernmental relations in other federal systems, while the long-standing openness of the US economy does not expose it to the shocks felt by more closed economies. Likewise, given the size and diversity of most US state economies, globalization is not an overriding concern and does not ordinarily provoke maverick subnational responses. Regional and global integration have also been more shallow for the United States than for some other federal systems such as Germany in the EU. Internally, the twentieth century was marked by the intergovernmentalization of all domestic policy, namely, the involvement of all governments in all policy fields. In turn, globalization has enhanced the intergovernmentalization of foreign policy. State and local governments have always insisted on a voice in matters that affect them; globalization now affects them. All of the states, even while they compete with each other, also have strong economic and political incentives to

cooperate with each other and with the federal government on the fundamentals of globalization just as they have done internally since the founding of the United States. The governors, moreover, have supported globalization. More than 40 governors lobbied Congress for approval of NAFTA and the WTO even while some members of Congress from the same states opposed those agreements.

In addition, although international agreements apply to all governments in federal systems, and national governments are obliged to seek subnational compliance, national governments are not required to do so beyond the scope of their constitutional powers. Given the reliance on law and litigation in the United States as important components of inter-governmental relations, plus the existence of a huge body of federal, state, and local commercial law developed to integrate the nation's continental common market, there are ample precedents in law and practice to accommodate global integration.

Furthermore, legal instruments of regional and global integration, such as NAFTA and the WTO, contain provisions sensitive to subnational interests in federal systems, including (i) limits (e.g., "carve-outs") on the scope of trade agreements, (ii) rollback and standstill provisions (e.g., "grandfathering") for state laws pre-dating trade agreements, (iii) limits on who can sue subnational governments, (iv) authorization for member nations to interpret agreement provisions, (v) general exceptions applicable to all member nation-states, (vi) country-specific exceptions (although subnational laws usually must be least-trade-restrictive to benefit from general or specific exceptions), and (vii) provisions in national legislation about the effects of international agreements on subnational law. NAFTA includes a number of general exceptions not found in the WTO for such matters as resource conservation, human and animal health, and protection of public morals. Under the WTO, 13 US states and all local governments are exempt from its government procurement rules. As such, international agreements share a characteristic increasingly common in new as well as some old but changing intranational and international federal-type arrangements, namely, asymmetry. Asymmetrical arrangements accommodate differences of power, law, and culture among member units.

Constitutionally, the Supreme Court has asserted ultimate federal supremacy in foreign affairs, but this occurred in the 1930s and 1940s prior to contemporary globalization. At the same time, the Court has not excluded the states. This view was reflected even in the Court's June 2000

ruling that struck down an economic sanctions law enacted by Massachusetts against Burma (*Stephen P. Crosby* 2000). *Crosby* makes it difficult, though not impossible, for states to impose economic sanctions on foreign nations. State and local sanctions of various types had gained popularity during the 1980s when they were used to combat apartheid in South Africa. President Reagan opposed these state and local actions but did not attempt to strike them down in court. The Massachusetts Burma sanction was attacked vigorously by US and foreign corporations and by Japan and the European Union. The EU had filed a complaint against the Massachusetts sanction as a violation of the WTO's Agreement on Government Procurement (GPA) — even though the EU Parliament had supported Massachusetts and voted nearly unanimously against the EU's complaint. Massachusetts would likely have asked the United States to defend its sanction as proper legislation under GPA's general exception for laws that protect "public morals and order"; however, the EU dropped its WTO complaint after the Supreme Court struck down the law under US law. This is significant. Although the Court entertained WTO arguments from the EU and Japan, it declined to base its decision on WTO grounds. Instead, it simply ruled that Massachusetts' statute was preempted by a federal Burma-sanctions statute.

For the most part, the federal government has encouraged state and local engagement with the world and responded cooperatively to state and local concerns about globalization, though not always as quickly or fully as desired by state and local officials. Beginning with the administration of Republican Dwight D. Eisenhower, presidents have often encouraged state international activity. Presidents John F. Kennedy, Lyndon B. Johnson, Richard M. Nixon, and Jimmy Carter encouraged states to seek out foreign investment and promote exports. At the request of President Carter, former governor of Georgia, the National Governors' Association formed a standing committee in 1978 on International Trade and Foreign Relations.

New institutions have also been developed within the federal government to facilitate state and local representation in certain aspects of foreign policymaking and to promote intergovernmental cooperation. For example, the US Department of State has an intergovernmental affairs office that endeavors to channel state and local government concerns to appropriate officials and to respond to state and local needs for informa-

tion, advice, and technical support. An Intergovernmental Policy Advisory Committee to the Office of the US Trade Representative (USTR) was established in 1988 to advise the president on state and local government concerns about international trade and trade agreements. The Department of Commerce has also improved its ability to provide state and local governments with specific data and other information relevant to their international economic concerns. Some states which operate export-financing programs cooperate closely with the US Export-Import Bank and the US Small Business Administration. Relevant federal agencies, such as the USTR, have encouraged governors to establish "single points of contact" in their states to facilitate rapid communication and consultation. Thus, there have been new and cooperative institutionalized responses by the federal government to the institutionalization of international affairs in the states and big cities.

Paralleling these federal intergovernmental responses has been a growing internationalization of federal domestic agencies, some of whose activities intersect with those of state and local governments. The General Accounting Office found that spending on international affairs outside the federal government's 150 account, which funds US embassies and most foreign aid, equaled \$7.6 billion for 70 different programs in 1998. Moreover, while "the total number of U.S. personnel posted in U.S. diplomatic missions abroad has changed little over the past 10 years, the portion from domestic agencies has increased by 25 percent, from about 8,000 positions in 1988 to over 10,000 in 1998" (US. General Accounting Office 1998, p. 7). Thus, while the Department of State has reduced staffing since 1988, domestic federal agencies — with which state and local governments have long-standing relations — have increased international staffing. Some of this staffing is intended to help state and local governments promote their global economic interests.

To some extent, globalization has contributed to further centralization of the federal system, though usually more as rhetoric than as substance, although often powerful rhetoric. Since 1969, there has been a tremendous increase in federal pre-emption of state powers (i.e., displacement of state law by federal law under the supremacy clause, article VI of the Constitution). The rhetoric if not always the substance of globalization has played a role in three big areas of pre-emption. First, in civil rights, an argument first made in the 1940s was that failure by the United

States to solve its race problem and to extend equal rights to all citizens crippled the nation's ability to defeat communism and promote democracy and human rights abroad. Second, in environmental protection, environmentalists quickly linked domestic issues to global concerns — think globally, act locally. Third, in the field of commerce, national and multinational corporations have strongly advocated broad federal pre-emptions to regulate or deregulate sectors of the economy nationwide. The EU also has consistently criticized the United States as a “fragmented market” balkanized by 50 Byzantine state and local tax and regulatory regimes. When Republican President George Bush proposed federal pre-emption of certain state banking laws in 1991, his secretary of the treasury said that it was absurd that a bank in California could open a branch in Birmingham, England, but not in Birmingham, Alabama (US Advisory Commission on Intergovernmental Relations 1992). Pre-emptions in commerce and environmental protection, however, have been advocated by the National Governors' Association, which believes that a more uniform national marketplace will make the national and state economies more competitive globally. State legislators, more protective of their sovereign legislative prerogatives, have frequently opposed federal pre-emption.

However, the post-1969 pre-emption revolution has had little substantively to do with globalization. Virtually all of it reflects domestic political forces and concerns. Furthermore, much of federal pre-emption, especially in civil rights and environmental protection, is in the form of partial rather than total pre-emption of state powers. That is, the federal government establishes a national standard that is treated as a minimum that can be exceeded by the states. All of the states exceed federal standards in various areas of civil rights and environmental protection, and if state standards equal or exceed federal standards, then states can administer the regulations themselves. Consequently, individual rights protections and environmental protections vary across the states, sometimes substantially, above the federal minimums.

Both NAFTA and the WTO, however, do pose long-run total pre-emption threats to state and local powers. Negotiations under way on the regulation and procurement of services (GATS) and on chapters of the Free Trade Area of the Americas on services, investment, subsidies, and procurement also invite incursions into state powers. A potentially major extra-constitutional shift of power occurred pursuant to the WTO agreement when Congress vested power in the president to pre-empt state laws

held to be in conflict with the WTO. When a federal law is found to be in conflict with the WTO, Congress must vote to repeal or alter the law. The president cannot alter federal law unilaterally. The states fought for the same treatment of state law, namely, that Congress, not the president, should decide whether to pre-empt a WTO-offending state law. How far the president will be able to carry this unprecedented pre-emption power is uncertain, given that Congress has twice nearly refused to appropriate funds to support any federal litigation to enforce WTO rules against state laws.

States anticipate many WTO and NAFTA challenges. The EU, for instance, will likely file WTO complaints against 43 states that have buy-local or buy-American government-purchase preferences, most of which also give preferences to small businesses and to businesses owned by minorities, women, or veterans. Forty-seven states have environmental purchasing preferences. What has restrained the EU is the political embarrassment of appearing to attack women, minorities, and mother nature. Given that the US and the EU are attacking each other's business-subsidy policies under the WTO, it is likely that US state and local governments will be major EU targets because some 84 percent (\$32 billion) of US economic development spending is state and local, not federal, money. States also are concerned that US and foreign corporations and investors will use NAFTA and the WTO to accomplish legally under these agreements what they cannot accomplish through domestic legal or democratic political processes. Canadian investors, for instance, are seeking \$970 million in compensation under NAFTA for California's clean-air decision to phase out MTBE, a gasoline additive found to be a serious water pollutant. Seven other states are also phasing out MTBE. Through NAFTA, therefore, corporate interests could establish a principle of partial "regulatory taking" requiring compensation, a principle that corporations have not yet been able to entrench in US domestic law.

The dispute-resolution processes under NAFTA and the WTO have proven to be more opaque to state and local officials, and federal officials have not yet devised response processes satisfactory to state and local officials. Given that the government is the buffer between the states and foreign governments in trade-agreement enforcement, and given the president's pre-emption authority under the WTO's domestic enabling legislation, states are pressing for more intergovernmental consultation and more transparency in dispute-resolution processes.

At the same time, there has been little movement among the states to harmonize or coordinate taxation and regulation. In principle, computer technology that enables multinational corporations to manage huge personnel, inventory, and sales databases, as well as data on international and national regulation and taxation, ought to allow them to accommodate subnational data too. The key problems, however, are not interstate differences per se, but differences in state taxation, especially tax bases, and in regulations that produce, intentionally or unintentionally, discriminatory or retaliatory consequences, as well as double taxation, for corporations. The EU argues, for example, that the tax-audit formula employed by many states produces double taxation and *de facto* discrimination against foreign-based firms. The more general problem is that state-local tax systems were designed for an urban manufacturing economy, not for a cybernetic service economy. The principal opposition to reform, though, comes from voters, who have stoutly resisted extensions of state-local taxation into the service sector.

Indeed, voter distaste for taxes has been a significant factor motivating state and local government entry into the global arena. Reluctant to face political death in tax battles, governors and mayors have sought, instead, to increase revenues by expanding their economic bases. Most of their energy has been focused domestically, but promoting foreign exports, recruiting foreign investment, and attracting foreign tourists are important as well. Similar practices were common among states during the nineteenth century when they needed to export goods and raw materials, attract foreign capital, and recruit immigrants. These practices waned when the US economy became strong globally. In the 1950s, however, southern states began to send trade missions abroad. These missions were essentially international extensions of southern domestic strategies. That is, for nearly a century, southern states sought to attract business and capital from the northern states. They succeeded, for example, in denuding New England of its textile industry.

Today, states, and often local governments, can be said to play ten roles in foreign affairs: as junior partners with the federal government in foreign policy development, pressure points in US foreign policy-making, self-governing political communities with substantial tax and regulatory powers, promoters of their own economic and cultural interests abroad, including state and local offices in other countries to foster exports, investment, and tourism, occasional proxies for the nation when overt US

government action would be awkward or embarrassing to the United States or a foreign country, parties to agreements with foreign governments, usually subnational governments, such as the many agreements between US states and Canada's provinces, public education and opinion forums about international affairs, problem-solvers on the world scene, patrons of democracy, and practitioners of goodwill (Kincaid 1999). For the most part, state and local governments do not unduly intrude upon or oppose the federal government's foreign-affairs prerogatives, and the federal government's responses to state and local international affairs activities have been tolerant, supportive, and often cooperative.

To date, however, state and local governments have not plunged deeply into the international arena. Their international activities still constitute small portions of their budgets (less than 2 percent) and personnel. A number of factors account for this. One is the huge size of the US economy and most state economies. Second, the United States is an attractive target for foreign investment, thus reducing needs for governments to pursue it. Third, state and local officials still regard domestic economic competition as being more rigorous than global economic competition. Fourth, voters have little understanding of any need for state and local government international activity, in part because they have little understanding of foreign affairs. This lack of understanding, coupled with voter tax sentiment, also makes it difficult to justify state and local government expenditures on international activity. Fifth, the predominate emphasis on economic development in state and local international activity does not require large expenditures on bureaucratic and programmatic activities of an exclusively international nature. Sixth, state and local governments rely heavily on private-sector businesses, non-profit institutions, and civic organizations to help promote and protect state and local interests in global affairs.

In turn, moreover, globalization has not yet eroded state powers or capacities in significant ways. It might be argued, however, that such practices as citizens travelling to Canada and Mexico to purchase cheaper prescription drugs or drugs not available in the United States, or purchasing drugs abroad through the Internet, constitute negative impacts of globalization on federal and state regulatory regimes. This is not so because these activities are products of a free society, not of globalization. They are also products of the technologies of interstate highways and the Internet, which simply make it easier for citizens to do what they have

always been free to do. If a citizen is caught bringing illegal drugs or other contraband into the country, however, he or she will face federal and/or state criminal penalties. Regarding the global Internet, states are already engaged in a flurry of debate and policy innovation intended to assert traditional state regulatory powers over this medium while also accommodating, for example, the growing desire of citizens to be able to obtain out-of-state and foreign health-care services via telephone, Internet, and video-conferencing.

In a non-statist society like the United States, the federal and state bills of rights prohibit governments from preventing citizens from obtaining fatal quack treatments on their own via the Internet, but any foreign health-care service channelled through a US-based physician or institution is subject to federal and state regulation — asserted not against the foreign provider (unless there is a treaty) but against the US provider. Likewise, any health-care service emanating from the United States is subject to federal and state regulation. In 2001, for instance, a physician in Maryland was convicted under state law for selling the dangerous fen-phen diet drug to people worldwide via the Internet. The ground for conviction was quite simple: Maryland law requires a physician to personally examine a patient before prescribing medication. In the long run, the United States is likely to support international consumer-protection mechanisms as well as treaties governing domestic prosecution of persons or entities engaged in off-shore criminal activity, but it strongly supports free trade in services and adheres to the principle of *caveat emptor*.

In summary, then, federal, state, and local responses to globalization have, to date, been consistent with previous domestic intergovernmental practices, trends, and responses to socio-economic change, and globalization has not yet altered the federal system or eroded state powers within the federal system in significant ways.

FUTURE SCENARIOS

Given US power, the United States is likely to be a leading, if not *the* leading, force in foreseeable future scenarios.

Under the *global club* scenario, which envisions the United States convening the first meeting of the club in 2003, the United States would presumably be the leader. This scenario would likely occur only if the United States cannot manage anticipated global crises on its own. Such a

scenario would have drastic impacts on US federalism, especially severe reductions in state and local government powers, because the scenario envisions an enormous gravitation of now-domestic powers to the global club. It is this aspect of the scenario, however, that makes it unlikely because the strength of democratic federalism in the United States, as well as the separation of powers within the federal government, would pose substantial barriers to US participation in such a club. At the same time, it might be argued that a global club having far less power than that envisioned in the scenario already exists insofar as the United States now engages in informal extra-institutional negotiations and coordination with a few big powers, including the EU, on economic, political, and military matters of major global consequence.

Under the *regional dominators* scenario, the United States would be one of the international hegemonies, as well as the hegemon of the North America-Western Hemisphere bloc. The United States is already the hegemon in NAFTA, and will insist on hub-and-spoke development of any hemispheric free-trade area so as not to relinquish its hegemonic position in the hemisphere. This scenario, therefore, would have no significant, independent effect on US federalism. The likelihood of this scenario is probably contingent on two key factors: one, whether the United States, the European Union, and China can resolve their differences sufficiently to sustain globalization without balkanization and two, whether US voters can continue supporting globalization and such global institutions as the WTO during a long-term recession rather than insisting on US withdrawal from the global scene into economic self-reliance. Most US leaders, public and private, support continued worldwide globalization, but many domestic and international factors could frustrate US efforts to sustain such globalization.

Under the *cyberwave* scenario, the United States would not only surf its crest but would also have created the wave. The first movement creating the wave would perhaps be attributed to Congress's current moratorium on state-local taxation of the Internet, a moratorium intended to facilitate Internet growth. The likelihood of certain aspects of this scenario coming into existence is probably high, given the freedom and openness of western democracies; however, the likelihood of cyberspace escaping desired controls by the major democracies is low. This scenario would have little significant, independent effect on US federalism because, to date, there is no evidence that US governments are inherently incapable

of regulating cyberspace. Furthermore, governments able to regulate cyberspace will likely try to extend their regulatory reach to help countries unable to do so. Perhaps the greatest Internet threat to the United States is cyber-terrorism in which a single off-shore terrorist could disrupt banking systems and create financial chaos, disrupt electricity transmission as well as oil or gas pipelines, and affect the US defence system in a catastrophic manner. Again, though, federal, state, and local governments and the private sector have begun to respond to such threats in typical intergovernmental and public-private fashions by sharing information, consulting, coordinating, and formulating strategies to prevent and respond to such terrorism. Such intergovernmental action is also needed because of the large roles played by the states in banking, energy, and other potential target policy fields and because state and local governments have the most personnel to respond to terrorism. These intergovernmental responses are slower and less sophisticated than some observers believe necessary, but slowness in confronting new challenges is typical in the absence of a major crisis or catastrophic event.

The *shared governance* scenario, perhaps the most probable scenario, would likely reflect extensions of American-style and EU-style federal principles — self-rule for local purposes and shared rule for collective purposes within a global framework of international, national, and subnational law. This scenario would likely reinforce US federalism because, insofar as it would accommodate semi-autonomous ethnic, Aboriginal, linguistic, and religious local governments worldwide, it would also accommodate state and local autonomy within the United States. Full flowering of this scenario would likely be limited by continuing US refusal to cede sovereignty to international institutions, but insofar as the scenario envisions international commitments that nevertheless recognize national sovereignty, then the United States is likely to continue supporting shared governance arrangements as opposed to substantial government institutions.

CONCLUSION

Given that the United States is perhaps *sui generis* and that all four scenarios envision a dominant or predominant role for the United States, it is difficult to draw specific lessons from the US case for other federal polities. At the risk of oversimplification, there are a number of plausible explanations for this outcome.

For one, the United States was founded by immigrants with a global outlook, namely, a recognition that the newly independent country had to make its own way in the world and that its economic development and national security were vitally contingent on negotiating the perils of superior global forces and two, a missionary zeal derived from the Puritans' notion of New England as a shining "City upon a Hill" and from Republican President Abraham Lincoln's notion of the United States as "the last best hope of mankind," that is, a failure of freedom and democracy in the New World would doom possibilities for freedom and democracy in the Old World.

The federal union implicitly anticipated globalization. The union was established partly to create a great commercial republic and to ensure its diplomatic and military ability to expand across the temperate mid-section of North America. Put differently, two of the major reasons for establishing the union were to enhance the economic prosperity and military security of the constituent states. Virtually all of the powers constitutionally delegated to the federal government fall into these two categories, and the prosperity and security incentives for the states to support the federal union have, since the Civil War, far outweighed incentives for dissolution. Hence, the states and their citizens have, for the most part, strongly supported the federal union, even while they have often disagreed about its means and ends. In turn, the United States has sought to create similar global prosperity and security incentives for nation-states to support global peace.

The United States was founded on an idea, not on a nationality or even a federation of nationalities. Americans are the people of the Declaration and the federal Constitution, which brought the American people into existence and sustain their existence. The Constitution nowhere defines an American, nor does it limit its rights protections to citizens. At base, an American is nothing more than a person born or naturalized in the United States willing to swear allegiance to the federal Constitution. All citizens and public officials swear allegiance to the Constitution, not to the United States or to the American people. Likewise, the Constitution nowhere defines the boundaries of the United States. It is a boundless document that provides for the admission of new states, which, in principle, can include a willing territory anywhere in the world. As a practical matter, of course, the founders did not envision a global United States, though many were disappointed when Canada refused to join the union,

but nonetheless, the Constitution contemplates no fixed national geographic boundaries and no fixed American cultural, national, ethnic, racial, religious, or linguistic characteristics.

The United States was founded with an openness to the world — a willingness to attract immigrants of different nationalities, religions, and languages such that, today, despite many conflicts, every racial, national, ethnic, linguistic, and religious group present in the world is also present in the American citizenry on essentially equal terms. In turn, Americans embrace ideas and cultural forms from abroad; American culture is dynamic; and the United States has produced a popular culture that has a certain universal appeal because it appeals to the common denominators of its own polyglot diversity. McDonald's food may not be *haute cuisine*, but it is reliably and cheaply accessible to the masses.

The separation of church and state, embedded in the federal Constitution and all state constitutions, has been important, too, in preventing religious zealots from dominating government, balkanizing the union, and blocking modernization and globalization. This separation evolved into a broader philosophy of also confining ethnic, linguistic, and related issues to the private sector, or civil society. Citizens are free to maintain ethnic identities, communal institutions, and native languages voluntarily; they are not permitted to use government power to do so. This means that territorial jurisdictions are neutral; any group that becomes a majority in a local or state jurisdiction gets to elect its own people to office. English, moreover, emerged as the national language much like it is emerging as the international language, not by fiat but as a matter of elite preference and majoritarian convenience in a multilingual immigrant society. As a result, cultural matters of religion, ethnicity, and language are competitive, as Americans believe they should be worldwide, because established religions and cultures are state monopolies that become stagnant, corrupt, and authoritarian like any monopoly.

At the same time, the strongest religious force in the United States, Reformed Protestantism, was not only founded at the outset of modernity but also fostered modernity; consequently, in contrast to Roman Catholics and even Anglicans, who have struggled to reconcile their roots in antiquity with the realities of modernity, American Protestants have struggled more easily with needs to reconcile their theology with modernity. The original covenant or federal theology of Reformed Protestantism also created a culture of federalism and habits of federating that helped

give birth to the federal union and its "Presbyterian" Constitution. Thus, as Tocqueville observed, religion in the United States generally supported federal democracy and human equality rather than thwarting these attributes of modernity, as in the Old World. Reformed Protestantism is also evangelically zealous, desiring not only to convert the world but also to modernize it, to fulfill its original mission of liberating people from the Dark Ages (Hutchinson 1992). Consequently, there is only a thin, blurred line in the United States between basic religious and secular beliefs about federal democracy, and American foreign policy is often infused with evangelical moralism.

While the federal Constitution is the nation's sacred lodestone, it is also malleable because Americans interpret their Constitution like Christians interpret the Bible. Vastly different interpretations ultimately accepted by Americans have allowed the Constitution to facilitate and adapt to change without being dislodged from its sacred position or altered in its fundamentals. This flexible approach is due partly to Americans' conceptions of their federal republic as an experiment, to their pragmatic, largely non-theoretical approach to governance, and to the absence of an ancient culture into which they had to sandwich a modern constitution. With respect to federalism, moreover, it became apparent by the late twentieth century that Americans no longer cared much about the constitutional niceties of which government does what, so long as it gets done. One significant change in federalism, therefore, is that all public policy is now intergovernmental.

American federalism is also rooted in productive tensions between liberal individualism and civic republicanism. Liberal individualism emphasizes individual liberty, places limits on government, drives entrepreneurialism, and marketizes everything. Civic republicanism emphasizes civic duty and individual responsibility to community, drives the non-profit, non-governmental sector, encourages philanthropy, employs government to achieve "the public interest" and correct market failures without statism, and seeks to protect individuals and small self-governing communities (i.e., states and localities) from rapacious market forces. In effect, liberal individualism fostered a dynamic private sector that enabled the United States to promote and respond to globalization by restructuring the nation's military and social economy without restructuring its federal system. Civic republicanism fought to preserve the basic structure of the Constitution and to wield its intergovernmental

mechanisms against the excesses of liberal individualism in order to protect the non-market rights of individuals, self-governing state and local communities, the environment, and other public goods. The battle continues, domestically and globally.

References

- Boli, J. and G.M. Thomas, eds. 1999. *Constructing World Culture*. Stanford: Stanford University Press.
- Bowman, A. O'M. and R.C. Kearney. 1986. *The Resurgence of the States*. Englewood Cliffs, NJ: Prentice-Hall.
- Eisinger, P. and C. Smith. 2000. "Globalization and Metropolitan Well-Being in the United States," *Social Science Quarterly* 81(2):634-44.
- Elazar, D.J. and J. Kincaid, eds. 2000. *The Covenant Connection: From Federal Theology to Modern Federalism*. Lanham, MD: Lexington Books.
- Feenstra, R.C., ed. 2000. *The Impact of International Trade on Wages*. Chicago: University of Chicago Press.
- Friedman, T.L. 1999. *The Lexus and the Olive Tree: Understanding Globalization*. New York: Farrar, Straus, Giroux.
- Gordon, S.B. 2001. *The Mormon Question: Polygamy and Constitutional Conflict in Nineteenth-Century America*. Chapel Hill, NC: University of North Carolina Press.
- Hensel, P.R., G. Goertz and P.F. Diehl. 2000. "The Democratic Peace and Rivalries," *Journal of Politics* 62(4):1173-88.
- Hutchinson, W.R. 1992. *The Modernist Impulse in American Protestantism*. Durham, NC: Duke University Press.
- Jones, A. 1960. "Editorial," *Chicago Life*, 2 July, pp. 11-12.
- Kenyon, D.A. and J. Kincaid, eds. 1991. *Competition among States and Local Governments: Efficiency and Equity in American Federalism*. Washington, DC: Urban Institute Press.
- Keynes, J.M. 1919. *Economic Consequences of Peace*. London: Macmillan.
- Kincaid, J. 1993. "From Cooperation to Coercion in American Federalism: Housing, Fragmentation, and Preemption, 1780-1992," *Journal of Law and Politics* 9 (Winter):333-433.
- 1999. "The International Competence of US States and their Local Governments," *Regional & Federal Studies* 9(1):111-30.
- Kincaid, J. with J.L. Handelsman. 1997. *American Cities in the Global Economy: A Survey of Municipalities on Activities and Attitudes*. Washington, DC: National League of Cities.

- Krugman, P. 1997. "Competitiveness: A Dangerous Obsession," in *The New Shape of World Politics*. New York: W. W. Norton and *Foreign Affairs*.
- Lawrence, R.Z. 1997. "Workers and Economists II: Resist the Binge," in *The New Shape of World Politics*. New York: W. W. Norton and *Foreign Affairs*.
- Miller, P. 1964. *Errand Into the Wilderness*. New York: Harper Torchbooks.
- Ostling, R.N. and J.K. Ostling. 1999. *Mormon America: The Power and the Promise*. New York: HarperCollins.
- Peirce, N.R. with C.W. Johnson and J.S. Hall. 1993. *Citistates: How Urban America Can Prosper in a Competitive World*. Washington, DC: Seven Locks Press.
- Piven, F.F. and R.A. Cloward. 2000. "Power Repertoires and Globalization," *Politics & Society* 28(3):413-30.
- Sarpolus, E. 2000. "Survey Shows Most Americans Still Support International Trade," *Clearinghouse on State International Policies* 10 (Summer): 4.
- Siekman, P. 2000. "The Big Myth about U.S. Manufacturing," *Fortune* 142, 2 October, p. 244.
- Stephen P. Crosby v. *National Foreign Trade Council*, 147 L Ed 2d 352, 120 S. Ct. 2288 (2000).
- Testa, W.A., D.A. Oppedahl and L.S. Merkel. 2000. "The Binational Great Lakes Economy," *Chicago Fed Letter* 153 (May): 2.
- United States Advisory Commission on Intergovernmental Relations. 1992. *Federal Statutory Preemption of State and Local Authority: History, Inventory, and Issues*. Washington, DC: ACIR.
- United States. 1998. *International Affairs Activities of Domestic Agencies*. Washington, DC: US Government Printing Office.
- General Accounting Office. 2000. *World Trade Organization: U.S. Experience to Date in Dispute Settlement System*. Washington, DC: US Government Printing Office.
- United States. Office of the Federal Register, National Archives and Records Administration. 2000. *United States Government Manual*. Washington, DC: US Government Printing Office.

3

The Centralizing and Decentralizing Effects of Globalization in Australian Federalism: Toward a New Balance

Brian Galligan

INTRODUCTION

Australia's location in the international political order and global economy is in part the product of its history as a British colonial settler society and its geographic location in the South Pacific adjacent to Asia.¹ Australia has always been a global nation in the sense of being shaped and influenced by international political and economic forces since the first European settlement in 1788. With the demise of the British Empire and Britain's influence in the Asia-Pacific during World War II, Australia formed new strategic alliances based upon the United States. Its trade was diversified to Asian countries with Japan becoming the dominant partner. Since the collapse of the Soviet Union and the end of the Cold War, Australia's need for direct security reliance on the United States has diminished. Nevertheless, Australian foreign policy continues to be dominated by the search for security in the Pacific (Meaney 1985, p. 38).

Australia's economy is heavily dependent on international investment and trade. Even its protective state policies that characterized Australian domestic political economy until the 1980s were a bold attempt at nation-building by boosting manufacturing industries, an industrial workforce, and population (Capling and Galligan 1992). With the floating of the Australian dollar, the deregulation of Australian financial markets, and the phasing out of tariff protection, Australia switched

to a market strategy in the 1980s and early 1990s. This was a bold step to take as the challenges of globalization were intensifying. The sea change in national policy was the consequence of adopting neo-liberal strategies of deregulation and competition, whose resurgence has been a global phenomenon (Meredith and Dyster 1999; Goldfinch 2000). Australia's deliberate policy decision to scrap "protection all round" in favour of a deregulated national economy has been instrumental in exposing its domestic political economy to world market forces and influences. The overall benefits of economic advantage and aspects of cosmopolitan citizenship need to be offset against the costs of economic disadvantage to less robust industry sectors and regions, and constraints upon domestic governments in leveraging economic forces. While Australia has always been shaped and influenced by international forces and influences, Australian governments have played a significant role in mediating the impact of global forces.

Although a much contested concept, globalization means essentially an intensification of international linkages in all spheres of human activity, especially those dependent upon communications and market forces. Many see globalization as a modern set of forces that are undermining the sovereign nation and supplanting its governance by transnational regulatory regimes. Others discern a counter movement of power downwards to local governance structures and community associations facilitated by new communication technology. These twin forces of "glocalization"² are variously said to be eroding the power of the nation-state on the one hand, and enhancing community and cosmopolitan citizenship on the other. While the impact of globalization on federal systems has received less attention, views are equally divided. Some have contended that federalism based upon historical or regional geographic boundaries is inappropriate for new social movements that are typically issue-orientated and universalist in character (Gibbins 1991). Federalism can be seen more as a complex system of multiple governments with shared sovereignty and over-lapping policy jurisdiction,³ in which case its compatibility with globalization is more obvious. An additional international level of governance adds another layer of complexity that is appropriate for dealing with international policy issues and spillovers.

The thesis argued here is that globalization is having a profound effect on Australia's political economy and society, but one that is mediated

by federal institutions and government policy choices. Partly as a consequence and partly in response, Australia's federal system of government is also being changed in important ways. In mediating global influences, the Commonwealth's domestic powers have increased partly at the expense of the states. But in addition, there has been a streamlining of intergovernmental relations with the states securing their position as key players in the new Council of Australian Governments (COAG) and in national policy-making. Although it has not achieved its full potential, COAG is a significant institutional development of Australian federalism. Other changes due to globalization have been more distorting of Australian federalism. The increased treaty-making role of the Commonwealth has enhanced its role in domestic affairs, especially in the area of human rights and environmental protection, while at the same time increasing the influence of international norms and standards in domestic law and politics.

SITUATIONAL CONTEXT

Today, Australia's security, trade, and political alliances encompass regional arrangements such as the Asia-Pacific Economic Co-operation (APEC) agreement, links between Australia and New Zealand as formalized in the Closer Economic Relations (CER) agreement, which is also linked to the Association of South East Asian Nations (ASEAN) through the ASEAN-CER arrangements; the South Pacific Forum (SPF); and sectoral affiliations, such as the Cairns Group of agricultural exporting nations. Australia is also a member of international economic and political organizations, such as the United Nations (UN), the Organisation for Economic Co-operation and Development (OECD), the World Trade Organization (WTO), and the International Monetary Fund (IMF). Apart from being a signatory to most of the key multilateral agreements on human rights and the environment, many more significant links with individual nations are maintained through a myriad of bilateral agreements. These cover areas as diverse as trade, security, the environment, diplomatic relations, technical mutual assistance and development of standards, financial co-operation, information technology, and scientific and medical research and development. Australia's strategic and trade alliances have undergone enormous change from the middle of the twentieth century to the present.

Strategic Alliances

The Second World War had forced Australia to become more independent from Britain and oriented toward the Asia-Pacific. This process would continue during the postwar decades as Australia's nearest northern neighbours broke the shackles of European colonialism and the United States became the dominant superpower in the region. The relationship with Britain and the Commonwealth would continue to be important for some time, but decreasingly so as Britain declined and retreated into Europe. The geopolitical landscape changed dramatically with the escalating Cold War that had critical security implications for Australia and the region and hampered the effectiveness of the United Nations.

Communism was the new enemy that threatened Asia as well as Europe, and the containment of communism was the main objective of American foreign policy around the world. Australia and New Zealand formed the strategic ANZUS pact with the US in 1951. This tripartite pact effectively disintegrated in the mid-1980s in response to New Zealand's decision to ban US nuclear-armed or powered warships in New Zealand waters. This left Australia in the awkward position of maintaining its links with the United States and New Zealand, neither of whom were cooperating with each other. The Australian-American substitute, AUSMIN, a series of bilateral ministerial talks, has never assumed the prestige and significance of its predecessor (Smith, Cox and Burchill 1996, pp. 75-76). New Zealand's decision in May 2001 to scrap its air force, including a squadron of aging fighter planes based in Australia, has contracted further New Zealand's bilateral capability.

In 1950, Australian troops formed part of the UN force defending South Korea from the communist North in what was really a show of support for the US. Following the French defeat by the communist Viet-Minh in 1954, SEATO (South East Asian Treaty Organisation) was established as a defensive alliance that further linked Australia with the United States, and aimed to stem the domino effect of communism in Asia. Although Australia supported British troops against communist insurgency in Malaya in 1955, its alliance with the United States increasingly dominated Australian foreign policy during the second half of the twentieth century. The Suez Crisis in 1956 and Britain's announcement in 1967 to withdraw its military presence "east of Suez" provided further impetus toward alignment with the US and the military strategy of forward defence. The Menzies government committed Australian troops to fight in Vietnam

alongside the US in the 1960s. American defence installations established in Australia, at North West Cape (1967), Pine Gap (1969), and Nurrungar (1970) "tied Australia more closely to American global nuclear strategy" than the ANZUS treaty had done (McDougall 1998, p. 53). While the Whitlam Labor government in the early 1970s attempted a more distinctively Australian foreign policy, Australia and the Asia-Pacific region have remained fundamentally dependent on the US for security since World War II. Australia has been one of the strongest supporters of US military action abroad, providing naval backup forces in the Gulf War in the early 1990s and special forces troops in Afghanistan in 2002. After the 2002 terrorist bombing of a Bali night club that killed more than 60 Australian tourists, the Howard government has closely identified with President George W. Bush's war on terrorism.

Trade

Trade policy is typically more pragmatic and fluid than strategic policy that has crystallized around treaty alliances. That was certainly the case for Australia's trade and economic alliances after World War II. Changes have reflected the shift in Australia's earlier status from British dominion to a more independent nation with a greater focus on the Asia-Pacific region. Australian trade policy shifted toward the Asia-Pacific with Australia signing a special trade agreement with Japan in 1956. Traditional European markets have been supplanted by American and Asian markets. By 1999, 70 percent of Australia's merchandise exports went to APEC nations (Australia. DFAT 1999, p. 10). Even before Britain joined the European Economic Community (EEC) in 1973, its trade with Australia had been surpassed by that of the United States (Higgott 1989, pp. 141-42). By 1970 Japan was Australia's chief export market, taking huge quantities of raw materials for its burgeoning heavy industries. Japan was the market link in Australia's successive mineral and energy resource booms in the 1960s and 1970s that were largely financed by American capital and developed Australian mines for sale of production to Japan (Galligan 1989). These resources booms helped rejuvenate Australian federalism by boosting Queensland and Western Australia, previously "have-not" states, and making them significant players in Australian intergovernmental politics.

Japan remains Australia's leading export market with an overall share of 19 percent; the United States is a distant second with 9 percent, followed by Korea and New Zealand each with 7 percent. Britain still buys 5 percent

of Australia's exports, part of the 14 percent of trade that the European Union (EU) takes. Such diversity has helped cushion Australia against the impact of the 1998 Asian financial crisis. Nevertheless, for the first time since the late 1970s Australia recorded a trade deficit with ASEAN, and the first deficit with APEC in a decade. Exports to APEC fell by 4 percent in 1998-99, and by 7 percent to East Asia in the same period. The decline in Asian markets was cushioned by a shift back to the traditional British and American markets. Europe and the Americas remain major sources of Australian imported goods, each supplying 24 percent of Australia's market, with North Asia providing 29 percent (Australia. DFAT 1999, pp. 1-12).

Australia rode on the back of sheep until the 1950s and then on the coal truck through to the 1970s. While still jointly accounting for over half of all exports, the agricultural and mining sectors are being challenged by the services sector that now makes up 22 percent of total exports. Australia's domestic economy has also become increasingly oriented to service industries with large sectors such as tourism and tertiary education being driven in part by international visitors and students. In addition to services, manufactured goods make up the same share of total export returns as rural goods. Once the backbone of Australia's exports, rural goods have declined steadily in relative terms: from two-thirds of Australia's exports in the early 1960s, to 40 percent by 1970, 30 percent in the mid-1980s and less than 20 percent by 2000 (Australian Bureau of Statistics 2000). Despite protective agricultural policies by the United States and the European Union, select Australian agricultural markets are expanding, such as horticultural products for niche markets, and dairying products that are Victoria's largest export.

Australia's traditional political economy of "protection all round" peaked in the 1950s and 1960s under McEwen who was deputy prime minister in the Menzies era and the powerful minister for trade and industry. By 1970 Australia, along with New Zealand, had the highest tariff rates on manufacturing industries in the industrialized world as well as protective schemes for weaker rural industries such as dairying and dried fruits. Although one of the original signatories to the General Agreement on Tariffs and Trade (GATT), established in 1947 to liberalize global trade, Australia refused to take part in any GATT negotiations during the 1950s and 1960s (Capling and Galligan 1992, pp. 106-07). All of that changed with the dismantling of Australia's protective state in the 1980s and its championing of free trade in global forums (Capling 2001). From being

an outsider, Australia became a champion of liberal trade orthodoxy and a fervent member of its international organizations. There has been a recent backlash from regional and rural Australia, however, registered in the strong support for Pauline Hanson's reactionary One Nation Party in the 1998 Queensland election and the surprise defeat of the Kennett Liberal Coalition government in Victoria in 1999. Following the well publicized disruption of the World Trade Meeting in Seattle in 1999, the Melbourne 2000 meeting of the World Economic Forum was similarly disrupted.

CONSTITUTIONAL/FEDERAL FRAMEWORK

Australia has a constitutional system that incorporates a parliamentary legislature and a prime ministerial executive (Galligan 1995). In designing the Australian constitution the founders reworked the federal model, copied mainly from the American Constitution. They combined this with the institutions of parliament and responsible government familiar from British and colonial practice, producing a hybrid of parliamentary and federal government.

The federal system adopted by the founders divided government between two spheres, national or "Commonwealth" and subnational or "state." The controlling constitutional document specifies the institutional framework for the Commonwealth and the division of powers between the Commonwealth and the states. Following the American model, the Commonwealth's legislative powers are specified in enumerated heads of power while the residual is guaranteed for the states. Obviously, the extent of powers of each sphere of government depends on how narrowly or broadly the enumerated Commonwealth powers are defined. The High Court has the final say in adjudicating disputes and authoritatively interpreting the extent of such powers. Since the famous *Engineers* case of 1920, the High Court has interpreted Commonwealth powers in a full and plenary way regardless of the effect on state powers. Such an interpretive method inevitably produces a constitutional jurisprudence that favours the expansion of Commonwealth powers, and that has been the dominant pattern in judicial review since 1920 (Galligan 1987).

The Australian constitution embodied something of an institutional mismatch in combining the executive form of parliamentary responsible government which assumes a dominant legislative chamber, the House of Representatives, with bicameralism and a powerful Senate. Despite the

misgivings of some that federation would kill responsible government or vice versa, the Australian founders combined both sets of institutions in the constitution. The more prescient argued that the Senate was not properly a federal or states' house, but rather a national chamber that would be mainly concerned with national issues. In fact, disciplined party government became dominant within a decade of federation and transformed both Houses of Parliament into party chambers. The adoption of proportional representation for Senate voting in 1948 has enabled minor parties and independents to control the Senate and further complicated national government. Apart from the constitutional crisis of 1975 when the Senate blocked supply and Governor-General Kerr sacked Prime Minister Whitlam in an unprecedented exercise of the reserve powers, the system has worked quite smoothly.

The Australian constitution was radically democratic for its time, being framed by delegates, who were elected by the people of the various colonies, to a series of constitutional conferences and it was essentially federal in its basic structure. The final draft was endorsed by a popular referendum with the people voting in their respective colonies, before being formally passed by the imperial Westminster Parliament at the request of the Australians. The constitution incorporated a referendum procedure in section 128 that was both thoroughly democratic and federal, with changes to the constitution requiring a double majority of electors overall and in a majority (four out of six) of the states. While only eight of the 44 proposals for constitutional change that have been put to the Australian people have passed, that is more a reflection of the quality of proposals than of popular intransigence. The Commonwealth government, which controls the framing and initiation of proposals, has often sought to expand its own powers or put questions lacking popular support. The most recent example was the 1999 republican referendum to Australianize the head of state. It was roundly defeated. While a majority of Australians favour a republic, most want to elect the head of state rather than have that office filled by someone selected by the prime minister with Parliament's endorsement. This was the proposal put to them and it was rejected (Galligan 2001).

Despite the paucity of change by constitutional referendum, Australian federalism has changed substantially through political initiatives, especially on the part of the Commonwealth and intergovernmental arrangements that have been either uncontested or sanctioned by the High

Court. One of the most significant areas of such development has been fiscal federalism. The original design entailed centralizing customs and excise duties in the Commonwealth in order to create a national customs union, but to leave income tax as a concurrent state and Commonwealth power. The Commonwealth was also given a grants power, under section 96 of the constitution, that enabled it to tie terms and conditions to monies returned to the states from their surrendered customs and excise base. This enabled the centralizing Curtin Labor government during World War II to monopolize income tax. Fiscal centralism was further extended because of the High Court's broad interpretation of "excise duties," an exclusive Commonwealth power, to preclude the states from levying broad-based consumption taxes. The Commonwealth's fiscal centralization has fuelled expansion of its own roles and responsibilities, and allowed it to enter key areas of state jurisdiction, such as education, health, and transport, though tying terms and conditions to state grants. The Commonwealth's fiscal dominance also funds a comprehensive system of fiscal equalization. This compensates states for both revenue and expenditure disabilities and is strongly supported by the smaller states that benefit most.

With the pressure on governments in recent decades to reduce excessive provision of services and rationalize their delivery, fiscal centralism has been under threat. The states were promised some alleviation and a modest share of the income-tax base for cooperating with the Commonwealth in reforming intergovernmental arrangements in the early 1990s. This was jettisoned by Keating when he replaced Hawke as Labor prime minister, and the Special Premiers' Conferences process was derailed as a result. Nevertheless, the imperatives for making Australian federal governance more streamlined in the face of global pressures on the domestic and export sectors did produce the Council of Australian Governments in the mid-1990s. The Howard Liberal National Party government that defeated Keating's Labor government in 1996 was more committed to tax reform than further COAG reforms. However, in a bold step that won state support, it agreed to return all proceeds of the new Goods and Services tax (GST), less collection costs, to the states, distributed according to the equalization formula. Equalization has always been controversial with the larger states whose taxpayers subsidize those in smaller states, so the extension of equalization methodology to the distribution of the GST

has met with critical opposition, especially from Victoria. Most states, however, are pleased to have this new tax and the equalization formula seems the fairest way to allocate it among states.

Responding to Current Globalization

Global forces and influences have an impact upon Australia both directly and indirectly, and government plays an important role in mediating their impact and influence. While globalization is not a new phenomenon, the variety and extent of modern global forces and influences are quite unique. Coping with them has led to new developments in Australian government, public policy, and law. This section focuses on the way in which the institutional framework of Australia's constitutional system, especially its federal parts, has developed and been affected in mediating globalization. The focus is upon two of the most important developments. The first is treaty implementation which has involved an enhanced role for the Commonwealth government. The second is rejuvenated intergovernmental arrangements with the establishment of COAG as a new structure of Australian federalism which has increased the significance of the states.

The main institutional means for mediating international influences are the executive and legislative powers of the Commonwealth government over external affairs. At federation, no fetters were placed on the executive power of the Commonwealth government to conduct foreign affairs and enter into treaties, even though it was assumed that the British Imperial government would have sole responsibility for such matters. According to the American-style federal model that the Australian founders followed, of designating particular Commonwealth government powers and guaranteeing the unspecified balance to the states, the Commonwealth was given legislative power over "external affairs" by section 51 (xxix). Despite no explicit mention of treaties, Commonwealth ministers, such as Attorney-General Deakin in 1902, were quick to assert that the power to legislate with respect to treaties was within the scope of the external affairs power. This was used sparingly by the Commonwealth during the first half-century of federation and mainly for routine matters. Diplomacy and security were entrusted to the British Imperial government until World War II when Australia established its own diplomatic service and declared war against Japan in its own right.

In its first case regarding external affairs, *Burgess* in 1936,⁴ the High Court upheld the Commonwealth's ability to make laws implementing Australia's international treaty obligations in the new field of aviation. Various judges signalled the potential scope of this power, suggesting that the Commonwealth could make laws over any matter that became the subject of an international treaty. Subsequent cases reinforced the Commonwealth's expansive power to implement international treaties; and during the 1980s and 1990s, the "extreme view" that any subject matter could come within external affairs became dominant in the High Court. According to Mason, one of the prime architects of its extension and chief justice at the time: "the power must be interpreted generously so that Australia is fully equipped to play its part on the international stage (Mason 1988).

Two key policy areas where the external affairs power was used to support Commonwealth expansion into what was otherwise the states' domain were human rights concerning Aboriginal people and the environment. In the *Koowarta* case (1982), the court upheld the validity of the *Commonwealth Racial Discrimination Act*, passed by the Whitlam government in 1975 and implementing the UN Convention on the Elimination of Racial Discrimination.⁵ At issue was a discriminatory Queensland law preventing the transfer of pastoral land to an Aboriginal purchaser. In the *Tasmanian Dam* case (1983), the court upheld Commonwealth legislation preventing Tasmania from building a hydro-electric dam on the Gordon-below-Franklin, a wild river in a restricted heritage area listed on the World Heritage List maintained under the UN World Heritage Convention. In his opinion, Mason claimed "there are virtually no limits to the topics which may hereafter become the subject of international co-operation and international treaties or conventions."⁶ The dynamics of globalization and such an open-ended Commonwealth power would inevitably change the federal system, expanding the Commonwealth's jurisdiction and eroding that of the states. Brennan affirmed the inevitable consequence: that the power of the Commonwealth had waxed and that of the states had waned (*Commonwealth v. Tasmania*, p. 528).

Despite the dire warnings of the dissenting judges that such an open-ended interpretation of the treaty power was "a threat to the basic federal polity of the Constitution," (ibid., p. 517) the expansive interpretation was adopted and consolidated in subsequent environmental and human

rights cases.⁷ The consequence has not been the demise of Australian federalism, however, but an enhanced role for the Commonwealth and greater reliance on political compromise and intergovernmental relations to work out the respective roles of Commonwealth and state governments. Politics remains the key forum where the Commonwealth has to legitimate any incursions into state jurisdictional areas, with the states remaining vigilant about their interests and politically adept at defending them. To an important extent, the politics of Australian federalism belies the ever-increasing centralism sanctioned by the High Court.

If globalization has allowed the Commonwealth an expanded role as the mediating agent of international affairs and treaties, domestic responses to global economic pressures have favoured more cooperative measures and an enhanced role for the states. To achieve greater economic efficiency and complement the phasing out of tariff protection, Australian governmental arrangements were overhauled as part of a comprehensive drive for microeconomic reform in the early 1990s. This began when Labor Prime Minister Hawke convened a series of Special Premiers' Conferences. The process was driven by the Commonwealth but received the active support of the states. New South Wales under Premier Greiner and subsequently Victoria under Premier Kennett saw national reform as a buttress for state reforms to which they were committed. The states were successful in wresting the mantra of "national" from the Commonwealth's monopoly which had been asserted in the previous decades and in making it a genuine arena for joint decision-making.

The purpose of the 1990s' reforms was to make Australian industry more competitive internationally. It entailed overhauling government regulation and the extensive provision of economic infrastructure that was mainly within the states' jurisdiction, or involved the states as major players. Particular targets were state monopolies in areas such as transport and electricity, state discriminatory regimes, and the patchwork of conflicting standards across multiple states. These were all part of the extensive system of state provision deriving from "colonial socialism." The state in Australia, particularly state governments, had been used as "a vast public utility" to which all sectors of society and the economy were linked through a patchwork of special arrangements and subsidies.

The cooperative process of reform provided strong evidence of the continuing strength of the states and the vitality of Australian federalism (Painter 1998). The outcome was a set of new intergovernmental

organizations and rules that add up to a major restructuring of Australian federalism at the subconstitutional level. In areas like competition policy there are strong elements of uniformity to facilitate economic efficiency, but the states are partners in the process and have signed on to a regime monitored by an independent commission. Admittedly, they receive large efficiency dividends from the Commonwealth. The states have contributory roles in joint national bodies that set standards in key areas such as environmental policy, food standards, road transport, and technical training. State diversity is allowed for in various ministerial councils' rules that are based upon majority or qualified majority decision-making, as well as in competition policy and mutual recognition. COAG adds an important peak forum to first ministers' meetings that have become dominated by the Commonwealth government and financial matters. Although they have not achieved full potential, the series of reforms culminating in the streamlining of federal arrangements and the establishment of COAG is a significant re-vitalization of Australian federalism (Brown 1999).

GLOBAL AND REGIONAL INTEGRATION

Australia's ties with Britain were not severed after the Second World War but gradually watered down in the British Commonwealth of Nations. While not bound by any formal legal constitution or framework, the modern Commonwealth operates on the principles of the Singapore Declaration (1971) and the Harare Declaration (1991). These declarations were the outcome of the Commonwealth Heads of Government Meetings (CHOGM), a regular forum in which views are exchanged, agendas set and policy developed and endorsed. The modern Commonwealth actively supports the broader UN objectives of international peace and security, and the promotion of human rights. The Singapore Declaration reinforced the aims of the UN Charter and the UN Declaration of Human Rights by seeking to promote institutions and guarantees for personal freedom under law; to combat racial prejudice and colonialism; and to overcome poverty, ignorance, and disease. The Harare Declaration reaffirmed the pre-eminence of human rights in Commonwealth nations and reaffirmed opposition to apartheid in South Africa. Australia has at times been an active player in the Commonwealth forum and used it effectively for international purposes, as did Prime Minister Malcolm Fraser in his crusade against apartheid in South Africa.

Australia has become a promoter as well as a joiner of international bodies, playing a key role in establishing the regional organization for APEC in 1989, aimed at developing regional free trade and economic cooperation (Ravenhill 1994, p. 88). The Department of Foreign Affairs and Trade bills APEC as the "key component of Australia's regional trade policy" and boasts that the combined output of APEC members accounts for almost half of world exports and more than half of world gross domestic product (GDP). But that also means that APEC is diverse and relatively weak, becoming more an occasional talking-shop for Asia-Pacific leaders than an integrated regional association.

Less ambitious but probably more effective has been the establishment of the Cairns Group, a ginger group of primary-producing nations in world trade forums named for its inaugural meeting in Cairns, Queensland. Australia played a key role in forming the group and getting agriculture included in the Uruguay Round of the GATT in 1986 where some concessions were won. The failure of the Uruguay Round to reach consensus led to the establishment of a new organization, the WTO, in 1995 that now conducts the multilateral negotiations aimed at liberalizing world trade. The WTO has been no more successful with its "Millennium Round" of trade talks. The WTO's 1999 Seattle meeting was disrupted by vigorous protests from anti-globalization campaigners, and the EU remains intransigent against lowering trade barriers, particularly on agricultural products.

Finding a Place in the Modern World

After World War II, and more particularly after the 1970s, Australia had become increasingly independent from Britain and more integrated economically and politically into the new international order. But finding a place and a national role with which Australians are comfortable has proved rather more difficult. Underlying the heightened attention to national identity and the challenges of globalization is a curious blend of uncertainty and exhilaration about the changes that are transforming Australia and its place in the world. There have been both optimistic and pessimistic responses. An energetic internationalist, Gareth Evans, minister for external affairs in the Hawke and Keating Labor governments, saw that Australia could "box above its weight" as a decent middle power in the international arena. While Evans relished the encounters, he often seemed

removed from Australian public opinion and sentiment. Keating, Labor prime minister from 1993 to 1996, was a brilliant simplifier who cast the options as breaking with Britain and turning to Asia, both of which had mainly occurred. An alternative response is to revive simpler nostrums of old Australia: no coloured immigration or pandering to Aboriginal people, and return to a protective state economy. This was popularized by Pauline Hanson's One Nation Party in the late 1990s and finds support among those marginalized by economic changes.

In a defining White Paper, the Howard government emphasized "practical diplomacy" and a "whole of nation approach" as central to Australian foreign and trade policy (Australia. DFAT 1997, p. iii). Dominant are continuities with previous policies that are central to Australia's strategic and trade concerns: commitment to the Asia-Pacific, sustaining links to key trading partners, such as the United States, Japan, Indonesia, and China, and supporting trade liberalization through forums such as the WTO and APEC. The difference is a preference for bilateral over multi-lateral relationships as the "basic building block" upon which regional and global foreign and trade policy are to be built (*ibid.*). This is in reaction to the robust internationalist approach pursued by the previous Labor government and its minister for external affairs, Gareth Evans, who was a firm supporter of the UN and its many specialized agencies (Evans and Grant 1993). The Howard government is more jaundiced about internationalism and sceptical about the United Nations. It has drawn back from the Keating-Evans embrace of Asia, emphasizing Australia's uniqueness as an island continent of primarily European tradition and western culture.

The challenge for Australia is to retain its familiar and historic links to Europe and America while pursuing closer relations with Asia. Being a self-declared middle power has anxieties as well as opportunities. At international forums from Versailles to San Francisco, and in world trade organizations since the Uruguay Round of the GATT, Australian leaders have used middle-power status in advancing their claims. Australia enjoys benefits of credibility, independence, and integrity as a middle power and boasts some notable successes such as promoting freer agricultural trade through the Cairns Group and being broker for a UN peace-keeping force and free elections in Cambodia. APEC is another instance where Australia contributed significantly to the creation of an international body. The downside of middle-power status is the inability to determine outcomes that affect the global economic, political, trade or security agenda.

A middle power might help set the agenda but is unlikely to carry the day; its main contribution to international affairs is facilitating alternative avenues of resolution for superpowers caught in otherwise intransigent positions.⁸

Compared with Canada, there is much more at stake because of Australia's relative isolation from an adjacent powerful friend: "Australia was not protected by a long, open frontier and the Monroe Doctrine," as Hancock observed in 1930. That did not seem to matter while the British Empire was strong and engaged in Asia. Hancock could also observe that "in Australia we are as a rule hardly conscious that we have a foreign policy" (Hancock 1930, pp. 56-57). Australia barely had a foreign policy, having entrusted it to Britain. Nevertheless, distance and isolation were often sobering considerations for those who thought about Australia's geographic and strategic place in the world. For Frederick Eggleston who had an extensive personal knowledge of Asia, Australia in the 1950s was "a small nation in an alien sea," being a "democracy with a way of life and political ideas practically identical with those of the United States or of Britain and other Western democracies (Eggleston 1957, p. 1). From the mid-twentieth century onwards, Australia's challenge has been to integrate its British cultural heritage with its Asia-Pacific geography. With the jettisoning in the 1960s of the White Australia policy that favoured Europeans, Australia's population mix has changed quite markedly with more than a million Asian-born people, mainly from Vietnam, China, and the Philippines, now calling Australia home. As its citizen body becomes more diverse and cosmopolitan, Australia is uniquely poised to capitalize on its enduring links with Europe and the US and its location adjacent to Asia. This has been complicated by the Bali terrorist attack in October 2002, which targeted westerners and killed mainly Australian holiday-makers, and subsequent disclosures of fundamentalist Islamic terrorist cells in Indonesia.

Human Rights and the United Nations

The proliferation of international human rights following the birth of the United Nations (UN) in 1945 has influenced Australian domestic governance, law, and citizenship practices. The way in which this has occurred has been mediated by the Commonwealth government and shaped by Australia's constitutional system, particularly the politics of federalism and the interpretation of the external affairs power by the High Court. The international human rights regime and web of UN agencies challenge

traditional notions of the sovereignty of the nation-state. Participation in an international organization that sets norms and standards that affect domestic practice is not novel for Australia because of its history as a colony and dominion within the British Empire. The UN's new world order was rather different from the British Empire, however, and international human rights law and practice markedly different from the common law that Australia traditionally relied upon for human rights protection. Without its own Bill of Rights, Australia has become increasingly dependent upon international rights standards and UN monitoring agencies.

The United Nations General Assembly adopted the Universal Declaration of Human Rights in 1948, and in 1966 the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Australia signed the Convention on the Elimination of All Forms of Racial Discrimination in 1966, but it was not ratified until 1975, during the final months of the Whitlam government. The ICCPR was open for signature in 1966, but Australia did not ratify the treaty until 1980, and even then with substantial reservations relating to claimed restrictions of federalism. The strength of "federal reservations," that some have seen as more of a repudiation than an acceptance of the Covenant by Australia, reflected the states' opposition and vigorous defence of their constitutional turf against the Commonwealth (Triggs 1982). Queensland and New South Wales had not agreed to the Commonwealth's proposal at the time of ratification. The states could not agree on a common stance on human rights nor would they cede jurisdiction to the Commonwealth over such issues.

During the 23 years of Liberal Coalition government from 1949 until 1972, Australia remained sentimentally attached to a declining British ethos and lukewarm toward the UN. The Whitlam Labor government elected in 1972 renewed Australia's commitment to human rights and a fuller participation in the UN regime. This was continued by the Fraser Liberal Coalition government, elected in 1975, that took a strong stance on apartheid and finally ratified the ICCPR and the ICESCR. Successive Labor governments of Bob Hawke and Paul Keating stepped up Australia's commitment to the UN.

The current Howard Liberal Coalition government remains strongly committed to the United Nations, although critical of its human rights committees and their procedures. It prides itself on Australia's role in leading the international response to the East Timor crisis that proved highly

effective. As Foreign Minister Downer points out: "the involvement of the United Nations had a number of advantages. It placed the action firmly inside the ambit of the Charter and international law" (Downer 2000). But as he also notes, it was a somewhat unique case because of the agreement of the Indonesian government to the intervention, the coalition of countries involved, and the speed with which a decisive mandate for the multinational force led by Australia was granted by the Security Council. This was a happy instance where Australia's interests in securing order in this fledgling next-door neighbour coincided with, and its action could be channelled through, the UN's international organization that provided both legitimacy and support.

In contrast to this supportive UN action, the Australian government is critical of the UN committee system that monitors the compliance with human rights treaty obligations. In contention are the reporting mechanisms set up under such UN human rights treaties as the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, and the Convention on the Elimination of Racial Discrimination (CERP). The government charges that the CERD Committee's decisions in March and August 1999 and its concluding observations in March 2000 that were critical of the government's recent handling of Aboriginal policy were not well-founded or reasoned. The Geneva-based committee held that mandatory sentencing laws in the Northern Territory were in breach of UN standards and recent federal government adjustments to Aboriginal land rights legislation were discriminatory. According to Attorney-General Williams, the committee failed to "engage seriously with the extensive material put before it by the Government"; it "failed to deliver well-founded criticism, strayed well beyond its mandate and made recommendations of a political nature." In response, the government has announced "a whole of government review of Australia's interaction with the UN Treaty Committee system" to "ensure that such interaction is constructive and worthwhile" (Williams 2000). Reviewing the reviewer and subjecting the process of monitoring to critical scrutiny should help in improving the process, although differences of judgement over whether particular government policies infringe human rights will likely remain. Nor is the Australian government happy about having to defend before the UN Human Rights Committee in Geneva its own domestic policies on Aboriginal native title and the Northern Territory's right to maintain mandatory sentencing laws.

Regional Integration

Asia and APEC

Australia has been active in promoting an inclusive Asia-Pacific regional organization in which it might find a congenial place. Along with Japan, Australia played a leading role in establishing the organization for APEC in 1989, aimed at developing regional free trade and economic cooperation (Garneau and Drysdale 1994; Aggarwal and Morrison 1998; Dutta 1999). While important for Australia because it includes its major trade and strategic partners, APEC is a weak institution of "open regionalism" that has expanded to include Northeast Asia, Southeast Asia, Australasia, and the Americas. APEC achieved a high point of aspiration in the Bogor Declaration signed in November 1994 under the auspices of the ailing Indonesian dictator, General Suharto. APEC leaders committed their countries to the goal of free and open trade and investment in the Asia-Pacific to be achieved by industrialized countries by 2010 and by developing countries by 2020.

This was a "tip-top result" for Australia's Prime Minister Keating who placed great store by his special relationship with Suharto and had worked hard for such an outcome. He boasted to the House of Representatives:

With Bogor ... Australians can say for the first time that the region around us is truly "our region." We know its shape; we have an agreed institutional structure; we share with its other members a common agenda for change. Just as the Bretton Woods agreements after the Second World War established structures in the IMF and the World Bank, which enabled the world to grow and prosper, so in APEC we have established a model which will serve the interests of the post-Cold War world (quoted in Keating 2000, pp. 116-17).

Subsequent events soon deflated such hopes. US President Clinton did not bother attending the next APEC meeting in Osaka the following year because of domestic political issues. APEC has languished with the Asian countries of the region shaken by the 1997-98 financial crisis and Indonesia weakened in its transition to democracy and strife over East Timor.

APEC has also been partly displaced by Asian rival groupings: ASEAN Plus Three (the three being Japan, China, and Korea); and the Asia-Europe Meeting (ASEM) that first met in Bangkok in 1996. So far Australia has been excluded from these forums due to the opposition of

its leading critic, Prime Minister Mahathir of Malaysia, who claims that Australia is not sufficiently Asian. Australia is not part of ASEAN which provides a well-established core for the smaller Asian nations (expanded in the 1990s to ten countries with Vietnam, Cambodia, Laos, and Burma being added to the group that included Indonesia, Thailand, the Philippines, Malaysia, Singapore, and Brunei). But even ASEAN is by no means a tight regional association compared to that between Australia and New Zealand.

New Zealand and CER

Australia means "south land" and Australasia literally "southern Asia." Both names were used by European explorers and dreamers who thought there must be a great south land in the southern Pacific to balance the globe's land masses. New Zealand did not join the Australian federation in 1901, having participated in the first National Australasian Convention of 1891 but not in the subsequent Convention of 1897–98 that produced the Australian constitution. Thereafter, Australia and New Zealand pursued parallel paths of nation-building within the British Empire, cementing a special military association through the ANZACS who fought valiantly with British forces in the disastrous Gallipoli campaign against the Turks in World War I.

With the demise of Britain as a world power and its joining the European Union, Australia and New Zealand have formed a close economic and social relationship. This Australasian association was formalized for economic purposes with the Australia/New Zealand Closer Economic Relations Trade Agreement (CER) in 1983. CER marked a commitment to create a genuine free trade area, and was part of a wider plan to harmonize relations between the two highly similar countries. Perhaps more significant is the extensive "people to people" or social connection between two countries that have few restrictions on movement or settlement. Defence and strategic arrangements are similarly close, with New Zealand becoming more reliant upon Australia after its rift with the United States over banning nuclear ships from New Zealand ports in the 1980s. Currently there are calls for monetary union that would tie New Zealand more closely to Australian economic policy (Grimes, Wevers and Sullivan 2002).

Australia and New Zealand have not formalized their close political association in an overarching treaty. Rather, they are joined by a variety of particular treaties, arrangements, and close cultural and popular ties.

Richard Mulgan and I have described this as "an asymmetric pluralist association" that combines elements of transnational association with traditional forms of intergovernmental relations typical of federalism within a nation-state (Galligan and Mulgan 1999). This Australasian association incorporates a variety of structures involving constitutional relations of three basic kinds. One is relations between nation-states, with New Zealand dealing with Australia like a smaller nation-state deals with a larger one. Another is the more routine federal kind where New Zealand participates in federal-state ministerial councils and agreements, such as mutual recognition of standards, more or less as another state of the Australian Commonwealth. A third involves shared or joint institutions, such as common commercial courts, that make binding rulings applicable for both countries. While the first type of nation-to-nation has been predominant in the past, aspects of the other two federal and joint types are now in place and will likely become more prevalent. Increasingly, Australasian governance will be a system of complex and diffuse power centres with an intermingling and overlapping of jurisdictional responsibilities and policy activity.

IMPACT OF GLOBAL AND REGIONAL INTEGRATION

Because of Australia's situational isolation in the southern Asia-Pacific, it is relatively unaffected by regional integration. Asian regionalism is open and diffuse, with APEC becoming more an economic forum or talking shop than a close-knit regional association. That is hardly surprising since it encompasses the Americas and Russia as well as Asia and Australasia. In contrast to this is Australia's regional association with New Zealand that is based upon a close bilateral association between two countries that share common cultures. In part it is a quasi-federal association in which New Zealand acts like an additional state and slots into Australian intergovernmental arrangements, while in part it is a union of peoples who have free rights of movement and settlement. Because New Zealand is so small, however, the net effect is little impact upon Australian federalism other than expanding it to encompass in part a smaller nation.

Nevertheless, this is probably one of the most innovative developments which might serve as a model for associations between comparable sets of countries. The Australasian experiment shows that novel forms of

integrated regionalism are possible through a variety of partial instruments in special circumstances. Variations of this sort of association could conceivably be extended to congenial Asian countries like Singapore. A CER-type free trade association was suggested in a meeting between respective prime ministers at the APEC 2000 meeting, and has been mooted as a possibility with other ASEAN countries. Meanwhile, the Howard government is championing a free trade agreement with the US and has recently opened negotiations with senior US officials.

As mentioned earlier, Australia's political economy response to globalization has been the abandonment of protective state policies and deregulating of its domestic economy. That has entailed winding back tariff protection, dismantling much of "state socialism" consisting of the extensive government provision of infrastructure and utilities, deregulating currency markets and banking, reforming labour markets, and enforcing business competition. The overriding purpose was to make Australia's domestic economy more competitive and export-oriented, forcing Australian business to be more efficient. The complementary set of reforms was to federal arrangements and intergovernmental relations culminating in the new Council of Australian Governments (COAG) discussed above.

COAG

Australians were shaken from their accustomed lethargy in 1986–87 by serious deterioration in the terms of trade and balance of payments. Paul Keating, then treasurer, warned that if national performance did not improve, Australia "was basically done for. We will just end up being a third rate economy ... a banana republic" (Quoted in Carew 1992, pp. 171–73). Part of the Hawke Labor government's response was a push to streamline intergovernmental relations, with the prime minister claiming that there were more obstacles to trade within the Australian federation than within the European Union. Making government more efficient was to be an integral part of microeconomic reform.

The institutional means was a series of Special Premiers' Conferences involving the prime minister and premiers, backed up by extensive officials meetings. While the prime minister and the Commonwealth initiated and drove the process, state premiers such as Nick Greiner from New South Wales played a complementary role. The states were attracted by the promise of fiscal reform to address severe vertical fiscal imbalance

(the Commonwealth collecting the lion's share of taxation and the states being dependent for approximately half their revenue on Commonwealth general and specific purpose grants). During a rare period of relatively stable politics in all jurisdictions in the early 1990s, a good deal was achieved that showed the flexibility of Australian federalism in responding to globalization. The array of ad hoc intergovernmental bodies was streamlined and more than halved in the process.

A major area of reform was the adoption of a national competition policy directed at eliminating inefficient government provision of utility services and the privileging of government providers. The new arrangements included the extension of trade practices legislation to state businesses, and establishment of stronger regulatory bodies, the Australian Competition and Consumer Commission (ACCC) and the National Competition Council (NCC). The core principle of competition policy as it applies to government is "competitive neutrality." This prohibition against privileging government providers effectively levels the playing field and ensures that if governments retain state provision, as some states have, that will be subject to competition. Reform of public utilities, including the establishment of a national electricity grid, furthers the process of marketization. Other key reforms include achieving national standards in such areas as food processing and packaging, and adoption of mutual recognition for regulatory provisions for goods and occupations across the various jurisdictions. Sharing in this latter reform was part of New Zealand's motivation in securing quasi-federal status as a contributing state.

The COAG reform process has been extensively documented and critically assessed by Martin Painter and, comparatively with Canadian reforms, by Doug Brown (1999). Brown shows "that Australia has produced a more coherent and innovative set of reforms processes" than Canada (1999, p. 17, 252 ff.), in part because Canada has relied more upon the discipline of free trade with the United States for promoting federal efficiency. The Australian reform of intergovernmental relations was curtailed when Keating ousted Hawke as prime minister, and reasserted Labor's traditional commitment to fiscal centralism. Consequently, Hawke was forced to abandon his pledge to state premiers that the reforms would include some devolution of taxation power. This cooled the ardour of the states for reform, while volatile electoral politics in crucial states like New South Wales and Queensland brought in new players with their own political axes to grind. Nevertheless, despite some backsliding,

Keating, as prime minister, did preside over the formal establishment of COAG to take over the work of the Special Premiers' Conferences. In the process, the states formed a new Leaders' Forum that has continued as a peak body for premiers to address issues of common interest.

The Howard Liberal Coalition government elected in 1996 has been surprisingly unconcerned with federalism, showing little interest in, and giving no leadership to, COAG. Its main policy concern has been with tax reform, and in particular with the introduction of the GST and associated income tax reductions. As with the earlier COAG reforms, this is touted as an efficiency reform to make Australia more internationally competitive. To its credit, the Howard government took the proposal to the people in the general election at the end of 1998 and, against the odds, won (retaining government with a majority of seats, if not a majority of popular votes).

Introduction of the GST has a major impact on federalism since the entire proceeds go to the states, allocated on the standard relativity basis calculated by the Australian Grants Commission in the horizontal fiscal equalization process. Principles for administering the GST were agreed to at a Special Premiers' Conference in November 1998, and an *Intergovernmental Agreement on the Reform of Commonwealth-State Relations* signed at the Premiers' Conference in April 1999. All signed on, even though the Labor premiers had their party opposition to the GST formally registered in the text of the agreement. The agreement set up a Ministerial Council for Commonwealth-State Financial Relations consisting of the various treasurers, and gives the states a role in determining the GST base and future rate. This is currently set at 10 percent and requires the unanimous support of state and territory governments before it can be varied. This elaborate mechanism has gone some way toward alleviating state fears that the GST is yet another dose of fiscal centralism, implemented via Commonwealth legislation, albeit for their benefit.

Expanding the Commonwealth's Role

Besides prompting changes to the institutional machinery and arrangements of intergovernmental relations and taxation, globalization has affected Australian federalism by boosting the role of the Commonwealth in mediating domestic and international affairs. The most contentious aspect has been the Commonwealth's increased use of its external affairs

power to invade key domestic policy domains of the states. The Commonwealth has become a major player in domestic environmental policy, protecting rain forests in northern Queensland and blocking a huge pulp mill in Tasmania (Lynch and Galligan 1996). Even more controversially, it has extended Australia's reliance upon international human rights norms and UN monitoring committees. The consequences are that domestic rights issues are increasingly influenced by international practice and domestic controversies are readily escalated to international forums. Ironically, in expanding its policy role vis-à-vis the states, the Commonwealth is making Australia more dependent on policy-making and rule-setting by international bodies.

The *Toonen* case from the mid-1990s was a cameo instance of the practical operation of international human rights norms in trumping discriminatory domestic practice. On behalf of the gay and lesbian reform group in Tasmania, Nicholas Toonen mounted a complaint to the UN Human Rights Committee against Tasmanian criminal law forbidding homosexual conduct between adult males. While Tasmania did not enforce the law, it refused to repeal it. The UN Committee found in favour of Toonen and, when the Tasmanian government refused to act, the Commonwealth government passed legislation overriding aspects of the Tasmanian law.⁹ Tasmania first challenged the Commonwealth law in the High Court, but then suspended its challenge and repealed its offending law, replacing it with non-discriminatory provisions. The *Toonen* case shows how determined individuals and groups can now take their human rights grievances to international bodies and use their favourable advisory decisions to leverage political change through the Australian federal system. This alternative is particularly significant for Australia in the absence of a domestic Bill of Rights, as Justice Kirby has noted:

As we do not have a general constitutional Bill of Rights in Australia and as there is no regional human rights court or commission for Asia or the Pacific, the importance of the ICCPR could not be over-stated. Indeed, the significance of the Toonen decision runs far from Tasmania and Australia ... It brings hope to people in countries where individuals are still oppressed by reason of their sexuality (Kirby 2000, p. 18).

More indirect, but nonetheless significant, is the increasing, indirect influence of international legal norms on Australian common law. Most notable was the *Mabo* decision that overturned two centuries of

discriminatory property law based on the doctrine of *terra nullius*, and recognized native title for the first time. In the leading opinion of the High Court, Brennan appealed to international standards:

The opening up of the international remedies to individuals pursuant to Australia's accession to the Optional Protocol to the International Covenant on Civil and Political Rights brings to bear on the common law the powerful influence of the Covenant and the international standards it imports.... It is contrary both to international standards and to the fundamental values of our common law to entrench a discriminatory rule which, because of supposed position on the scale of social organization of the indigenous inhabitants of a settled colony, denies them a right to occupy traditional lands.¹⁰

The *Mabo* case revolutionized Australian property law and showed how the line of demarcation between international and domestic law is being blurred through Australian judges transposing international norms into their decision-making.

Also contentious has been the issue of the impact of international law in the absence of domestic legislation implementing it. The basic principle that international treaties do not have effect unless incorporated into domestic law was challenged by the *Teoh* case (1991). The court found that by entering into a treaty the Australian government creates a "legitimate expectation" in administrative law that the executive and its agencies will act in accordance with the terms of the treaty, even when the treaty has not been incorporated into Australian law. The case involved the deportation by the Immigration Department of Mr. Teoh, a non-citizen father of young children convicted of possession and trafficking in heroin. Australia had entered into the United Nations Convention on the Rights of the Child that makes the best interests of the child a primary consideration in cases involving separation from their parents. However, it had not implemented the provisions of the Convention into domestic law, and the Immigration officials had not taken it into account. The High Court's innovative finding was summed up by Mason and Deane:

[R]atification by Australia of an international instrument is a positive statement by the executive government of this country to the world and the Australian people that the executive government and its agencies will act in accordance with the Convention. That positive statement is an adequate

foundation for a legitimate expectation, absent statutory or executive indications to the contrary, that administrative decision-makers will act in conformity with the Convention.¹¹

Both sides of politics were aghast at the decision. The Labor minister for foreign affairs and the attorney-general immediately issued a joint statement denying any such legitimate expectation and promising to introduce legislation to that effect. The court had also made it clear that a legitimate expectation cannot arise where there is a statutory or executive indication to the contrary. Government changed before legislation was passed, and the new Liberal National Coalition government made a similar declaration in 1997. Their proposed legislation also lapsed with the calling of the 1999 election, and a new bill is currently before the Senate. Even if this passes, it is arguable whether the court will accept at face value executive assertion of the determining role of parliament in translating international norms into domestic law.

Despite their reservations with *Teoh*, the Labor government and its forceful minister for Foreign Affairs, Gareth Evans, exploited the untrammelled treaty-making power with little concern for parliamentary scrutiny or public accountability. The practice of bulk tabling of treaties every six months developed and, by the 1990s, between 30 and 50 treaties per year were being tabled in Parliament. In about two-thirds of the cases, Australia had already ratified or acceded to the treaties before tabling and was obliged to comply under international law (Twomey 1995, p. 8). Such contempt for Parliament, combined with concern about the High Court's open-ended interpretation of the external affairs power that favoured the Commonwealth over the states, caused a political backlash. A Senate committee called for greater public scrutiny and public accountability, and its key recommendations were adopted by the incoming Howard Coalition government in 1996 (Australia. Senate Legal and Constitutional References Committee 1995).

The 1996 overhaul of the treaty-making process included: mandatory tabling of treaties 15 sitting days before the government takes action to bring them into force; provision of an accompanying National Interest Analysis explaining the reasons for Australia's becoming a party; scrutiny by a parliamentary Joint Standing Committee on Treaties; establishment of a Treaties Council under the auspices of COAG; and public access to treaty-making information via the Internet. While the COAG Treaties Council has yet to prove itself, other parts of the new policy are operating to give greater scrutiny. Since 1996, the Joint Standing Committee on Treaties has issued 34 reports covering 185 treaty actions (Williams 2000).

Much public discussion has focused on Australia's "loss of sovereignty" because of the recent proliferation of treaties. The Department of Foreign Affairs and Trade estimates that the current Australian Treaty List contains 2,920 entries as at 31 December 1999.¹² The entries break down to 1,669 bilateral and 1,251 multilateral agreements. The figures themselves, however, can be very misleading. For example, although this appears to be an increase of 902 entries since 1989, in fact only 400 entries represent Australia's signature, ratification or acceptance of new treaties. Of the 400 entries generated by new treaties, many are terminations or replacements of existing treaties. Most of the other new entries concern measures for improving the availability of treaty information that are now listed on a Web site.¹³ A key point, and one that is often overlooked, however, is that Australia is a member of all the international organizations that oversee the treaties it has ratified. In that way, Australia has, subject to the usual caveats of the disparities of power in international relations, as much or as little influence over the terms, implementation, and enforcement of treaties as any other nation. As a member of all the key international bodies, and particularly in the case of the UN, Australia has historically been highly involved in the long negotiations leading up to the drafting of many major human rights and other treaties. Most importantly, Australia can choose not to support or ratify a particular treaty, and has done so, as the Multilateral Agreement on Investment case shows. Finally, Australia alone can implement treaties domestically. Unlike some other jurisdictions, such as the United States, treaties are not self-executing in Australia: that is, they do not become part of domestic law unless legislation specifically does (subject to the Teoh qualification discussed above).

Numbers aside, Australia is party to a wide range of international instruments touching on almost all areas of domestic policy: environment, health, education, food production, and land use. Many treaties spring from Australia's traditional relations with other nations: bilateral treaties cover diplomacy, medical treatment of another nation's citizens, mutual telecommunications, postal, and other forms of media. Treaties also singly cover novel and modern environmental, military and other security and criminal concerns, many of which have been exacerbated by the global information and technological era. Examples include agreements banning nuclear testing, land mines and chemical testing, as well as those on organized crime and drug smuggling. Treaties that have come into force in the past five years include the 1993 Chemical Weapons Conven-

tion, the 1997 Land Mines Convention, and the 1995 Blinding Laser Weapons Protocol. The 1996 Comprehensive Nuclear-Test-Ban Treaty has been concluded but is not yet in force. Environmental standards have also been a focus of international agreements: for example, the 1997 Kyoto Protocol to the Climate Change Convention, and controls over the international movement of hazardous substances incorporated into the 1998 Rotterdam Convention on Prior Informed Consent. On the international crime front, 1990 European Money Laundering Convention and the 1997 OECD Bribery Convention have recently come into force for Australia. Treaties that have drawn particular criticism are in sensitive policy areas of human rights, labour relations, and the environment. Examples include the Convention on the Rights of the Child, the ILO Convention 158 on Termination of Employment, the World Heritage Convention, the Climate Change Convention, the Basel Convention on Hazardous Waste and the Desertification Convention.

A recurring theme has been the states' complaint of lack of consultation in areas they claim to be of vital concern for their jurisdiction. Victoria has put in place its own parliamentary monitoring system of treaties (Federal-State Relations Committee 1997). Key sectoral groups have also criticized the Commonwealth for failing to consult about the domestic implications of treaties in Australia. Examples include mandatory sentencing of juvenile offenders under the CORC; agreements on desertification that have a critical impact on land use and development; and listing sites as World Heritage. It has been claimed that complying with the Climate Change Convention would reduce national output considerably, while compliance with the Hazardous Waste Convention could impact adversely on exports. The COAG Treaties Council is designed to remedy this by providing a regular forum for the prime minister and the premiers and first ministers from the states and territories to meet. As well, states like Victoria have implemented their own state parliamentary scrutiny of treaties that affect them.

FUTURE SCENARIOS

Future scenarios are a tool for selecting and making prominent aspects of the existing order so as to better understand how changes to key parameters of the global might impact upon the domestic. While the future is uncertain, such thought experiments are useful in challenging the usual

presumption that the future will resemble the present — it might be quite different as aspects of the present become more dominant. Such an exercise can also help in gaining insight into key variables and linkages in the current complex interaction of global and domestic. This should deepen our understanding of the present and help in preparing for the future.

In assessing the impact of the various global scenarios on Australian federal structure and processes, we need to keep in mind the flexibility of institutions and the reflexivity of human agency. Provided institutional arrangements are reasonably flexible, as are Australian federal ones, they can be used in different ways. Human reflexivity adds a further complication: up to a point, human actors can use the same set of institutions for different purposes as well as different institutions for the same purpose. Globalization as the independent variable does not have a direct causal effect on the structure and processes of federation as the dependent variable, but an effect that is mediated by human agency. Of course, in this instance such human agency is complex and diffuse, and is organized in an existing pattern of federal institutions and arrangements. So, federalism is both a significant intermediate variable, which, because of human agency, is partly reflexive, as well as also being a dependent variable that is shaped and influenced by globalization.

In speculating about how Australia would fare under the various future scenarios, we need to keep in mind a range of key current attributes of its geography, population, culture and political economy, as well as its federal system of government. Australia is relatively small in population and economic terms with a predominantly Anglo-European culture situated adjacent to Southeast Asia. It has a highly developed and stable liberal, democratic political system, an educated citizenry and a relatively open economy that is closely linked to diffuse world markets. While it is destined to be a "taker" rather than a "maker" in terms of global influence, it has both the domestic institutions and global connections to mediate global challenges. Recent changes, ranging from economic deregulation to streamlining of inter-governmental arrangements and increased Asian migration, have enhanced Australia's ability to cope and even prosper in a more globalized world. But clearly some future scenarios are more favourable than others.

The worst-case scenario for Australia is that of *regional dominators* where orderly trade is internalized within powerful blocs and there is predatory competition between blocs. This would be a threat to Australia if it were not part of any regional bloc and were left out in the cold. Currently,

Australia's trade is spread between Asia, the United States, and Europe and that has helped insulate it from regional downturns such as the Asian economic crisis in 1997-98. If trade were internalized within regional blocs and Australia remained outside, its economy would be jeopardized. In such a scenario the Commonwealth would become more dominant in having to take desperate initiatives to make representation to bloc leaders and salvage national interests. A likely by-product would be New Zealand's merging more fully with Australia, but a united Australasia would be too small to change much in this scenario.

The development of an Asian regional bloc comparable to the EU or the North American Free Trade Agreement (NAFTA) seems unlikely at this point, and Australia's becoming an integral part of such an Asian bloc even less likely. If both did eventuate, however, Australia might do very well indeed since it would have an insider advantage in the areas of specialization that it shares in common with Europe and America. If, with the globalization of communications and the shrinking of distances, blocs became less regional geographically, Australasia might join NAFTA and become part of the American bloc. This alternative is already being pursued by the Howard government. If Australia were part of a strong "regional" bloc, then the significance of the Commonwealth government would be reduced as its role was supplanted by bloc decision-making. The states might become more significant as the governments of the domestic regions with closer links to the people and productive activity.

The best-case scenario for Australia and for Australian federalism is that of *shared governance*. A stable international order governed by the rule of law and the principles of fair trade is ideally suited for Australia because of its relatively advanced and stable political economy, diffuse trading ties, and deregulated economy. Australia would benefit from an orderly world market with fair trading standards because of its efficient primary export industries, agriculture, and mining. Moreover, such an order would complement Australia's modern national policies of an open and competitive economy. Some Australian economists have argued that the country is better off deregulating its economy even if others do not. But such unilateral adoption of economic orthodoxy is fraught unless there is some approximation of the world order to that of shared governance where trade is fair and markets can actually operate.

In such a global order, domestic federal governance should also thrive because there is less need or opportunity for the Commonwealth to take a

dominant role in mediating global access and managing predicaments. Indeed, once the global regime was implemented, the role of the national government would shrink. The consequence would be a re-balancing of domestic federalism, even if both spheres of domestic government had more constrained roles as global governance became more pervasive.

The *global club* scenario where a few major powers control international affairs and create an orderly global system is probably more attractive than the chaotic scramble of *cyberwave*. It depends on who the global oligarchs are and how scrupulously they enforce an orderly system. Such a system of world governance by the powerful few, if in fact decent and orderly, is not so far removed from what middle powers face in the real world of today. In such a scenario, there would still be ample scope for domestic governance without the need for the national government to take an enhanced role in mediating globalization. Hence, in Australia's case, there should be no need for Commonwealth hyper-activity that would skew the federal system in its favour.

The opposite would likely be the case for *cyberwave* because of the demands upon national government to deal with the fluid dynamism of rampant global markets and rapid technological change. In moving away from protective state policies, Australia has not adopted adequate strategies and arrangements for domestic compensation. Consequently, the differential impact of global forces is producing disgruntled losers as well as satisfied winners, and these are concentrated in certain sectors and regions — the losers predominantly in rural and regional Australia from whence there is a current political backlash. Within the limited role for governments associated with this scenario, *cyberwave* globalization would result in the Commonwealth government taking a dominant role meeting global challenges and helping to mediate their effects. Such a response would be consistent with Australia's tendency to privilege the central government during periods of stress. At the same time, state governments might well be implicated in such compensation arrangements as were made available in a more closely integrated federal process.

CONCLUSION

Whatever the global future, Australia's current position in the world order has both advantages and disadvantages. It is well positioned to take advantage of global opportunities, but because of its size and location it is

vulnerable to risks from larger players dominating the world system for their advantage. Not being part of a regional bloc, Australia will have to live by its wits if it is to prosper and meet the challenges of global change. Australia's best option is an orderly and decent world system and it has the limited resources of a smallish middle power to assist in putting that in place. Its federal system is an advantage and has shown itself sufficiently flexible for the job. Perhaps we can go further and say that federalism is in fact more suited to a world where sovereign nationhood is undermined and replaced by global regimes of rule-making and standard-setting. Because of federalism, Australian governments are not sovereign and policy-making in most key areas involves a complex interplay between multiple governments that have local, regional, and national bases. Adding a global sphere extends the complexity, but in ways that are not so foreign to the already complex system.

In the above account of how Australian federalism has responded to globalization, there are two powerful trends that run in opposite directions. Despite its classic federal structure that is encapsulated in the constitutional system, Australian federalism has become relatively centralized in its domestic arrangements. This is most evident in fiscal federalism where the Commonwealth has asserted a near monopoly over taxation for half a century. It has been evident in the Commonwealth's expanded role in recent decades due to its superiority in matters to do with foreign affairs and treaties. If this were all, one might conclude that Australia's response to globalization has been in keeping with its established centralist mode of operation, and that the effect of globalization in Australia has been to extend and consolidate Commonwealth dominance. There is a contrary tendency, however, that favours federalism and an enhanced role for the states that was apparent in the reform of intergovernmental arrangements in the 1990s and resulted in COAG. Meeting the economic challenges of globalization has entailed reforms to governance and federal arrangements that require state participation and have reaffirmed the states' role in national policy-making and regulatory regimes. On balance, the latter tendencies have countered the former. Despite some immediate advantage for the Commonwealth government in mediating international affairs, an increasingly globalized world will likely see a reduction in the role of national government. This should continue to favour federalism and the states, which has been the other part of Australia's recent experience.

Notes

1. This chapter draws extensively upon a joint research project and recent book, Galligan, Roberts and Trifiletti (2001).
2. The term "glocalization" was coined by Tom Courchene (1993).
3. See Dan Elazar's suggestion of a matrix conceptualization (Elazar 1987).
4. *R. v. Burgess; Ex parte Henry* (1936) 55 CLR 608.
5. *Koowarta v. Bjelke-Peterson* (1982) 153 CLR 168.
6. *Commonwealth v. Tasmania* (1983) 158 CLR 1, at p. 486.
7. For an environmental example, see *Richardson v. Forestry Commission* (1988) 164 CLR 261; *Queensland v. Commonwealth* (1989), 167 CLR 232. The human rights case is *Polyukhovich v. Commonwealth* (1991) 175 CLR 501; *Horta v. Commonwealth* (1994) 123 ALR 1.
8. For a comparison of Australia and Canada, see Cooper, Higgott and Nossal (1993).
9. *Nicholas Toonen and Australia*, United Nations Human Rights Committee, Communication No. 688/1992, Doc: CCPR/C/50/D/488/1992 (4 April 1994). See also Tenbenschel (1995).
10. *Mabo v. Queensland (No. 2)* (1992) 175 CLR 42. See Kirby (1995).
11. *Minister of State for Immigration and Ethnic Affairs v. Teoh* (1995) 183 CLR 291.
12. Communication from DFAT officer, 6 April 2000.
13. The Australian Treaties Library is a Web site containing Australian treaties from 1901 at <<http://www.austlii.edu.au/other/dfat/>>.

References

- Aggarwal, V. and C. Morrison, eds. 1998. *Asia-Pacific Crossroads: Regime Creation and the Future of APEC*. New York: St. Martin's Press.
- Australia. Department of Foreign Affairs and Trade (DFAT). 1997. *In the National Interest: Australia's Foreign and Trade Policy White Paper*. Canberra: Government Printers.
- . 1999. *Composition of Australian Trade, 1998-1999*. Canberra: Government Printer.
- Australia. Parliament of Victoria. Federal-State Relations Committee. 1997. *Report on International Treaty Making and the Role of the States*. Melbourne: Government Printer.
- Australia. Senate Legal and Constitutional References Committee. 1995. *Trick or Treaty? Commonwealth Power to Make and Implement Treaties*. Parliament of the Commonwealth of Australia.
- Australian Bureau of Statistics. 2000. "Developments in Australian Exports: A Longer Term Perspective," *Australia Now: A Statistical Profile, International Accounts and Trade, Year Book Australia, 1999*.

- Brown, D. 1999. "Market Rules: Economic Union Reform and Intergovernmental Policy-Making in Australia and Canada." PhD thesis, University of Melbourne.
- Capling, A. 2001. *Australia and the Global Trade System: From Havana to Seattle*. Cambridge: Cambridge University Press.
- Capling, A. and B. Galligan. 1992. *Beyond the Protective State*. Cambridge: Cambridge University Press
- Carew, E. 1992. *Paul Keating: Prime Minister*. Sydney: Allen & Unwin.
- Cooper, A., R. Higgott and K. Nossal. 1993. *Relocating Middle Powers: Australia and Canada in a Changing World Order*. Vancouver: UBC Press.
- Courchene, T. 1993. "Glocalisation, Institutional Evolution and the Australian Federation," in *Federalism and the Economy: International, National and State Issues*, ed. B. Galligan. Canberra: Federalism Research Centre, Australian National University.
- Downer, A. 2000. "Upholding the 'Sword of Justice': International Law and the Maintenance of International Peace and Security." Speech to Joint Meeting of the Australian and New Zealand Society of International Law (ANZSIL) and the American Society of International Law (ASIL), Canberra, 28 June.
- Dutta, M. 1999. *Economic Regionalization in the Asia-Pacific: Challenges to Economic Cooperation*. Cheltenham, UK: Edward Elgar.
- Eggleston, F.W. 1957. *Reflections on Australian Foreign Policy*. Melbourne: F.W. Cheshire.
- Elazar, D. 1987. *Exploring Federalism*. Tuscaloosa: University of Alabama Press.
- Evans, G. and B. Grant. 1993. *Australia's Foreign Relations in the World of the 1990s*, 2d ed. Melbourne: Melbourne University Press.
- Galligan, B. 1987. *Politics of the High Court*. St. Lucia: University of Queensland Press.
- 1989. *Utah and Queensland Coal*. St. Lucia: University of Queensland Press.
- 1995. *A Federal Republic: Australia's Constitutional System of Government*. Cambridge: Cambridge University Press.
- 2001. "Amending Constitutions through the Referendum Device," in *Referendum Democracy: Citizens, Elites, and Deliberation in Referendum Campaigns*, ed. M. Mendelsohn and A. Parkin. New York: Palgrave.
- Galligan, B. and R. Mulgan. 1999. "Asymmetric Political Association: The Australasian Experiment," in *Accommodating Diversity: Asymmetry in Federal States*, ed. R. Agranoff. Baden-Baden: Nomos Verlagsgesellschaft.
- Galligan, B., W. Roberts and G. Trifiletti. 2001. *Australians and Globalisation: The Experience of Two Centuries*. Cambridge: Cambridge University Press.
- Garneau, R. and P. Drysdale, eds. 1994. *Asia-Pacific Regionalism*. Sydney: Harper Educational Publishers.
- Gibbins, R. 1991. "Ideological Change as a Federal Solvent: Impact of the New Political Agenda on Continental Integration," in *The Nation-State versus Continental Integration: Canada-North American-Germany-Europe*, ed A.L. Pal and R.-O. Schultze. Bochum: Universitätsverlag Dr N. Brockmeyer.

- Goldfinch, S. 2000. *Remaking New Zealand and Australian Economic Policy*. Wellington, NZ: Victoria University Press.
- Grimes, A., L. Wevers and G. Sullivan, eds. 2002. *States of Mind: Australia and New Zealand 1901-2001*. Wellington, NZ: Institute of Policy Studies, Victoria University of Wellington.
- Hancock, W.K. 1930. *Australia*. London: Benn.
- Higgott, R. 1989. "The Ascendancy of the Economic Dimension in Australian-American Relations," in *No Longer an American Lake?* ed. J. Ravenhill. Sydney: Allen & Unwin.
- Keating, P. 2000. *Awakening: Australia Faces the Asia-Pacific*. Sydney: Macmillan.
- Kirby, M. 1995. "The Role of International Standards in Australian Courts," in *Treaty-Making and Australia: Globalisation versus Sovereignty?* ed. P. Alston and M. Chiam. Annandale: Federation Press.
- . 2000. "International Law: Down in the Engineroom." Paper presented to the ANZSIL and ASIL joint conference, Sydney, 26 June.
- Lynch, G. and B. Galligan. 1996. "Environmental Policymaking in Australia: The Role of the Courts," in *Federalism and the Environment*, ed. K. Holland, F.L. Morton and B. Galligan. Westport, CT: Greenwood Press.
- Mason, A. 1988. "The Australian Constitution 1901-1988," *Australian Law Journal* 62: 755.
- McDougall, D. 1998. *Australian Foreign Relations: Contemporary Perspectives*. South Melbourne: Longman.
- Meaney, N. 1985. *Australia and the World: A Documentary History from the 1870s to the 1970s*. Melbourne: Longman Cheshire.
- Meredith, D. and B. Dyster. 1999. *Australia in the Global Economy*. Cambridge: Cambridge University Press.
- Painter, M. 1998. *Collaborative Federalism: Economic Reform in Australia in the 1990s*. Cambridge: Cambridge University Press.
- Ravenhill, J. 1994. "Australia and the Global Economy," in *State, Economy and Public Policy*, ed. S. Bell and B. Head. Melbourne: Oxford University Press.
- Smith, G., D. Cox and S. Burchill. 1996. *Australia in the World: An Introduction to Australian Foreign Policy*. Melbourne: Oxford University Press.
- Tenbenschel, T. 1996. "International Human Rights Conventions and Australian Political Debates: Issues Raised by the Toonen Case," *Australian Journal of Political Science* 31(1):7-23.
- Triggs, G. 1982. "Australia's Ratification of the International Covenant on Civil and Political Rights: Endorsement or Repudiation?" *International and Comparative Law Quarterly* 31:278.
- Twomey, A. 1995. "Procedure and Practice of Entering and Implementing Treaties." Parliamentary Research Service Background Paper, No. 27, Canberra: Department of Parliamentary Library.
- Williams, D. 2000. "International Law and Responsible Engagement," ANZSIL-ASIL Conference Keynote Address, Canberra, 29 June.

DECENTRALIZING SYSTEMS

4

Important? Yes. Transformative? No. North American Integration and Canadian Federalism

Richard Simeon

INTRODUCTION

Globalization is not a new phenomenon in Canada. Indeed throughout its history Canadian economic and social development has been profoundly shaped by external forces. From the early fisheries to the fur trade, the forestry, and wheat economies, to the more recent focus on other resources, and its recent embrace of North American free trade, it is the needs of foreigners that have driven Canada's economic development. Canada's politics have been shaped by its historic relationship to three great empires — the French, the British, and now the American. Canada's social makeup has been formed through its role as a settler society — first the French, then the British, then Ukrainians and many others from southern and eastern Europe; and most recently from Asia, Africa, the Caribbean, and Latin America. Canada has always been heavily dependent on foreign trade and foreign investment — in fact, Canada's integration with the United States is today just reaching the levels that occurred in the late nineteenth century (Bourne 1999, p. 57). The "brain drain" that has occurred recently is actually far less today than it was throughout the long period when there were no US restrictions on movements across the border. So it is worth asking "What is new?" about the contemporary form of globalization, and whether it will have very different effects on Canada than earlier experiences.

In contemporary Canada, one external relationship dominates all the others. That, of course, is integration with the United States. It is hard to think of any other two sovereign countries so closely intertwined. As one author recently stated, in Canada "80 percent of globalization is Americanization" (quoted in Hoberg 2000, p. S36). The relationship is at once economic (85 percent of all Canadian exports go to the United States), cultural, and political. It is also profoundly asymmetrical, as Pierre Trudeau famously put it, it is the relationship of an elephant and a mouse. Dramatic as their impacts are, the Canada-US Free Trade Agreement (FTA) and the subsequent North American Free Trade Agreement (NAFTA) were only the latest steps in a long period of deepening integration since World War Two.

For many writers, these developments signal the virtual end of Canada as a distinctive, autonomous society. American cultural influence would steadily chip away at any distinctive Canadian identity. North-south trade would supplant the east-west trade nurtured by the National Policy of the 1870s, exacerbating regional competition and reducing the significance of all the other links that go along with trade. This, along with the constraints imposed by mobile capital seeking cheap labour and low taxes and regulation would decimate Canadian industry and make it more and more difficult to sustain Canada's somewhat more generous and redistributive social policies (Clarkson and Lewis 1999; Drache 1996). As Thomas Courchene put it, it would become harder and harder to sustain the east-west social railway in the face of north-south economic linkages (Courchene 1992, pp. 98-99). My own first attempt to explore this issue reflected this perspective. Writing in 1990, I argued that "to put it bluntly, global and North American integration promotes Canadian disintegration" (Simeon 1991, p. 51).

I am now much less certain about such a conclusion. My own shift reflects the larger literature on the impact of globalization generally. Recent writings suggest that rather than the hollowing out or virtual disappearance of the state, we are witnessing instead a shift in the role of the state: while some functions may be diminished, others, such as promoting competitiveness and mediating and cushioning the impact of globalization on the domestic society, have increased (Skogstad 2000; Hoberg 2000, 2001; Banting, Simeon and Hoberg 1997). It also shows that the trend toward convergence or harmonization of public policies is less than previously expected: national differences in policy choices and

the size and role of government have remained marked (Cameron and Stein 2000; Wolfish and Smith 2000). Domestic institutions, policy legacies, and political forces remain critical determinants of both policy and political practice. Indeed, while it is true that globalization is a set of factors to which all countries must respond, it does not have a single inherent logic or imperative. There are many ways to respond to it, and these will largely be shaped by domestic factors.

Work by Keith Banting, George Hoberg and myself suggests this is true even for a relationship as close as that between the United States and Canada (Banting, Hoberg and Simeon 1997). We found both convergence and divergence across a range of policy areas. Convergence was as much explained by the countries' similar response to common problems as it was by direct cross-border influence. US influences were strong, but they were a "constraint, not a wall." Political institutions and processes were the most resistant to tendencies to convergence.

With these perspectives in mind, the thrust of this chapter is that the effects of North American integration and globalization on the politics and practices of Canadian federalism have been relatively limited. I thus question (while not completely abandoning) some of the more sweeping generalizations and predictions that have been made by writers such as Tom Courchene. This is not to argue that globalization is unimportant. Indeed it is, in a thousand ways. But it is to question how much the dynamics of contemporary federalism and intergovernmental relations in Canada today can be seen as a response to and result of globalization, rather than of the dynamics of domestic politics. Globalization affects the economic constitution much more than it does the political constitution.

The chapter proceeds as follows. First, I provide a brief analysis of Canada's economic, social, and political links with the United States and the rest of the world. Second, I will explore the implications of these developments for a number of different dimensions of Canadian federalism. In particular, I will focus on an assessment of the "glocalization" thesis, most associated in Canada with the work of Courchene. The glocalization thesis generates a number of predictions.

- With respect to *identity* this thesis predicts a diminution or weakening of national identities and a strengthening of provincial/local identities.
- With respect to *regional conflict*, it predicts an intensification of federal-provincial and interregional conflict for jobs, investment and markets,

and a decline in the idea of Canada as a "sharing community," with its strong commitments to regional redistribution and equalization.

- With respect to the French-English, Quebec-Canada division, it predicts a stronger commitment to autonomy for Quebec; and a diminished set of costs for secession.
- With respect to *centralization/decentralization* or the balance of power between federal and provincial governments, it predicts a decline in federal influence and a relative growth in provincial power, along with a potential for further devolution to a number of strong city-regions.
- With respect to the *policy agenda* confronting federal and provincial governments, it predicts a heightened emphasis on policies to promote productivity and competitiveness, increased flexibility and diversity in social programs, continued reduction in internal barriers to trade, and better federal-provincial coordination in such areas as the environment and external trade policy.
- And finally, with respect to the *institutions and practices of intergovernmental relations*, it predicts a movement toward a more collaborative mode of decision-making, and one that is more likely to approach a confederal pattern, with national standards set more by provinces and territories acting together than through the leadership of the federal government.

I will also consider a quite different set of predictions that suggest that the long-run implications of globalization are to undermine the autonomy of provinces and strengthen the federal government as the chief exponent of Canada's interests in the global environment.

I conclude that both sets of arguments overstate the impact of globalization on federalism in Canada. The greatest impact of globalization has been on the policy agendas that Canadian governments at all levels face. The effects on national and provincial identities, and on regional and linguistic conflict, while potentially great, have not yet manifested themselves in important ways; globalization is moderately associated with a decentralist trend, but not unambiguously so; and the impacts on the institutions and practices of intergovernmental relations have been minimal. What is puzzling perhaps is how little the forces of globalization have forced change in Canadian federalism.

Taken together, these observations suggest a further conclusion — that the impact of external forces may serve to reinforce and exaggerate

tendencies already present in domestic societies and politics, rather than fundamentally to change and reorient them. This is suggested by Brian Galligan's analysis of Australia in this volume. Starting with a much more centralized federation than Canada, he concludes that the impact of globalization there is moderately centralizing. I, starting with a more regionally divided and decentralized federation, conclude that the effects here are moderately decentralizing.

Any such conclusions must be highly tentative. Partly this is because globalization is such a multi-faceted phenomenon, whose influence may push in different ways in different areas. Partly it is because it is so difficult to sort out the effects of globalization itself from all the other forces at work, such as the recent preoccupation with debts and deficits, recent ideological trends toward "neo-liberalism," and the increased social diversity of modern society. Are these separate phenomena, or differing aspects of a single phenomenon? I prefer the strategy of clarifying the distinctions rather than lumping them all together. There is also a more subjective judgement to be made: Is one most impressed with the evidence for change, or with the evidence for continuity? In this chapter I emphasize the latter.

I conclude with a cautiously optimistic assessment of the capacity of Canadian federalism and its characteristic pattern of intergovernmental relations to adapt and respond to the undeniable challenges that globalization poses for Canadians, just as it adapted to the postwar agenda of building the Keynesian welfare state.

CANADA, NORTH AMERICA AND GLOBALIZATION

Historical Background

The very creation of the Canadian federation in 1867 flew in the face of the global and North American economic and political trends of the time. The British North American colonies were economically vulnerable, especially after the withdrawal of British preferences: one of the drivers of Confederation was the greater economic security and the ability to raise capital that union would provide. Union would also provide some political security against an expansionist United States following its Civil War. The new Dominion then set out to create an east-west economy extending from the Atlantic to the Pacific. The 1867 constitution provided the

new central government the primary tools for this nation-building project. The blueprint for achieving this was the National Policy, 1875, comprised of three major elements: construction of the Pacific railway, high tariffs to provide revenue and to stimulate domestic manufacturing, and settlement of the prairie west in order to promote agricultural exports. The resulting political economy helped shape Canadian politics: a financial and manufacturing "heartland" in Central Canada, enjoying a protected market for its products in the agricultural and resource producing west and Atlantic Canada, whose workers sold their wheat, timber, and fish in the international economy. This model was very much a political construction, led by a strong central government.

In the early years of the twentieth century the rise of a new set of export industries — timber, mining, and hydro power — promoted a provincial challenge to federal dominance, in part because under the constitution, resources and public lands were owned and controlled by provincial governments (except for the prairie provinces which did not win ownership rights until the 1930s). In addition, western politics was shaped by resistance to the implications of the National Policy, which made them dependent on protected eastern Canadian suppliers for their equipment, while exposing them to the vagaries of the international market for their products. The conflicts generated by these issues undermined federal power, and by the 1920s Canadian federalism was considerably more decentralized than it had been in its early years. Moreover, the debates in that period — free trade versus protectionism; which level of government was to play the primary role in economic development — were very reminiscent of the contemporary period.

In the 1930s, as elsewhere, protectionist impulses dominated Canadian economic policy, with a last ditch effort to maintain Canada's privileged access to the British market through imperial preferences. World War II, however, signalled the end of the imperial dream, and underlined the fundamental fact that Canada's most important economic relationship was to be with the United States. The National Policy was to be gradually dismantled.

Under the National Policy, Canada had developed a "branch plant" manufacturing economy, by which foreign, mainly US, companies would establish facilities in Canada to serve the Canadian market. The fundamental shift from this pattern came in the Auto Pact of 1965 by which a single North American market in automobiles and related parts was cre-

ated. Instantly, a large chunk of Ontario's manufacturing was reoriented from east-west to north-south. Canada's dependence on the US market, its reliance on US investment, and its openness to US cultural influences became a major political issue in the 1970s, with a number of related policy responses — a Foreign Investment Review Board, various subsidies for Canadian cultural industries, and so on. But the logic of North American integration prevailed. In 1988, after an impassioned internal debate about the future of Canadian sovereignty, culture, and social programs, Canada signed the Canada-US Free Trade Agreement, which soon added Mexico, to form the North American Free Trade Agreement.

The bitterly fought 1988 federal election was in many respects a referendum on free trade. A majority of Canadians voted for parties opposed to the agreement, but the Conservatives, led by Brian Mulroney, nonetheless won a decisive majority. Support was divided on both class and regional lines, with Ontario voters most strongly opposed. The federal Liberals, returned to power in the 1993 election, had campaigned against the FTA but once in office quickly embraced it.

The NAFTA is fundamentally aimed at reducing barriers to trade and investment among its members. It does not include free movement of people across borders. More importantly, it does not have the broad political purpose of unification that underpins the treaties of the European Union. It is much more limited in scope. It has no provisions for common policies on economic matters, nor does it create a network of joint decision-making institutions, such as the European Commission, Council of Ministers and Parliament. It does include a dispute settlement mechanism, and two parallel bodies (on the environment and labour standards) which have little impact. Despite the impassioned debate prior to the agreement, and differing views about its continuing effects, free trade is now an accomplished fact; no major Canadian political party calls for its renegotiation or repudiation. A survey done by the Centre for Research and Information in Canada in 2001 found that two-thirds of Canadians support the general idea of Canada negotiating new free trade agreements, including specifically a Free Trade Area of the Americas (FTAA). Remarkably, in light of the strong regional divisions highlighted by the original free trade debate, there are today only small regional differences. Support for an FTAA ranges from 57 percent in BC to 70 percent in Quebec (CRIC 2001, pp. 6, 7).

NAFTA, of course, is not the only multinational institution in which Canada participates. It is also a member of the World Trade Organization

(WTO), the G8, and a host of other agencies, based on its sense of itself as a "middle power," and as a country that can use multinational bodies as something of a counterweight to its dependence on the United States. Arguably, rulings of the WTO have had as much, if not more, influence on Canadian economic practices than has NAFTA.

Canada today is the most trade-dependent member of the G7 group of countries. Exports as a share of gross domestic product (GDP) have risen dramatically in recent years — from 24 percent of GDP at the start of the 1990s to 37 percent by 1995. Exports and imports combined (a measure of exposure to international competitive pressures) rose from 41 to 62 percent in the same period (Hoberg 2000).

Canada's trading links are overwhelmingly, and increasingly, with the United States. Between 1975 and 1995, the US share of Canadian exports rose from 25 to 75 percent, and is now over 85 percent. Despite sporadic efforts to increase trade with other regions such as the Pacific Rim and Europe, the proportion of trade with these areas is stable or declining. In the first seven years after NAFTA came into force, Canadian exports to the US and Mexico rose 129 percent; those to the rest of the world by 29 percent. Exports to the EU, Canada's second largest trading destination, declined from 14 percent to 6 percent between 1975 and 1995. The US is also much the largest foreign investor in the Canadian economy, although the share of other regions such as Europe and Japan has increased.

In all provinces, except Nova Scotia and Prince Edward Island, international exports by 1986 had exceeded interprovincial exports as a share of provincial GDP. In Ontario, the share of GDP devoted to exports — driven especially by the automobile trade — rose from 33 to 43 percent. Reliance on trade with other provinces declined to 20 percent of GDP. In the same decade, international trade increased for all provinces; and in all but one, interprovincial exports declined marginally. Overall, then, the pattern is one of stable, or slightly rising volumes of internal trade, and dramatically rising levels of international trade. Through the early 1990s, exports were growing by 11 percent per year; while those to other provinces were growing at 3 percent (Cited in Brodie and Smith 1998, p. 82; Page 2002).

These trends suggest that the model of Canada's economy embodied in the nineteenth-century National Policy has been decisively broken. The image of Ontario as the manufacturing and financial "heartland" of the Canadian economy has shifted as it integrates more deeply with the

American economy, and in particular with the neighbouring US. As Courchene has stated: "Globalization and the geo-economics of NAFTA are forcing a profound rethinking of the politics and geography in the upper half of North America" (1998, p. 81). For Courchene and others, the fundamental axis of the Canadian economy has shifted from east-west to north-south. Canada's railways, once the most potent symbol of east-west nation building, are now reorienting their tracks in a north-south direction; the logo for the legendary Canadian Pacific Railway now includes both American and Canadian flags; Others have questioned how profound the change is. Helliwell and McCallum agree that the FTA has substantially reduced the "border effect," but argue that internal linkages within Canada remain many orders of magnitude greater than Canada's integration with the United States (Helliwell 1996, 1999; McCallum 1995). Taking into account distance and size of markets, and the effect of the FTA, Helliwell concludes that east-west trades in merchandise is about 12 times that of north-south trade, and that the gap is much larger in trade in services (1999, p. 93). "The economic fabric of Canada and other nation-states has a much tighter weave than previously thought" (*ibid.*, p. 95).

The American cultural embrace is also potent. American television, films, and magazines dominate their Canadian counterparts. Many commentators suggest that these trends erode Canadian identity and cultural distinctiveness, and hence erode Canadians' ability to construct an overarching unifying national identity. Despite the globalization, or "North Americanization," of culture and despite limits on the ability of Canadian governments to regulate and promote culture, it is also the case, as Harvey Lazar points out "there is more 'Canada' in both pop and high culture, both domestically and internationally than ever before" (Lazar and McIntosh 1999, p. 18).

Indeed, a plethora of recent data have confirmed Lazar's observation. In his *Fire and Ice: The United States, Canada and the Myth of Converging Values*, Michael Adams documents large and growing divergence between Canadians and Americans across a broad spectrum of values and attitudes. "At the most basic level — the level of our values, the feelings and beliefs that inform our understanding of and interaction with the world around us — Canadians and Americans are remarkably different, and are becoming more so" (2003, p. 4).

Globalization and North American integration, then, have indeed led to some fundamental changes in the Canadian political economy. The puzzle is why they have not generated greater change in the structure and operation of the Canadian federal system.

THE INSTITUTIONAL LEGACY

Canada's original federal design, embodied in the *Constitution Act, 1867*, seemed to suggest a highly centralized model of federalism. The federal government was given the most important powers necessary to engage in the Canadian nation-building project. These included interprovincial trade and commerce, currency, banking, and the then most important sources of revenue, notably the tariff. Moreover, the national government was given important powers to constrain the provinces. These included a sweeping "disallowance" power by which the federal government could set aside any provincial legislation; federal appointments of provincial lieutenants-governor, who also had the power to "reserve" provincial legislation for consideration by the national government; and continued federal control (until 1930) of natural resources in the prairie provinces created in 1905. More generally, section 91 gave Ottawa what appeared to be a plenary power to "make laws for the peace, order and good government of Canada," and it was widely assumed at the time that the enumerated powers that followed were illustrative, rather than exhaustive. In addition, there was an implied, though not explicitly stated, "spending power," by which Ottawa could spend public revenues for any purpose, including on matters assigned to the provinces in section 92. This became the primary instrument through which the federal government became deeply involved in the design and financing of the Canadian welfare state. It is at once one of the chief instruments of flexibility in the Canadian federal system; and in recent years, one of the most contentious. Provincial powers in the original constitution were focused primarily on social and cultural matters, though there was a second implied reserve power, in the assignment of "property and civil rights" to the provinces. The former became much more important in the middle of the twentieth century, since they included jurisdiction over health, education, and welfare, the chief pillars of the welfare state; the latter gave the provinces important powers in the regulation of business, labour, financial institutions, and the environment. In addition (with the exception of the prairie provinces noted above) the provinces' role in economic development was strengthened by their ownership of public lands, and by their ownership and control of natural resources including hydro power, oil and gas, and forestry, all of which are vital components of Canada's international trade.

This "quasi-federal" centralized model was not to last. The reasons were partly political and partly economic. From the early years provinces,

especially Ontario and Quebec, challenged federal dominance and articulated a "compact" view of federalism that saw Ottawa as the creation of the provinces. The courts (until 1949, and reflecting the legacy of Canada's colonial past, the Judicial Committee of the United Kingdom Privy Council [JCPC]) also played a critical role in transforming the operating constitution. Some new policy areas, related to what we now call globalization, were deemed to be within federal jurisdiction. These included air transport and telecommunications. But in some other areas directly related to our topic, the courts leaned in a distinctly provincialist direction. For example — and directly in contrast to the Australian case — the federal power to make treaties was interpreted in a way that denied Ottawa the power to implement their provisions in areas of provincial jurisdiction. Even when it ventured into foreign waters, the JCPC ordained, the Canadian ship of state must maintain its watertight compartments. Second, and this time in sharp distinction from the American Supreme Court, the trade and commerce power was interpreted not as sweeping power over all economic activity in the Canadian economic union, but rather in a way that left considerable room for intraprovincial trade subject to provincial regulation and not subject to federal regulation. The broad "peace, order and good government" (POGG) clause, in turn, was narrowly interpreted as an emergency power. The disallowance and reservation powers remain in force, but have come to be considered constitutional dead letters.

Since the Supreme Court of Canada became the country's final court of appeal in 1949, its decisions have modestly strengthened federal power in some areas, but in general it has been highly sensitive to federalist values, and has been careful not to interpret the broad federal powers in such a way that Ottawa could push the provinces aside (Baier 2002). Nor has the court aggressively pushed Ottawa to broaden its powers to regulate the economy.

As federal tariffs have been virtually eliminated as a tool of trade policy, and as international agreements increasingly focus on non-tariff barriers found in public expenditures and regulation, the erosion of federal dominance is accentuated, since such policies are, as Grace Skogstad puts it, "as likely to be provincial as national policies" (2002, p. 160). Ottawa needs to keep the provinces onside if it is to succeed in international forums; provinces need federal support for their objectives. Hence the requirement for a high degree of cooperative federalism, not only in domestic policy but also in international relations. Indeed, in a global era, the federal character of Canada is projected beyond its borders; and international forces reach deep down to affect provinces, regions, and cities.

The result is that if one thinks of the policy sectors and policy instruments that might potentially be used to enhance Canadian competitiveness in a globalized world, or to respond to global pressures, both orders of government are deeply engaged. Both have many levers at their disposal. In a great many areas, they are highly interdependent. Neither level alone can fully address the problem. With respect to trade in forest products, for example, federal dominance in international and interprovincial trade interacts with provincial ownership of the resources and their management of forest activities. With respect to the environment, the policy instruments are shared, with Ottawa responsible for cross-border pollution and other matters, and the provinces for regulating waste disposal and the emissions performance of most corporations. With respect to current speculation about a North American energy policy, provincial ownership of the resources is a crucial bargaining chip. Hence, the imperative for coordination in all these areas.

Both orders of government also have a high level of fiscal autonomy. Ottawa is able to raise revenues by any means; provinces are limited to direct taxes, but these encompass most of the major sources of taxation, including personal and corporate income taxes. The long-term trend has been toward increasing provincial shares of both revenues and expenditures, and toward diminishing federal control over tax policy. There are no constitutional limits on the ability of provinces to borrow, either on domestic or international markets.

The decentralized model is complicated by another central feature of the Canadian federal design: in sharp contrast to the integrated model of Germany, with its high level of concurrency in the division of powers, state implementation of national laws, a highly integrated fiscal system, and powerful state representation in the national legislature, Canada is more accurately described as a separated or dualist system. Despite the high degree of *de facto* shared responsibilities, the model is one of separate lists of federal and provincial powers, watertight compartments; of separate financial systems, and so on. This separation extends to national institutions: the Canadian Senate plays no role in bringing the provinces into national decision-making, and very little in representing provincial interests at the centre. Two other aspects of Canada's parliamentary system are also important: a first-past-the-post electoral system whose effect is to radically exaggerate regional differences in party support, and, more

important, to facilitate the concentration of power in single party prime ministerial governments at both levels, with very strict party discipline. Taken together these can mean that in most periods significant provinces or regions can feel excluded from exercising influence at the centre, thus exacerbating regional grievances, and leading protest to be expressed through assertive provincial governments. Canada's parliamentary federalism also strongly influences the practice of intergovernmental relations in Canada. It takes place in the interactions of federal and provincial ministers and officials — executive federalism — with little role played by legislators or political parties.

The result is a federal system in which the interactions among the constituent governments can often look like the relations between states in international relations (federal-provincial diplomacy), which is often competitive and adversarial, and in which the institutional interests of governments — for power, status, blame avoidance, and credit-winning — play a central role; and in which territorial interests and conflicts are deeply entrenched.

GLOBALIZATION AND CANADIAN FEDERALISM

Globalization, as we have seen, exerts powerful influences on the Canadian economy and society. Its effects are mediated through a relatively decentralized, divided, and competitive federal system. We now turn to the central question for this volume: Whether and how global and North American forces are changing the practice of Canadian federalism. We look at each dimension in turn.

Globalization and Regional Conflict

There are some grounds for believing that these external forces may exacerbate regional conflicts and divisions in an already divided society.

First, the important differences in provinces' resources and economic structure mean that they are differentially integrated into the global and North American economies. Their interests in trade policy and other areas are thus likely to diverge. In an ever more regionalized economy it becomes harder and harder to envision Canada as a single national economy, and hence harder to think that a single national economic policy will serve all their needs. Global shocks, such as the 1970s energy crisis, will often impact

differently on different provinces. In that case, the battle over prices and revenues pitted oil and gas producing provinces against consuming provinces in something close to a zero-sum game. As the country now considers how to meet international commitments to reduce the output of greenhouse gasses, the Alberta government argues that the costs will fall disproportionately on its industries, and seeks either to slow down the changes or to arrange for some compensation. Provinces will continue to seek their own way in the world, independently of the national government, and of the other provinces.

Second, a globalization-induced diminution of economic linkages across the country may weaken other linkages as well. Once auto workers in Oshawa and Windsor are manufacturing cars to sell in the United States, rather than to other Canadians, then, in principle, Ontario auto workers might be less concerned with the economic well-being of the other regions. No longer would their ability to sell cars depend on it. The idea of Canada as a giant mutual insurance company, as Saskatchewan Premier Allan Blakeney once put it, would erode.

Third, the competitive pressures of globalization may lead not only to greater competition among nations, but also among regions within nations for investment, trade, and the like. Each region or province is more likely to look out for its own interests.

In particular, there may be a diminished interest in Canada as a "sharing community," committed to reducing regional disparities through equalization and other transfers. Equalization takes on different political implications when an equalizing dollar moves from, say, Toronto, to Ottawa, to Fredericton, New Brunswick, and then back to Ontario in the form of purchases of goods and services, than it does when that same dollar goes from Toronto, to Ottawa, to Fredericton, to, say, Chicago. The first dollar could be seen as an "integrative" dollar; not so the second.

The idea of Ontario as a region-state, with interests increasingly diverging from those of other provinces, builds on these ideas. No longer, Courchene argues, in *From Heartland to North American Region-State*, is Ontario so dependent on the Canadian economic market; its future lies in North American integration. As a result, Ontario may be less willing to subordinate its interests to those of other provinces, and be less willing to support equalizing policies. Moreover, when once Ontario's interest in the health of the national economy was intimately linked to federal policy, there may now be increasing divergence between Ontario's interests in

North America and the continuing federal obligation to be concerned with the welfare of all regions.

All these suggestions are plausible, but a number of caveats need to be entered. First, the divergence of regional economic interests is not new, it has been a recurring feature of Canadian federal politics. Regional cleavages are certainly less prevalent today than they were during the 1970s, when globally induced rising energy prices sharply divided the interests of the producing provinces — Alberta, BC, and Saskatchewan — from those of the consuming provinces. More generally, as provinces diversify internally, the regional differences themselves are declining. Helliwell concludes that far from being a regionally fragmented economy, the national economy in Canada “operates as a fairly seamless web of intersecting regional markets for goods, services, capital, and migration.... The degree of segmentation is tiny compared with that between nations, even in post-FTA North America” (1999, pp. 97-98).

In terms of the commitment to regional equalization, it is true that the Ontario government and other wealthier provinces have argued strenuously that redistribution policy should be confined to the explicitly labelled Equalization program, rather than be built into other federal transfer programs and regional development. And Ontario governments, both left and right, have vociferously argued for its “fair shares” of federal funding, primarily in reaction to a federally imposed cap on the Canada Assistance program in the 1980s, at a time when Ontario itself was entering a severe recession. The cap has now been removed, and equal per capita funding in the Canada Health and Social Transfer (CHST) has been restored. Ontario decisionmakers have been very frustrated by the failure of Ontario citizens to respond to its position on issues such as fair shares or limitations on the federal spending power.

Disputes over the Equalization program itself have intensified in recent years. Poorer provinces seek to include more revenue sources, to abolish the five-province standard that excludes the wealthiest provinces from the calculation of entitlements, and, in the case of Nova Scotia and Newfoundland, to end or reduce the claw back by which, as their oil and gas revenues increase, their equalization payments are automatically reduced (Brown 2001).

But no province has mounted a direct attack on the principle of equalization itself. Moreover, Ontario citizens have continued to elect overwhelming numbers of Liberal MPs at the federal level, despite the Liberals’ commitment to equalization and regional development programs.

Canada's provinces do compete with each other and neighbouring jurisdictions for jobs and investment, especially in tax policies. But there has been no evidence of the kind of outright bidding for specific corporations to locate in a particular province, as is common in the United States, and no sign of the damaging "fiscal wars" that plague Brazilian federalism (Simeon 2001). As Grace Skogstad notes, the existing rivalries have not prevented cooperation on many other economic development fronts, perhaps best exemplified in the numerous Team Canada trade promotion tours, in which the prime minister and the premiers descend on foreign countries brandishing contracts to sign (Skogstad 2002, p. 161; see also Bird and Vaillancourt 2001; Simeon 2001).

In some respects, North American integration might *reduce* regional conflict in the future. Recall that the National Policy of the nineteenth century was itself divisive: leaving western farmers to the vagaries of global markets, while forcing them to buy more expensive equipment and supplies from tariff protected central Canada. The National Policy fuelled a long line of western protest parties and movements. The removal of tariffs under free trade thus removes an important source of regional grievance. More recently, one of the most divisive national government policies in Canadian history was the National Energy Program (NEP) (1981) by which the national government held Canadian energy prices below world levels and appropriated a larger share of the associated revenues. Bumper stickers in Alberta proclaimed "Let the eastern bastards freeze in the dark"; while those in Ontario complained about the "Blue-eyed Sheiks of Alberta." In the present global climate, it appears unthinkable that any Canadian government would attempt to impose such a policy in the future. When the Progressive Conservatives won office in 1983, the NEP was quickly dismantled; and when energy prices peaked in 2000–2001, again driving Alberta revenues far above the national average, there were virtually no calls for a revived NEP.¹

Some writers (Courchene; Jacobs 1984) argue that another emerging trend with implications for Canadian federalism and regional conflict is the emergence of powerful city-regions such as Toronto, Montreal, and Vancouver. The futures of these cities, it is argued, are increasingly linked not so much to their own provincial hinterlands, but to global markets and to other large cities around the world. Centre and periphery should now be seen less as central Canada versus the east or the west, but rather as a network of large cities strung along the border, with resource-based

and agricultural regions across the country as the periphery. In this view, Vancouver, Toronto, and Halifax have more in common with each other than Vancouver has with Prince George, Toronto with Kapuskasing, or Halifax with Yarmouth. Moreover, it is in these large cities that Canadian cultural diversity is manifested most strongly, as recent immigrants have concentrated there. Hence, the interests and aspirations of the metropolitan areas are likely to diverge more and more from those of provincial governments, setting up strong divisions within provinces. In Toronto, a group of activists has produced a Toronto Charter, mapping substantial independence and autonomy for the city-region; while the mayors of Canada's five largest cities met in 2001 to explore ways of enhancing their roles. Again, however, these developments remain potential rather than real. Cities remain firmly under the constitutional and financial thumbs of provincial governments; and Ottawa has few levers through which to influence local government (Sancton 2002). They have not developed the strong party systems that might lead to a more coherent and organized thrust for a greater role. One of the continuing anomalies of Canadian federalism is that in terms of the relationship between central government and the provinces it is one of the world's most decentralized federations; but in terms of the relationship between provinces and local government, it is one of the world's most centralized. Andrew Sancton recognizes the dilemma: "Given many of the standard claims about how globalization enhances the role of cities, we might reasonably expect the municipal governments of Canadian cities to become more important, both as partners in Canadian federalism and as key actors in enhancing Canada's global competitiveness. Most of the rest of this chapter is devoted to refuting such claims" (2002, p. 261).

Finally, there have been some suggestions that regions that cut across the Canada-US boundary may become more important. There are enormous similarities in the economies and societies of British Columbia and the Pacific Northwest of the US, of the prairie provinces and the contiguous states, and especially of Ontario and its neighbours who share the Great Lakes basin. As a result, they share many common interests and concerns both economic and environmental. A wide variety of province-state agreements on a host of questions have been developed. State governors and provincial premiers meet regularly on a regional basis: western premiers with their US counterparts and eastern premiers with the New England Governors' Conference. In May 2000, western premiers

and governors endorsed a framework for ongoing cooperation; in July, the New England governors and eastern Canadian premiers agreed to establish a Standing Committee on Trade and Globalization; and in August 2001, they agreed on an ambitious joint plan to reduce greenhouse gasses (New England Governors and Eastern Canadian Premiers 2001). On the west coast, the idea of a "Cascadia" tying together British Columbia, Washington, Oregon, and perhaps Alberta has received some attention, especially from business interests. A North America of distinct regions spanning the national border is plausible, especially in economic terms, but it flies in the face of political realities. Moreover, similarity of interests does not necessarily breed cooperation, as the bitter dispute over softwood lumber between BC, Oregon, and Washington well demonstrates.

Some writers on both sides of the border have argued for a closer and deeper North American Union, including a common currency, a full customs union, free movement across borders, a common policy with respect to immigration, and common policy-making in such areas as the environment (Pastor 2001). Such developments would prove enormously controversial in all three countries, and would have major implications for their domestic politics, including their federal systems.

Globalization, we may conclude, has relatively little impact on regional divisions in Canada, but the shifting issues raised by globalization have major effects on the salience of underlying divisions and the policy areas around which they crystallize.

Globalization and Canadian Identity

An associated argument is that the effect of globalization is to weaken national identities, to strengthen local attachments on the one hand, and build commitments to transnational communities on the other. Again, the "glocalization" thesis is plausible. If national governments are no longer able to act effectively in response to citizens' interests, then they are likely to turn on the one hand to international arenas where the real decisions are made, and, on the other, to local communities which can provide a greater sense of security and an affirmation of traditional loyalties in an insecure world. To this can be added in the Canadian context, the potentially corrosive effects on national identity of exposure to US cultural influences.

The plausible prediction then is one of declining attachments to Canada and a strengthening of attachments to local and provincial communities.

A weak and fragmented Canadian identity, along with the salience of provincial identities, have long preoccupied Canadians. But the most thorough analysis of recent trends, by Frank Graves and his associates, confounds the prediction (1999). Canadians are indeed strongly attached both to their provinces and their localities. But the proportion expressing strong attachments to Canada (81 percent) is second only to attachment to the family and considerably larger than the proportion expressing attachment to their province (71 percent) and locality (74 percent). Between 1991 and 1998, the proportion of those who say they belong "first of all" to Canada remained unchanged at 40 percent; as did those who feel belonging first to the province (19–20 percent). Primary attachment to locality or town actually declined from 42 to 21 percent (Graves *et al.* 1999, p. 315). Graves *et al.* conclude that the sense of attachment to Canada is high, and is not declining. "Comparatively, Canada has the highest levels of belonging to country of all areas tested in the World Values Survey." They also argue that "longer term (30 year) trends show national attachment strengthening, local attachment declining, and cosmopolitan attachment rising but still clearly subordinate to national attachment" (*ibid.*, p. 335). Another recent study, conducted for the then Council on Canadian Unity, found that in 2000, 81 percent of Canadians from outside Quebec "strongly agreed" to a "profound attachment to Canada," compared with 59 percent feeling the same way about their province.

Ontario, firmly placed at the centre of Canada, and assured of carrying powerful weight in Ottawa has always demonstrated the highest levels of attachment to the country, and the lowest levels of identification with the province. Yet Courchene's Ontario as a region-state thesis clearly implies that Ontarians will be inclined to lose faith in Ottawa and to look to their provincial identity in the future. That may be, but there is little if any evidence for such a shift. In fact, Graves *et al.* conclude that "Ontarians' sense of attachment to province has declined significantly since 1995" (1999, p. 316). As Nelson Wiseman puts it, "Fed-bashing falls flat in Ontario. It does so because of the stronger attitudinal attachment of Ontarians to their national government than their provincial government" (2000, p. 8). He concludes that "the notion of Ontario as a conscious and self-interested region-state is shaky and problematic" (*ibid.*, p. 10).

Globalization, then, has not, or at least not yet, fundamentally altered the distribution of loyalties and identities that underpin Canadian

federalism. We have no way of knowing whether this will continue to be true. Two factors suggest the possibility of change. First, Graves *et al.* find that younger Canadians are significantly less attached to Canada than older Canadians, leading them to conclude that this brings "to question the idea that nationalism will persist indefinitely without state intervention" (1999, pp. 300, 331). Moreover, there is some evidence that Canadian national pride and identity are strongly linked to a small number of distinctive Canadian social programs, notably the "sacred trust" of medicare. To the extent that globalization potentially undermines the Canadian capacity to sustain such distinctive programs — or to support Canadian cultural industries — further erosion of national identity is possible.

In terms of the possibility of cultural assimilation into the United States, a slight majority of Canadians believe that over the last ten years, Canada has become more like the United States, but only 11 percent of those outside Quebec, and 17 percent of Quebecers, would like to see Canada become more like its neighbour in the future. None of this is to deny the salience of regional politics in Canada, manifested most recently in the 2000 federal election results. Again, however, this has been a persistent thread throughout Canadian history, ebbing and flowing depending on the prevailing political issues. But regionalism is neither created nor exacerbated by globalization *per se*.

There are thus no clear patterns in the association of globalization and shifting Canadian identities.

Globalization and Quebec

If globalization has yet to show any effects on the balance of national and provincial loyalties in English Canada, can the same be said of Quebec and its loyalties? Perhaps not. It is significant that while the Ontario government vigorously opposed the original Free Trade Agreement, with the apparent support of the bulk of its population, most Quebec opinion appeared to be strongly in favour. There are several possible reasons for this difference between the two most industrialized provinces. First, the historic source of grievance in Quebec has been not so much the dominance of English-speaking capital, but of *Canadian* English-speaking capital. Thus, a closer association with the United States could be seen as a way to escape the historical pattern. Second, the vigorous attempt to use the Quebec state to promote a Quebec-based capitalist class, Quebec Inc.,

created a number of industries (Quebec Hydro, Bombardier, and the like) with a strong outward export orientation that would be served by free trade. Third, at the cultural level, francophone Quebecers, unlike their English-speaking fellow citizens, possess a strong bulwark against assimilation: their language. American cultural "imperialism" therefore has never been seen to be as much of a threat in Quebec as it has been in the rest of Canada.

In a broader sense, global forces have perhaps contributed to the legitimacy and self-confidence of the Quebec independence movement. The rhetoric of Quebec nationalism has been strongly associated with movements for independence, liberation from colonial rule, and self-determination throughout the world.

North American free trade may do so as well. Quebec nationalists also argue that the weaker the economic linkages between Quebec and Canada become relative to those with the US, the smaller the costs attendant on a secession. The more Canada disengages economically, the easier it will be to do so politically. Moreover, membership in NAFTA is seen as a powerful counterweight permitting Quebec both to maintain the advantages of economic union with Canada, and with the rest of North America. This helps explain the strong support for NAFTA expressed by the present Quebec government. There are, of course, weaknesses in this argument. Helliwell's data on the continuing strength of the "border effect" applies to Quebec as well as other provinces; indeed it is more dependent on the Ontario market than Ontario is on it. Nor would it be a foregone conclusion that in a post-secession negotiation Quebec would automatically become a member of NAFTA. Both Canada and the US would have something to say about that. Moreover, it could well be the case that a Quebec in NAFTA would have to abandon or radically change many of the economic development policies that allowed Quebec Inc. to be formed in the first place.

In any case, it appears that the ebb and flow of support for independence in Quebec has little to do with global or North American developments. It has much more to do with domestic developments — support for secession rising after the failure to win support for recognition as a distinct society within Canada and slowly declining after these episodes have passed.

In the event that secession were to occur, we can expect that the United States would play an important role either in facilitating or blocking

it, but with its primary goal being the maintenance of its economic interests and social order. Moreover, my observations above with respect to the continuing viability of an independent Canadian nationality would have to be rethought. Following the psychological blow of the breakup, and the enormous domination of Ontario in the rump federation, there would clearly be a fundamental rethinking of Canada, including, perhaps, a decision by all or parts of the country to join the United States (Cairns 1999).

Globalization and Centralization/ Decentralization

Here the familiar thesis is that under globalization, power flows three ways: upwards to supranational institutions and corporations, downwards to provincial and local governments, and outwards to citizens and consumers. Globalization, it is argued, places more constraints on national governments than on provincial or state governments. For example, the tariff, long one of the most powerful instruments of federal economic policy, is no longer available to the federal government. Fiscal and monetary policies, also primarily in federal hands, are highly constrained in a globalized world. On the other hand, it is argued that it is provinces that have primary jurisdiction in many of the policy areas that have come to play a larger role in economic success — labour market policies, infrastructure, education, land-use planning, and other areas that affect the “quality of life.” Thus, the balance is said to shift from the federal government as the primary guarantor of economic and social policy to the provinces.

Measuring something as multi-faceted as centralization and decentralization is extremely difficult, but there is some evidence that at least in some policy areas the balance has shifted to the provinces. The provincial/municipal share of revenues and spending has been rising relative to the federal share. There has been significant downloading of responsibility for social policies, both from Ottawa to the provinces and from the provinces to local governments. For example, federal transfers in support of health, welfare, and postsecondary education were combined into a single block grant, the CHST, in 1995. The system included fewer federal conditions than previous grant programs and disconnected the level of federal payments from actual provincial program spending. No longer was Ottawa obligated to share the burden when social costs escalated, as they did

dramatically in Ontario in the early 1990s. Beginning in 1995, the federal government made dramatic cuts in social transfers to the provinces, further reducing its presence in the social policy area. For example, the federal contribution to health, once pegged at 50 percent, has declined to about 14 percent.²

The decline in federal transfers to the provinces, from 24 percent of provincial revenues in 1961 to 13 percent in 1999 is dramatic, but it happened in even steps from decade to decade. "Fiscal decentralization," Boadway argues, "has been the operative policy in the 1990s world of fiscal discipline and government retrenchment" (Boadway 2000, p. 72). The reduction in federal transfers means that provinces are now raising a greater proportion of their spending on their own. In turn, this places strain on the system of tax-collection agreements by which Ottawa collects income taxes on behalf of the provinces (except Quebec). Provinces have won the successive battles over their freedom to set rates, provide credits, and free their own tax revenues from federal decisions by moving from a "tax on tax" (with provincial income tax rates expressed as a proportion of the federal tax) to a "tax on base." This is what makes it possible for Alberta, for example, to introduce a flat-rate income tax on its own. Indeed some observers worry that Canada is losing the benefits of a harmonized tax system; but the point here is that the progressive fiscal decentralization did not originate in globalization.

An active labour market policy was a central part of the Liberal government's design for a globally competitive policy in 1993. Between 1993 and 2000, however, federal spending in these areas declined, despite such much-touted expenditures as the Millennium Scholarship Fund. More importantly, much of the responsibility for administering funds for these programs was devolved to the provinces (Bakvis 2002). Between 1997 and 2000, labour-market-related federal support to the provinces increased marginally to \$1.85 billion; funds disbursed directly by the federal government were cut almost in half, to \$863 million (Haddow 1998). Labour market training agreements, now signed with all provinces except Ontario, also devolve responsibility to the provinces. (The story is well told in Bakvis 2002.) Similarly, Ottawa has devolved much of its enforcement of environmental regulation to the provinces, and is now engaged in negotiating national standards for toxic substances, instead of developing unilateral federal standards. New federal funding to the provinces concerning the well-being of children (the National Child Benefit) involves virtually no federal strings or policy leverage.

A major exercise to rationalize federal and provincial roles in social policy resulted in the Social Union Framework Agreement (SUFA) in 1998. Started as a provincial initiative, the agreement concluded by reaffirming the power of the federal government to spend in areas of provincial jurisdiction, while subjecting it to some provincial constraints. Thus, it was neither centralizing nor decentralizing. Nor has it fully institutionalized the image of a collaborative partnership that inspired it (Boismenu and Jensen 1998).

Thus, the overall trend is clear: a less interventionist federal government, some devolution of program and fiscal responsibilities to the province, and more emphasis on intergovernmental agreement, rather than unilateral action by Ottawa in many areas. But for our purposes, we must ask the question: Are these trends a consequence or product of globalization? Two very important caveats must be made.

First, the proximate cause of many of the recent changes was the fiscal crisis: the rise of unmanageable government deficits and levels of indebtedness. As Courchene put it, "the reality of the last few years is that the federal deficit and debt burden is driving Canada into unprecedented decentralization" (1992, p. 53). Only if one can, as seems unlikely, attribute the fiscal crisis itself to globalization can one use it to explain much of the devolution that has occurred. Now that governments have slain the deficit (but not the debt) dragon it will be interesting to note whether the federal government reverses itself and begins to play a more activist role both in domestic and external policy.

More importantly, trends toward fiscal decentralization began long before the recent preoccupation with globalization. It was in about 1960 that provincial spending first exceeded federal spending in the postwar period. Since then, the provincial-municipal share of total taxing and spending has steadily increased (Treff and Perry 2001, Appendix A). The federal share of total government spending dropped sharply in the 1960s, and then declined much less slowly in the last three decades. The provincial-local share similarly rose quickly between 1960 and 1980, but has altered only marginally since (Lazar 2000, pp. 11-12). The provincial share of all revenues raised by governments from their own sources peaked in 1980. There has been little change since then.

In a series of agreements beginning at the end of World War II, federal control over the income tax steadily declined; we moved from tax rentals, to tax sharing, and then to independent taxation, with fewer and

fewer federal controls over provincial actions. The big jump in provincial and corporate income taxes as a fraction of the total came between 1955 and 1975 (from 11 to 43 percent of the personal income tax and 4.5 to 27 percent of the corporate income tax), rather than between 1975 and 1995 (when provincial shares rose another 11 percent and 4 percent respectively). The same is true for intergovernmental transfers. We moved from conditional grants with relatively detailed federal conditions, to Established Programs Financing (EPF) to the CHST. Each step of the way, federal conditions were relaxed. Only in the *Canada Health Act*, which funds health care, do there remain clear federal conditions, but these too are broad, vague, and much contested. Canadian fiscal federalism has thus experienced considerable decentralization. But the major shifts occurred before globalization became our great preoccupation.

Several factors other than globalization drove the postwar pattern of decentralization. First, most of the areas of rapid growth in the period of expanding government lay in spheres of provincial jurisdiction. Only a few elements of the welfare state were constitutionally shifted to Ottawa (pensions and unemployment insurance). Even with conditional grants, it was provincial bureaucracies that grew to implement the new social policies. This, in turn, increased the size, competence, and self-confidence of provincial governments. Less and less were they willing to defer to a superior federal government. Provincial assertiveness was also driven by other factors. The energy crisis drove citizens to embrace a strong provincial government to challenge Ottawa in several provinces. Successive federal governments in which the governing Liberals were largely frozen out of regions like the west compounded this. Thus, provincial status and influence were growing for very domestic reasons. Similarly, there is little new in calls for Ontario to look to its own interests and undertake its own economic development strategies as a region-state (Courchene 1998; Wolfe 1997). This is simply a contemporary version of province-building, especially in provinces like British Columbia, Alberta, Saskatchewan, and Newfoundland that attracted much attention in the 1970s. In an era of global and North American integration, province-building strategies take on different forms and deploy new policy instruments. The phenomenon itself is not primarily a product of globalization.

Nowhere, of course, was this more true than in Quebec. Its Quiet Revolution embraced the Quebec state as the primary political instrument for the provincial society. In the 1960s, the federal government

responded to its claim to be *maîtres chez nous* with a number of concessions. These included a major shift of income tax revenues to the provinces; the right of Quebec to opt-out of a number of existing shared-cost programs and the negotiation of a separate Quebec Pension Plan. One of Pierre Trudeau's primary goals when he came to power in 1968 was to stop what he saw as an inevitable slide down a slippery slope from "special status" to eventual independence. Henceforth, Quebec was to be treated as any other province. The implication of this logic was that federal involvement in areas of provincial jurisdiction would be constrained by what was politically saleable in Quebec. One result was the EPF program that, among other things, increased federal funding for postsecondary education, but without buying any policy leverage in the area. Again, it was domestic political forces, not globalization that were driving decentralization, and the big changes occurred earlier rather than later in the contemporary period.

Thus, the argument that globalization and decentralization are causally linked remains at best unproven. Indeed, Ian Robinson has made a strong case for the reverse argument: that globalization is centralizing and fundamentally diminishes provincial autonomy and capacity. "The net impact of the FCA's [Free Capital Agreements, a term he prefers to free trade agreements] is likely to be centralizing." Broader definitions of investor rights, stricter control of procurement, tighter technical standards, and the extension of trade agreements to include a broader array of services all have major implications for provincial powers even in areas central to their role such as education and health care. Moreover, he argues, this movement is led by a national government that has promised to "take all necessary measures" to ensure compliance by lower level governments. While he agrees that Ottawa has not yet invoked the Trade and Commerce or POGG clauses to force provincial action, he suggests that the potential remains, and that this in itself leads provinces to act in a compliant manner. Moreover, provinces are more vulnerable to pressures from mobile capital, since "it is easier for TNC's to play off the 91 state and provincial jurisdictions against each other than it is to whipsaw three national governments" (1993, p. 200). He adds that any decentralization associated with cuts in federal transfers is not associated with any increase in real provincial powers. It is odd indeed to suggest that the restructuring engineered by national governments through trade agreements constitutes an enhancement of provincial power" (*ibid.*, p. 206). In a later

article, Robinson (2002) assessed the evidence of five years of experience, and came to a more modest conclusion. He noted that few challenges have been brought against the provinces; Ottawa has been threatened much more by sanctions under the FTA and WTO. Thus, whether the FCA's are centralizing or decentralizing must remain an open question. Nor has the greatly intensified federal-provincial conflict he had expected materialized. Nevertheless, Robinson remains convinced that the long-run effect of making an economic constitution through the federal spending power will eventually lead Canada to a limited form of "residual federalism," with the provinces in a clearly subordinate position.

Robinson's analysis involves some of the same problems as do Courchene's. Globalization, fiscal crisis and neo-liberalism are conflated; many of the changes he notes were well underway before globalization came to the fore and the causal arrows are unclear.

In these assessments of the alleged decentralizing implications of globalization, it is also important to note that elements of *is* and *ought* tend to be intertwined. For Courchene, both globalization and decentralization are "good things" because they constrain the federal government — indeed all governments — from doing "bad" things. Decentralized government will mean less government. Robinson opposes globalization and centralization, since he looks to at least some provinces as potential arenas for progressive politics. Courchene and Robinson make different empirical predictions, one for decentralization, the other for centralization. Both prefer a measure of decentralization, but for very different reasons. Many other critics on the left agree with Courchene's predictions about the inevitability of decentralization but come to a very different normative judgement than he does, arguing that in a decentralized Canada, with provinces even more vulnerable to capital mobility and intergovernmental competition, then the national government's commitments to equalization, redistributive policies, and regulation in areas like the environment and its capacity to achieve them will decline. This leads to a line of argument that suggests that more, not less, centralization is what is necessary in a world of global competition.

This might be so for two reasons. First, it can be argued that a strong central government is necessary to ensure equity in the face of the disruptive and regionally differentiated effects of globalization (Boadway 2000). Second, it is argued that in order for Canada to succeed in the global arena, especially in negotiations in international decision-making forums,

such as the WTO, or in negotiations with the United States on issues such as softwood lumber, then it becomes all the more important that the country be able to speak with a single voice. A divided Canada will be less effective, as its opponents will be able to employ tactics of divide and rule, and as Canadian negotiators will be less confident of their ability to deliver on their international commitments once made. Such perspectives would argue that the Canadian government would need to increase its capacity for redistribution, would need stronger powers to police the Canadian economic union and would need a greater ability to enforce international agreements once made. As we have seen, however, the domestic politics of Canadian federalism make any such centralizing agenda politically impossible. Equally impossible is the alternative model of radical decentralization. Instead, the reality is one of two sets of competing governments, each jealous of its own powers, but at the same time each highly dependent for its success on the actions of the other. If the domestic dynamics of Canadian federalism mean that neither drastic centralization nor decentralization is on the cards, then the lesson for managing interdependence must be on improved mechanisms of inter-governmental coordination and cooperation.

Globalization and the Processes of Intergovernmental Relations

Given the demonstrated impossibility of agreement on any fundamental constitutional restructuring of powers and responsibilities, and given the realization that effective responses to global pressures require a coordinated response if Canada is to succeed, most observers of Canadian federalism stress the need for improved machinery for the conduct of inter-governmental relations. So far we have treated federalism and intergovernmental relations as the dependent variables, asking how globalization is shaping them. Here we turn the question around, asking how well federalism as practised in Canada works to shape the country's role on the world stage.

In the Canadian system, combining parliamentary government and federalism, intergovernmental relations, as in Australia, are characterized by negotiations among first ministers, ministers and senior officials of the federal government, the ten provinces, and, recently, the leaders of the three northern territories — all of which is collectively referred to as

executive federalism. In recent times, about one hundred meetings of ministers or deputy ministers have been held each year, with a myriad of other planning and coordinating meetings of officials to back them up. There is no parliamentary or legislative involvement in this process (Cameron and Simeon 2000; Simeon and Cameron 2002).

A number of intergovernmental ministerial councils have been established to coordinate actions within major policy areas. Typically, these are jointly chaired by federal and provincial ministers. These mechanisms involve both meetings of three orders of government (federal-provincial-territorial, FPT), and of the provinces and territories acting together (PT). The centrepiece of the latter is the Annual Premiers' Conference (APC), convened since the 1960s, which plays a major role in coordinating provincial responses to federal actions. The rotating chair of the APC acts as the primary spokesperson for provincial interests during the year. In addition, western and Atlantic premiers have their own regional conferences.

The implicit model of policy-making here is that governance in Canada is a joint and shared responsibility of both orders of government acting together as equal partners. Neither is subordinate to the other. Major national policies will emerge from intergovernmental agreements, in which governments collaborate to set major policy directions, to clarify each of their responsibilities and to minimize the costs of implementation. Much of the new rhetoric of intergovernmental relations also draws on ideas related to New Public Management — with an emphasis on agreement on performance standards, transparency, accountability, and the like.

A number of recent agreements reflect this approach. The Agreement on Internal Trade (AIT), 1994, was directly related to the challenge of globalization. How could Canada continue to experience a wide range of federally and provincially originated barriers to its internal common market when trade barriers throughout the world were falling? Canadian economic efficiency must be based on a full economic union.

The political dynamics of federalism made two obvious responses impossible. One would have been to strengthen federal powers over inter-provincial trade and commerce by broadening its existing constitutional powers. The other would have been to strengthen the ability of the courts to police the Canadian common market. Both were unacceptable to the provinces. The upshot was an intergovernmental agreement, the AIT, by which all governments pledged to reduce barriers and to establish a dispute settlement mechanism modelled on that of the FTA. In one sense

this was a demonstrated success of the intergovernmental model; on the other hand, critics contend that the agreement remains highly permissive of barriers and provides few opportunities for non-governmental actors to influence the process. Like other intergovernmental agreements in Canada, it is not judicially enforceable.

A second major intergovernmental accord is the Social Union Framework Agreement (SUFA). Its focus is on the future of social policy. It began as a provincial initiative driven by provincial concerns over unilateral federal cuts in funding for social programs, and their sense of the need to rein in the federal spending power. In the end, the agreement reaffirmed the federal spending power in areas of provincial jurisdiction, subject to prior provincial agreement for new programs, prior notification of funding changes, and collective discussion of program standards. In September 2000, a similar agreement promising future collaboration in health care and support for children was reached.

Many other such agreements have been reached in areas such as labour force training, environmental management, and the like. These are important, and much debated, developments in Canadian intergovernmental relations. They suggest a closer and more cooperative relationship across a wide range of policy sectors, and they constitute a significant institutionalization of the intergovernmental relationship.

However, in many respects these arrangements remain ad hoc and underinstitutionalized. No legislation establishes the intergovernmental machinery. Intergovernmental agreements do not have any statutory base. There are no institutionalized, regular arrangements for First Ministers' Conferences backed by administrative support, instead meetings are called sporadically, in response to the political pressures of the moment. There are no formal voting procedures in intergovernmental meetings. There is no routine involvement of Parliament or legislatures in intergovernmental processes. And so on.

But how well does this process work in managing Canadian involvement in a globalized world? The answer varies across different policy areas.

Trade Negotiations

With respect to Canada's participation in international trade negotiations, some adjustments have been made to intergovernmental processes. Before 1973, trade negotiations were mainly about tariffs, unequivocally a

federal jurisdiction. Provinces did get involved in major cross-border issues like the debate over dams on the Columbia River.³ But even on a matter as fundamental to Ontario's interests as the Canada-US Autopact, provincial officials were not involved.

By the Tokyo Round of multilateral trade negotiations a wide variety of non-tariff barriers, including subsidies, procurement, and the like were on the table. Many of these were within the provincial jurisdiction, or had important implications for their interests. By 1975, a federal-provincial committee of deputy ministers was in place; and in 1977 the office of Canadian Coordinator for Trade Negotiations was established to channel provincial and industry views to federal negotiators. All the larger provinces sent observers to the negotiations, though they were not part of the official Canadian delegation. Thus, provinces were developing greater expertise in external matters; and Ottawa was learning that it increasingly needed to keep the provinces onside (Brown 1990, p. 93).

The Canada-US Free Trade Agreement had potentially even greater implications for the provinces. At a First Ministers' Conference in November 1985, it was agreed that there would be "full provincial participation" in the negotiations. Shortly afterwards, provinces called for joint federal-provincial oversight of the chief negotiator, full information-sharing, full participation in development of the negotiating strategy, and provincial representation on the negotiating team itself (*ibid.*, p. 94). This was too much for Ottawa, but eventually it was agreed that first ministers would meet every three months as the discussions progressed, that designated ministers would meet more frequently, that Ottawa would establish the mandate of the chief negotiator after consultation with the provinces, and that Ottawa would seek the views of provinces before endorsing any final agreement (*ibid.*, pp. 94-95). Despite the inevitable tensions, it seems clear that provinces had ample opportunity to shape the federal negotiating position. Ontario and Manitoba remained opposed to the FTA in principle, but all the other provinces generally endorsed the agreement. One result of this provincial participation is that despite a strong federal state clause in the final agreement, the FTA left existing provincial practices largely unscathed. In the final approval of the FTA the support of most provinces was an important asset of the federal government, though they were not asked to formally ratify it. Thus, federalism did not block the FTA, and arguably helped open the process to wider debate.

The pattern established in the Canada-US free trade negotiations has continued (Skogstad 2002, p. 164). The principle of "provincial consultation and briefing" has remained in effect. Federal and provincial officials meet regularly, provinces are fully briefed, and information is exchanged over a protected Web site. "The current pattern of intergovernmental relations in international trade constitutes a partnership of *de facto* concurrent jurisdiction" (ibid.). As Skogstad suggests, the federal government has a number of options when international trade negotiations impinge on the provinces: to seek prior provincial concurrence; to conclude agreements only when they fall within federal authority; to make agreements affecting the provinces but leave it to them to implement them; or to invoke its (potential) overriding powers in Trade and Commerce and POGG. So far, at least, it has scrupulously avoided the last (ibid., p. 163). Her conclusion is that federal-provincial cooperation has not acted as a barrier to effective Canadian participation in international trade negotiations. Trust and effective communications have developed between federal and provincial officials. "Executive federalism facilitates, rather than undermines, effective pursuit of trade goals as mutually defined by federal and provincial governments.... The substantive outcomes of executive federalism are generally consistent with Canada's position as a trade dependent country" (ibid., pp. 172-73).

Nevertheless, specific issues can cause strains in the relationship. Three current issues illustrate the difficulties. First, Canada has been embroiled in a recurrent battle with US timber interests which have sought punitive taxes on imports of Canadian lumber based on the contention that Canadian provinces as the owners of forest land make timber available to Canadian producers at below market prices, thus constituting a subsidy. While various international tribunals have supported the Canadian position, American interests have continued the struggle. In formulating a Canadian strategy, the federal negotiating position must be worked out with the provinces and the industry, and differing provincial interests have to be reconciled. American interests have a strong incentive to exploit these differences. Summarizing an earlier round in this dispute, in the 1980s, Douglas Brown argues that Ottawa was unable to dictate terms to the provinces; nor was it able to manufacture consensus. Inter-provincial divisions and threats of independent action by some provinces weakened the overall Canadian case, and the need for intergovernmental agreement pushed industry interests aside. In the end, however, "a domestic

solution to a very difficult trading problem was found" (Brown 1990, pp. 104-05).

Second, the possible movement toward an integrated continental energy strategy was placed on the Canada-US agenda after the election of George Bush in 2000. Provinces, we have noted, are the owners, regulators, and major financial beneficiaries of all forms of energy — oil, gas, and hydro power (except for those in the Canada lands north of the 60th parallel). Producing provinces have made it clear that they are to be at the table in any discussions, and Alberta Premier Ralph Klein has independently touted his province's willingness to proceed in Washington. At their meeting in August 2001, the premiers called for an agreement to ensure full federal/provincial/territorial participation in Canada's international energy discussions and negotiations (CICS 2001). Another press release called for Ottawa to ensure provincial representation at future ministerial meetings in the context of the WTO, FTAA and other trade negotiation forums. As *The Economist* (2001) observed, "Jean Chrétien's federal government finds itself running to keep up." Again, Canada is involved in a two (or more) level game, negotiating with itself even as it negotiates with an external partner.

Third, as discussed below, similar issues arise with respect to Canada's international commitments to combat global warming through the Kyoto Agreement. Regional issues are deeply engaged and Ottawa cannot deliver on its promises without provincial cooperation.

The Internal Market

By most standards, Canada is a fully functioning, open economic union. Yet in the 1980s, there was increasing concern that a wide variety of provincial policies, including government procurement, the practices of provincial liquor control boards, and various regulatory policies, constituted important non-tariff barriers to internal trade within the country. "Powers over the economy" became an important item in Canadian constitutional negotiations. In part this was driven by the belief that such barriers meant that Canadian industries would be smaller and less efficient, and hence less able to compete in the global economy. In part it was driven by quite different factors, including a desire of the federal government to put its own nationalizing agenda on the constitutional negotiating table. The economic union gave its name to a major Royal Commission,

the Royal Commission on the Economic Union and Canada's Development Prospects, appointed by Ottawa in 1982.⁴ The commission found a long list of provincial (and federal) barriers to internal trade, but also concluded that their aggregate impact on Canadian economic growth was small.⁵ Following the failure of constitutional discussions either to strengthen the federal role in managing the economic union, or to strengthen constitutional protection of the freedom of movement of goods, services, capital, and people, governments sought to negotiate a code of conduct. This was the AIT, which itself was modelled in many ways on the FTA (MacDonald 2002, p. 141). The agreement seeks to prevent the erection of new barriers, to reduce existing ones, and to set in motion continuing efforts to enhance the economic union. It also includes a dispute-settlement mechanism. However, it is careful to preserve or grandfather many existing provincial practices, and to avoid turning enforcement power over to either the courts or the federal government. For some, the agreement achieves little; it is merely window dressing (de Mestral 1995); for others it is a major step that deals comprehensively with most important internal trade issues (Trebilcock and Behboodi 1995); for yet others it is a useful if limited first step (Trebilcock and Schwanen 1995). The World Bank's assessment is that progress since the AIT came into effect has been slow: open-ended commitments in such areas as procurement, labour market policies, and energy have not been met, and many loopholes and gaps remain. In general, as Mark MacDonald suggests, the AIT provides a "useful example of the trade-offs between the economic union and federalism"; and between interprovincial cooperation and competition. Nevertheless, despite the lack of central control over the economic union, and the strong potential in the structure of Canadian federalism for destructive levels of competition, the experience is that mutually destructive competition for investment and jobs has not been a problem in Canada (Bird and Vaillancourt 2001; Bird and Tassonyi 2001).

Financial Institutions

Few policy areas are as influenced by globalization as those of financial institutions, banking, and the like. Historically, there has been a division of labour between the federal government, constitutionally responsible for banking and the provinces, primarily responsible for regulation of trust companies, credit unions, and financial markets. The resulting separate

tiers have been overtaken by globalization and the integration of various financial institutions. As William Coleman points out, "both these market developments — expanding territorial reach of financial services firms — and these political changes — institutionalized intergovernmental collaboration at the global level — have favoured the centralization and rationalization of the regulation of the financial services sector" in Canada. Despite this, and the "market players own self-regulatory" centralization, governmental authority in the sector remains fragmented (Coleman 2002, p. 191).

Yet there is little suggestion that the federal division of powers has acted as a major barrier to Canadian adaptation to globalization. Provincial Securities Commissions remain formally separate, but have developed a "strong working relationship and approach to rule-making through their common organization, the Canadian Securities Administrators" (*ibid.*, p. 191). The creation of the federal Office of the Superintendent of Financial Institutions strengthened the federal hand. But meanwhile, Quebec has moved to establish its own regulatory regime focused on the Caisse populaires Desjardins and the Caisse de dépôt et de placement. The result, suggests William Coleman is a movement toward two "single regulator regimes" in Canada and Quebec — an asymmetric model, but one in which the two "appear to co-operate closely with one another" (*ibid.*, p. 184). Canada is the only country to be represented on the International Organization of Securities Commission by two provincial bodies: the Quebec Securities Commission and the Ontario Securities Commission. As Coleman suggests, the efficacy of policy-making in this area is more dependent on the capacity of national governments to work together in international forums than it is on the division of responsibilities in the domestic environment (*ibid.*, p. 192).

Labour Market Policies

Most discussion of adaptation to increased global competition places heavy emphasis on developing flexible labour markets and policies to ensure a highly trained labour force. Historically, this too has been an area in which provinces have had primary jurisdiction. Except in industries directly under federal supervision, such as transport, provinces are responsible for regulating most aspects of commerce; and their jurisdiction over education at all levels is fundamental to training. Beginning in the 1960s, however, Ottawa became deeply involved in this area through shared-cost programs

and the funding of training that takes place in provincial institutions, in addition to its control of the unemployment insurance program. Provinces have always been jealous of their jurisdiction in this area and in Quebec, government, business, and labour are united in their defence of exclusive provincial control.

Recent trends in this area, unlike financial services, have been in a decentralizing direction. In 1996, the federal government offered to withdraw from its purchase of training and involvement in apprenticeship programs and the like. It also offered to delegate to the provinces related services such as employment counselling and labour market placement (Bakvis 2002, p. 205). Moreover, when the provinces took on these roles, Ottawa was prepared to transfer the federal public servants running them to the provincial public services. The only condition was that provinces agreed to an unspecified "results based accountability framework" (ibid., p. 206).

Two models were on offer. One was a "co-management model" in which programs would be jointly administered; the other, full devolution, in which provinces would take full responsibility for active labour market policies. Five provinces, and one territory opted for co-management; five provinces and two territories opted for full devolution. Negotiating an agreement with Quebec, in the aftermath of the 1995 referendum, was a major political accomplishment. Ontario was the only province that did not complete an agreement, partly because the large phalanx of Liberal MPs from Ontario was unwilling to see training placed fully in the hands of the arch-enemy, Mike Harris' provincial Conservatives. Once again, change in the federal system was driven by domestic politics rather than global imperatives, and the result is an increasingly checkerboard federalism (Bakvis 2002, p. 214). The implications of these changes on the ability to develop national policies to meet global challenges are unclear; much will depend on the ability of governments to work together, their ability to exploit their own comparative advantages, and Ottawa's capacity to deploy its own remaining powers, both in the Employment Insurance program and in measures to support research and the education of postsecondary students.

The Environment

Environmentalists call for strong, enforceable standards at the national level, and for a strong united Canadian voice in international forums on

issues such as global warming. They too see a centralist imperative; and they also have been confounded by recent developments in intergovernmental relations. Devolution of responsibilities to the provinces and an emphasis on consensus and harmonization have set the pattern (Winfield 2002). As with labour market policy, the federal desire for accommodation with Quebec and the other provinces tended to drive the process, despite federal environmental activism in the early 1990s (*ibid.*, p. 127). In January 1998, all governments except Quebec signed the "Canada-wide Accord on Environmental Harmonization" and sub-arrangements on standards, inspections, and environmental assessments. The Accord emphasizes the primacy of intergovernmental consensus and can be amended only by unanimous consent. It calls for one-window delivery of environmental services, by the "best-situated" governments (normally the provinces) (*ibid.*, p. 129). Standards are to be developed collectively by governments, and Ottawa is to consult the provinces on virtually all proposals for action under recent amendments to the *Canadian Environmental Protection Act* (*ibid.*, pp. 130-31). The most contentious recent environmental issue is Canada's response to the *Kyoto Agreement* and efforts to limit greenhouse gas emissions. The costs of implementation will fall differentially on different provinces; and the provinces hold many of the levers that might be used to give effect to the agreement. Again, in the absence of a plenary federal power over the environment, cooperation is essential. The public appears to support this view: in a 2001 survey, 54 percent of respondents said that provinces should be at the negotiating table along with the federal government; another 35 percent said Ottawa should consult the provinces; and only 6 percent said the provinces should not be involved at all (CRIC 2001, p. 9).

It is impossible to judge whether federal-provincial arrangements in these and other fields seriously hamper concerted national action in the face of global challenges. On the one hand, as I have discussed, there are those who see the global imperative as a centralizing imperative and would wish for wider federal powers to manage Canada's interaction with the world. On the other hand, are those who see value in the flexibility, innovation, and variability of local and provincial responses to these same pressures. Yet others see the complex interaction of decentralization and collaboration as a second best — while in some ideal world Canada would speak with one voice, the realities of regionalism and federalism make that simply impossible. Hence, the desire to clarify responsibilities where

possible and to further develop an intergovernmental process that is open, accountable, and responsive to a wide variety of interests. Moreover, both orders of government are highly sensitive to global pressures and challenges; whatever their political differences at home, they have a common interest in keeping conflicts under control and in resolving their differences.

This brief survey suggests that, yes, federalism does complicate Canada's ability to construct domestic policies that will enhance Canadian competitiveness, and yes, it makes the conduct of Canada's international relationships more difficult to manage. Yet there is little evidence that these arrangements are a fundamental impediment, and no sense that global imperatives are driving a fundamental reform of the institutions and practices of federalism and intergovernmental relations. Even if Canada were a unitary state, regional differences would loom large in Canadian policy-making. Federalism, then, is neither a boon to Canada's participation in a globalized world, nor a great hindrance. It is, as Donald Smiley put it many years ago, a "condition" that citizens and politicians work with, around, and through.

Globalization, then, has not engendered major change in the ways Canadian governments manage their relationships. The modest changes that have occurred have been much more a response to domestic factors: the failure of constitutional reshaping of the federation, the concern with debts and deficits, the desire to prove to Canadians that federalism works, and the like. Global pressures lurk well in the background.

CONCLUSION

This analysis does not deny the fundamental impact of globalization on many aspects of Canadian economy and society. Nor does it deny that the agenda for federal-provincial relations is deeply affected by these changes. Many of the predictions of the globalization thesis are highly plausible. The puzzle, perhaps, is why they have not had a greater impact. I argue that the reason is that the central dynamics of federalism and intergovernmental relations are primarily driven by domestic factors — by the institutional structures, historic legacies, and the immediate concerns of contemporary political actors.

I have concentrated here on federalism as the dependent variable: how has it changed in response to global pressures? The answer is, as I have suggested, surprisingly little. Many of the possibilities postulated by

writers remain just that — possibilities, not yet realities. But we can also turn the question around: Does the pattern of Canadian federalism inhibit Canada's ability to respond effectively to the challenges posed by globalization? Two sets of answers are possible. One is that the fragmented, divided, adversarial Canadian federalism does get in the way. It might also be argued that the decentralized jurisdiction over areas such as education and labour market policy — essential to global competitiveness — inhibits the possibility of developing coherent national strategies. There is also likely to be increased scrutiny by international agencies not only of federal, but also of provincial law and practice, and hence increasing pressure to harmonize their policies. Indeed, the more decentralized the federation becomes the more provinces will be responsible for implementing international obligations. As the Trends report put it, "Canadian governments must enhance interdepartmental and federal-provincial co-ordination so as to minimize possible disparities between international and Canadian standards."

On the other hand, it could be argued that the decentralized character of Canadian federalism permits a flexible, varied response to global pressures. In a regionally diverse economy like Canada, Canadian federalism permits responses attuned to local needs and concerns. Where coordination among governments is necessary, the machinery of inter-governmental relations, however creaky, does work effectively.

The first answer implies that effective Canadian responses to globalization would require more centralization: a strengthening of the federal treaty power, along Australian lines, to ensure that Canadian commitments abroad can be implemented and enforced in Canada; a strengthening of federal powers with respect to management of the Canadian economic union; a greater role for the federal government in areas like training, labour relations, and postsecondary education. Whatever the abstract merits of this approach, we have seen that such a centralizing agenda is not likely in Canada. It would take a massive external threat to generate effective centralizing pressures in a federation with such strong provinces and regional differences.

The alternative is to worry less about the capacity of Canada as a single entity to respond to globalization, and to argue that in a regionalized country, in which Ottawa has already lost many of the tools of economic management, that provinces should play the critical role in managing their own economic development and relations with the world. This

would imply that provinces would play a larger role in Canada's international relations — consulted more frequently, and perhaps joining the Canadian delegations; or that provinces themselves would become more active international actors in their own right. We have seen some tentative steps in this direction, but the federal government continues, through its jurisdiction over interprovincial and international trade, through its spending power, and through its role in many other areas, to exercise important powers, and to have considerable influence on the economic well-being of every province. It would also imply that to the extent the provinces share common interests, they could be achieved through interprovincial cooperation where necessary.

The reality is that Canadian responses to globalization will remain a combination of the individual actions of each order of government — federal and provincial — where possible, and governments acting together in areas of common interest and shared jurisdiction. It is common to suggest that external challenges require fundamental institutional change. Canadians have found many times that such changes are impossible to achieve. The task, therefore, is to build on collaborative federalism, through a strengthened, more rule-driven and more transparent intergovernmental process.

Finally, what of the impact of the four scenarios postulated in this volume for the future political economy of Canadian federalism?

Regional dominators. Geography, history, and resources have combined to cast Canada's economic future ineluctably as a member of a North American political economy, in which Canada will be tightly integrated economically with the United States, not only in terms of trade, but also in terms of investment flows, corporate ownership, and population movements. In this relationship, Canada (along with Mexico) will be economically subordinate to the size and dynamism of the neighbouring American economy. Relationships between the larger and smaller economies will be shaped by NAFTA, but its influence will be limited by the continued pre-eminence of US trade law, and by the lack of joint decision-making institutions. Canadian debates will continue to be shaped by the competing ideas of greater integration in the North American economy (such as through a common currency, and a common North American "perimeter" against the rest of the world) against the desire to maintain Canadian distinctiveness. The relationship with the dominant partner will often be contentious, and the specific issues that arise (wheat, steel,

softwood lumber, beef, oil and gas, water) will produce different regional and intergovernmental tensions within Canada. Provinces will be active participants in this model — demanding a strong voice in bilateral negotiations, building relationships with contiguous states, and actively lobbying in Washington (as Alberta's Ralph Klein did in June 2003 over BSE in one cow) when they feel Ottawa is not defending their interests aggressively enough. The overwhelming recent evidence, however, is that economic integration does not produce integration in terms of values, attitudes, identities, or policy preferences. In all of these, Canada remains distinctive within the North American context.

Global club. As a leading economic power, a member of the G7, Canada is a charter member of the global club. It has been a strong supporter of the WTO, World Bank, and other institutions of this association. It is true that Canada is a secondary player in a global club, dominated by the US, the European Union, and perhaps soon by China. Its status as a relatively "small, open, price-taking economy" is not easily challenged. Nevertheless, its role as an accepted member of the club is a significant counterweight to its subordinate position in the North American region. Rule-based international regimes are preferred to the vagaries of US congressional politics, as can alliances with similarly situated countries, such as Australia. While there is in Canada, as elsewhere, a vigorous debate about participation in global institutions, this debate is not one that mobilizes interprovincial or intergovernmental tensions. Provinces, however, do demand a greater voice in the negotiation, ratification, and implementation of any international treaties that trench on provincial constitutional powers, or have a differential impact on the regional economies. The institutions of the global club, however, tend to be based on the participation of unitary nation-states, and hence are unsympathetic to subnational claims or participation. Provinces, in this scenario, must therefore concentrate on influencing the Canadian government's positions, not on acting directly.

Shared governance. Canadian political rhetoric strongly supports the image of widely diffused power and influence in global affairs, and the integration of developed and developing worlds in global governance. But the gap between the rhetoric and performance is large. (Canada talks the talk on foreign aid and international peace-making, but the recent record suggests it is increasingly uninterested in walking the walk.) This broad debate about Canada's role in the world has little impact on domestic politics or the practice of Canadian federalism. But in a larger view of

shared governance, the traditional nation-state plays a smaller role. Other actors — cities, provinces, and non-governmental — come to the fore. Thus a shared governance model is likely to increase the role of the provinces and other subnational actors in the broader arena. Federal assertion of its monopoly over the expression of Canada's interest abroad is likely to be undermined.

Cyberwave. Canada may well be exceptionally well-placed to find its way in the fluid, dynamic, unpredictable cyberwave scenario. This may follow from the country's multicultural and diverse character, and from its defining culture of the accommodation of difference. In addition, Canada has been a leading adapter of Internet technologies. Federalism and intergovernmental relations has little if anything to do with this adaptive capacity of Canadians; but nor does it create major barriers and blockages.

The cyberwave model might be expected to exacerbate interregional differences and to further undermine the federal government's capacity to shape the system. This in turn might shift attention to the innovative capacities of provincial, and especially local governments.

In reality, we are likely to see some indeterminate combination of these scenarios. Any combination will pose new challenges to Canadians and their governments. But their responses will be shaped by the institutional and attitudinal legacies of the past more than by any presumed external "imperatives" of the present. The conclusion is that federalism is indeed both a dependent and an independent variable. Dependent, in the sense that any history of the Canadian political economy, or of tensions within its federal system, must pay considerable attention to external influences. As I have argued earlier, following Innis, from furs, to fisheries, to wheat, to oil and gas resources, Canadian economic and political development has been shaped by the country's relationship to the external world. This is not likely to change.

On the other hand, federalism — both constitutionally and in terms of regionalism in a federal "society" — is a powerful independent variable. *Whether* Canada will respond is a result of exogenous variables, *how* it will respond is shaped by an endogenous variable.

Notes

1. When Prime Minister Chrétien mused in an Edmonton speech in August 2001 that Alberta's runaway oil and gas revenues were posing problems for neighbouring provinces, and that there may be need for Alberta to share the wealth, it immediately revived memories of the hated NEP, and outraged reactions from Albertans; the prime minister quickly denied any intention of reviving the NEP.
2. Calculating the actual federal contribution to health care is a highly contentious issue among federal and provincial governments. For a careful evaluation see Institute of Intergovernmental Relations (2002, pp. 18-22).
3. A cartoon of the time shows US President Lyndon Johnson, Prime Minister Lester Pearson, and BC Premier W. A. C. Bennett riding in the back of an open car. Johnson and Bennett are occupying most of the back seat as they discuss the dam; Pearson, left out of the conversation, is scrunched into a corner.
4. Its central recommendation was for a Canada-US Free Trade Agreement, initiating the events that led to signing of the FTA.
5. Estimates of the economic impact range from 1 to 1.5 percent of GDP (Trebilcock and Behboodi 1995).

References

- Adams, M. 2003. *Fire and Ice: The United States, Canada and the Myth of Converging Values*. Toronto: Penguin Canada.
- Armstrong, C. 1981. *The Politics of Federalism: Ontario's Relations with the Federal Government, 1867-1942*. Toronto: University of Toronto Press.
- Baier, G. 2002. "Judicial Review and Canadian Federalism," in *Canadian Federalism*, ed. Bakvis and Skogstad, pp. 24-39.
- Bakvis, H. 2002. "Checkerboard Federalism? Labour Market Development Policy in Canada," in *Canadian Federalism*, ed. Bakvis and Skogstad, pp. 197-219.
- Bakvis, H. and G. Skogstad, eds. 2002. *Canadian Federalism: Performance, Effectiveness and Legitimacy*. Don Mills: Oxford University Press.
- Banting, K., G. Hoberg and R. Simeon. 1997. *Degrees of Freedom: Canada and the United States in a Changing World*. Montreal and Kingston: McGill-Queen's University Press.
- Bird, R. and A. Tassonyi. 2001. "Constraints on Provincial-Municipal Borrowing in Canada: Markets, Rules and Norms," *Canadian Public Administration* 44:84-109.
- Bird, R. and F. Vaillancourt. 2001. "Fiscal Arrangements for Maintaining an Effective State in Canada," *Environment and Planning C: Government and Policy* 19:193-97.

- Boadway, R. 2000. "Recent Developments in the Economics of Federalism," in *Toward a New Mission Statement for Canadian Fiscal Federalism: Canada: The State of the Federation 1999/2000*, ed. H. Lazar. Montreal and Kingston: McGill-Queen's University Press for Institute of Intergovernmental Relations, pp. 41-78.
- Boismenu, G. and J. Jenson. 1998. "A Social Union or a Federal State?: Competing Visions of Intergovernmental Relations in the New Liberal Era," in *Balancing Act: The Post-Deficit Mandate, How Ottawa Spends 1998-1999*, ed. L. Pal. Toronto: Oxford University Press, pp. 57-79.
- Bourne, L. 1999. "Is Ontario a Region? A Commentary on 'Ontario as a Region State,'" in *Ontario: Exploring the Region-State Hypothesis*. Colloquium proceedings. Toronto: University of Toronto, pp. 55-58.
- Brodie, J. and M. Smith. 1998. "Regulating the Economic Union," in *Balancing Act: The Post-Deficit Mandate, How Ottawa Spends, 1998-1999*, ed. L. Pal. Toronto: Oxford University Press, pp. 81-98.
- Brown, D.M. 1990. "The Evolving Role of the Provinces in Canadian Trade Policy," in *Canadian Federalism*, ed. Brown and Smith, pp. 81-128.
- . ed. 2001. *Tax Competition and the Fiscal Union in Canada*. Kingston: Institute of Intergovernmental Relations, Queen's University.
- Brown, D.M. and M. Smith, eds. 1990. *Canadian Federalism: Meeting Global Economic Challenges?* Kingston and Montreal: Institute of Intergovernmental Relations and Institute for Research on Public Policy.
- Cairns, A.C. 1999. "Looking into the Abyss: The Need for a Plan C," in *The Referendum Papers: Essays on Secession and National Unity*, ed. D. Cameron. Toronto: University of Toronto Press, pp. 199-243.
- Cameron, D.M. and J. Stein. 2000. "Globalization, Culture and Society: The State as a Place Amidst Shifting Spaces," *Canadian Public Policy/Analyse de Politiques* 26 (Supplement 2):S15-35.
- Cameron, D.M. and R. Simeon. 2000. "Intergovernmental Relations and Democratic Citizenship," in *Governance in the Twenty-first Century: Revitalizing Public Service*, ed. B.G. Peters and D.J. Savoie. Montreal and Kingston: McGill-Queen's University Press, pp. 58-118.
- Canadian Intergovernmental Conference Secretariat (CICS). 2001. News Release Ref: 850-083/014, 42nd Annual Premiers' Conference, 1-3 August.
- Cashore, B. 1998. "An Examination of Why a Long Term Resolution of the Canada-U.S. Softwood Lumber Dispute Eludes Policymakers," Working Paper No. 98-02. Victoria: Pacific Forestry Centre, Canada Forest Service.
- Centre for Research and Information on Canada (CRIC). 2001. *Trade, Globalization and Canadian Values*, CRIC papers. Montreal: CRIC.
- Clarkson, S. 2001. "The Multicentred State: Canadian Government under Globalizing Pressures," in *Who's Afraid of the State?* ed. G. Smith. Toronto: University of Toronto Press, pp. 232-37.

- Clarkson, S. and T. Lewis. 1999. "The Contested State: Canada in the Post-Cold War, Post-Keynesian, Post-Fordist, Post-National Era," in *How Ottawa Spends: 2000*, ed. L. Pal. Toronto: Oxford University Press.
- Coleman, W.D. 2000. "The Trends Project," *Canadian Public Policy/Analyse de Politiques*, 26 (Special Supplement 2, August).
- . 2002. "Federalism and Financial Services," in *Canadian Federalism*, ed. Bakvis and Skogstad, pp.178-96.
- Courchene, T.J. 1992. *Rearrangements: The Courchene Papers*. Oakville: Mosaic Press.
- . 1995. "Glocalization: The Regional/International Interface," *Canadian Journal of Regional Science* 18(1):1-20.
- Courchene, T.J. with C.R. Telmer. 1998. *From Heartland to North American Region State*. University of Toronto: Centre for Public Management, Faculty of Management.
- de Mestral, A. 1995. "A Comment," in *Getting There: Assessment of the Agreement on Internal Trade*, ed. Trebilcock and Schwanen.
- Doern, G.B. and B.W. Tomlin. 1991. *Faith and Fear: The Free Trade Story*. Toronto: Stoddart.
- Doern, G.B. and M. MacDonald. 1999. *Free Trade Federalism: Negotiating the Canadian Agreement on Internal Trade*. Toronto: University of Toronto Press.
- Drache, D. 1996. *States Against Markets: The Limits of Globalization*. London: Routledge.
- The Economist*. 2001. "Sandstorms: Energy Policy in Canada," 25 August, p. 33.
- Fafard, P.C. and K. Harrison, eds. 1997. *Managing the Environmental Union: Intergovernmental Relations and Environmental Policy in Canada*. Montreal and Kingston: McGill-Queen's University Press and the School of Policy Studies, Queen's University.
- Graves, F.L. with Tim Dugas and Patrick Beauchamp. 1999. "Identity and National Attachments in Contemporary Canada," in *How Canadians Connect, Canada: The State of the Federation 1998/99*, ed. Lazar and McIntosh, pp. 307-56.
- Haddow, R. 1998. "How Ottawa Shrivels: Ottawa's Declining Role in Labour Market Policy," in *Balancing Act: The Post-Deficit Mandate*, ed. L. Pal. Toronto: Oxford University Press, pp. 99-126.
- Helliwell, J. 1996. "Do National Borders Matter for Quebec Trade," *Canadian Journal of Economics* 29:507-22.
- . 1999. "Canada's National Economy: There's More to it than you Thought," in *How Canadians Connect, Canada: The State of the Federation 1998/99*, ed. H. Lazar and T. McIntosh. Kingston: Institute of Intergovernmental Relations, pp. 87-100.
- Hoberg, G. 2000. "Capacity for Choice: Canada in a New North America," *Canadian Public Policy/Analyse de Politiques* 26 (Supplement 2):S35-50.
- . 2001. *Capacity for Choice: Canada in a New North America*. Toronto: University of Toronto Press.

- Jacobs, J. 1984. *Cities and the Wealth of Nations*. New York: Random House.
- Keating, M. 1999. "Challenges to Federalism: Territory, Function and Power in a Globalizing World," in *Stretching the Federation: The Art of the State in Canada*, ed. R. Young. Kingston: Institute of Intergovernmental Relations, pp. 8-127.
- Lazar, H. 2000. "In Search of a New Mission Statement for Canadian Fiscal Federalism," in *Toward a New Mission Statement for Canadian Fiscal Federalism: Canada: The State of the Federation 1999/2000*. Montreal and Kingston: McGill-Queen's University Press and the Institute of Intergovernmental Relations, Queen's University, pp. 3-41.
- Lazar, H. and T. McIntosh. 1999. "How Canadians Connect: State, Economy, Citizenship and Society," in *How Canadians Connect: Canada: The State of the Federation 1998/99*, ed. H. Lazar and T. McIntosh. Kingston and Montreal: Institute of Intergovernmental Relations and McGill-Queen's University Press.
- MacDonald, M.R. 2002. "The Agreement on Internal Trade: Trade-offs for Economic Union and Federalism," in *Canadian Federalism*, ed. Bakvis and Skogstad.
- McCallum, J. 1995. "National Borders Matter: Canada-US Regional Trade Patterns," *American Economic Review* 85 (June):621-23.
- New England Governors and Eastern Canadian Premiers. 2001. Canadian Intergovernmental Conference Secretariat. *26th Annual Conference of the New England Governors and Eastern Canadian Premiers, August 26-8, 2001. Resolution 26-4*.
- Page, M. 2002. "Provincial Trade Patterns," Agriculture and Rural Working Papers Series, Working Paper No. 58. Ottawa: Statistics Canada.
- Pastor, R. 2001. *Towards a North American Community: Lessons from the Old World for the New*. Washington: Institute for International Economics.
- Ritchie, G. 1997. *Wrestling with the Elephant: The Inside Story of the Canada-U.S. Trade Wars*. Toronto: Macfarlane, Walter and Ross.
- Robinson, I. 1993. "The NAFTA, the Side Deals and Canadian Federalism: Constitutional Reform by other Means?" in *Canada: The State of the Federation 1993*, ed. R.L. Watts and D.M. Brown. Kingston: Institute of Intergovernmental Relations.
- . 2002. "Neoliberal Trade Policy, Globalization, and the Future of Canadian Federalism Revisited," in *New Trends in Canadian Federalism*, ed. M. Smith and F. Rocher, 2d ed. Peterborough: Broadview Press.
- Sancton, A. 2002. "Municipalities, Cities and Globalization: Implications for Canadian Federalism," in *Canadian Federalism*, ed. Bakvis and Skogstad, pp. 261-77.
- Simeon, R. 1991. "Globalization and the Canadian Nation-State," in *Canada at Risk? Canadian Public Policy in the 1990s*, ed. G.B. Doern and B.B. Purchase. Toronto: C.D. Howe Institute.

- . 2001. "Making Federalism Work: Intergovernmental Coordination and Institutional Capacity." Paper presented at Working Session on Alternatives to Tax Wars: Sustainable Economic Development. Sao Paulo, Brazil. At <<http://www.ciff.on.ca/reference/documents/docm10>>.
- Simeon, R. and D. Cameron. 2002. "Intergovernmental Relations and Democracy: An Oxymoron if Ever There Was One?" in *Canadian Federalism*, ed. Bakvis and Skogstad, pp. 278-95.
- Skogstad, G. 1995. "Warring over Wheat: Managing Bilateral Trading Tensions," in *How Ottawa Spends 1995-96*, ed. S. Phillips. Ottawa: Carleton University Press.
- . 1998. "Canadian Federalism, Internationalization and Quebec Agriculture: Dis-engagement, Reintegration?" *Canadian Public Policy/Analyse de Politiques* 24 (1):27-48.
- . 2000. "Globalization and Public Policy: Situating Canadian Analyses," *Canadian Journal of Political Science* 33:805-28.
- . 2002. "International Trade Policy and Canadian Federalism: A Constructive Tension?" in *Canadian Federalism*, ed. Bakvis and Skogstad, pp. 159-77.
- Stevenson, G. 1988. "Canadian Regionalism in Continental Perspective," reprinted in *Perspectives on Canadian Federalism*, ed. R.D. Olling and M.W. Westmacott. Scarborough: Prentice-Hall Canada, pp. 122-35.
- Trebilcock, M. and D. Schwanen, eds. 1995. *Getting There: Assessment of the Agreement on Internal Trade*. Toronto: C.D. Howe Institute.
- Trebilcock, M. and R. Behboodi. 1995. "The Canadian Agreement on Internal Trade: Retrospect and Prospects," in *Getting There*, ed. Trebilcock and Schwanen.
- Treff, K. and D.B. Perry. 2001. *Finances of the Nation: A Review of the Expenditures and Revenues of the Federal, Provincial and Local Governments of Canada*. Toronto: Canadian Tax Foundation.
- Winfield, M.S. 2002. "Environmental Policy and Federalism," in *Canadian Federalism*, ed. Bakvis and Skogstad, pp. 124-37.
- Wiseman, N. 2000. "Political Culture, Economics and Public Policy," in *Exploring the Region-State Hypothesis*. Proceedings of a Colloquium, University of Toronto, 26 March, pp. 7-14.
- Wolfe, D. 1997. "The Emergence of the Region-State," in *The Nation State in a Global/Information Era: Policy Challenges*, ed. T.J. Courchene. Kingston: The John Deutsch Institute for the Study of Economic Policy, Queen's University.
- Wolfish, D. and G. Smith. 2000. "Governance and Policy in a Multicentric World," *Canadian Public Policy/Analyse de Politiques* 26 (Supplement 2):S51-72.

5

Continental Integration and Swiss Federalism: A New Openness to Europe?

Jürg Steiner

INTRODUCTION

Over the centuries the Swiss have developed a firm national identity, at the core of which is the notion that Switzerland is a special case (*Sonderfall*) among the countries of the world. Many people believe that Switzerland is special because it united within its borders some of the major European cultures and religions, and, in the interest of European stability, it had to practise a foreign policy of neutrality. With increased globalization and European integration the internal consensus on this view of Switzerland has broken down. A severe cleavage has developed over how to define Swiss identity in a rapidly changing world. There are those who want to stay with the old identity of Switzerland as a special case in the world community, whereas others see Switzerland as just another small European country. Under the scenarios of a global club and regional dominators, this cleavage over the nature of Swiss identity would further increase, whereas the scenarios of shared governance and cyberwave are likely to decrease the salience of the cleavage.

CONTEXT: THE HISTORICAL DEVELOPMENT OF THE LANGUAGE ISSUE

The current cleavage over how to define Swiss identity is closely linked with the language issue. Switzerland has four official languages, as shown

on the Swiss currency: 63.7 percent speak German, 19.2 percent French, 7.6 percent Italian, and 0.6 percent Romansch, and the remaining 8.9 percent speak a variety of non-official languages. It is important to note that at the beginning of Swiss history, language was not an issue since at that time Switzerland was linguistically homogeneous. The three mountain cantons in central Switzerland — Uri, Schwyz, and Unterwalden — that founded the Swiss Confederation in the thirteenth century were all German-speaking. Over the next three centuries they were joined by ten other cantons, eight of which were exclusively German-speaking, while two — Bern and Freiburg — were predominantly German-speaking but with a French-speaking minority.

Although linguistically largely homogeneous, the Old Swiss Confederation was not religiously homogeneous. On the contrary, with the Reformation it was severely split between Catholics and Protestants. Most cantons were either Catholic or Protestant: Lucerne, for example, was Catholic, while Zurich was Protestant. Tensions between the two groups became so severe that from the sixteenth to the eighteenth centuries, Switzerland had four religious wars with neither side winning a decisive victory. This confederation of the 13 "old" cantons endured until the invasion by Napoleon in 1798. It was an extremely loose political system; perhaps we should not even call it a political system but a system of alliances. There were no central authorities except a Diet where the delegates appointed by the cantons met. Decisions of the Diet had to be unanimous and concerned mainly foreign policy and military matters. With the split into Catholic and Protestant cantons, there were often separate Diets for each religious group.

When the armies of Napoleon invaded Switzerland, the old regime abruptly broke apart, and France imposed a centralized regime based on the ideas of the French Revolution. It was only at that time that Switzerland really became multilingual. French-speaking Vaud, for example, which formerly belonged to Bern, became a canton of its own. Geneva, which before had only a loose alliance with the Swiss Confederation, joined as a full canton. The Italian-speaking Ticino canton and the trilingual canton of Graubünden (German, Italian, and Romansch) also joined Switzerland at this time. At the Congress of Vienna in 1815, the old order with largely autonomous cantons was re-established to a large extent in Switzerland. So once again language was no longer a big issue since the most important decisions were made in the individual cantons, which were nearly all

linguistically homogeneous. It was only in 1848 that language became an issue in Switzerland. In the previous year, the progressive cantons had won a short civil war against the conservative cantons. The victorious progressive forces established a modern constitution with federal institutions, in particular a federal parliament, a federal cabinet, and a federal court. So for the first time in their history, the Swiss had to prove whether they were able to live peacefully together in a multilingual country with central political authorities.

In the last 150 years, there have been many conflicts among the language groups, but, generally speaking, these conflicts have been managed quite smoothly (Steiner 1974). The greatest potential conflict was between those of the German and French language. Tensions between these two language groups were particularly high during World War I, when the French-speakers sided with France and the German-speakers with Germany. At the time, one spoke of a trench (*Graben*) dividing Switzerland. The most severe language problem arose not at the national level but within the bilingual Bern canton which is predominantly German-speaking but has a French-speaking minority in the Jura. So why were historical language relations relatively harmonious? Much had to do with the institutional framework that Switzerland was able to establish. In the next section we turn to this framework.

THE INSTITUTIONAL FRAMEWORK

When the victorious progressive forces wrote the constitution of modern Switzerland in 1848, they did not push centralization very far, but rather kept a large measure of autonomy for the cantons. This was a conciliatory gesture toward the conservative forces. The spirit of compromise was visible in the previous year when the military commander of the progressive forces made a successful effort to minimize the losses on the other side, so that the war was very short and with few casualties. It must also be noted, however, that the progressive forces were not altogether selfless in keeping autonomy for the cantons since they were not really interested in too much centralization. After all, most progressive cantons had a strong sense of cantonal identity. Whatever the exact motives of the writers of the constitution, the important fact is that the constitution of modern Switzerland gave the cantons a significant degree of autonomy.

The crucial feature in the relationship between the cantons and the Confederation was that all tasks that were not explicitly assigned to the Confederation remained with the cantons. The Confederation was mainly responsible for foreign affairs, national defence, the currency, customs, and the postal and railway services. Over time, new tasks were assigned such as telecommunications, aviation, nuclear energy, and old age pensions. For the language situation, it was important that educational matters remained under the domain of the cantons. To be sure, the Confederation received the right to create a federal university, and it used this power to establish the Federal Polytechnical University in Zurich. But all other universities remained in the hands of the cantons. For the lower educational levels, the dominance of the cantons was even stronger. Such educational autonomy allowed the cantons to handle language questions however they wished. This meant, in particular, that classes had to be taught in the language of the canton. In the four linguistically mixed cantons, the language in the school was determined according to the territorial principle.

The degree of cantonal autonomy becomes impressive if we look at how many of the public expenditures occur at the federal level. Even today, only about a third of all public monies are spent at the federal level (Linder 1998, p. 51). The other two-thirds are spent either at the cantonal or the communal level. Each of the three levels has the right to raise its own taxes. In his comparison of 36 democracies, Arend Lijphart found that in Switzerland the central government's tax share is by far the lowest (1999, p. 193). It is also an important aspect of Swiss federalism that cantons often work together to address common problems. This may happen informally, as well as in an institutional framework. Thus, there is a Conference of the Cantons of Central Switzerland. An example of an intercantonal institution is the Conference of the Cantonal Ministers of Education. Thus, many tasks are handled without the participation of the Confederation, either within the individual cantons, or as intercantonal cooperation.

A final aspect of Swiss federalism is that the cantons are important actors at the federal level. Switzerland has a bicameral parliament. In the National Council the cantons are represented according to their population. In the Council of States, each full canton has two seats, the half-cantons one.¹ For legislation, both chambers have exactly the same weight since all bills must pass both chambers. The chambers rotate the

first reading of a bill. For the election of the seven-member executive Federal Council and the members of the Supreme Court, the two chambers assemble in a joint session. Here, however, the National Council with its 200 members has more weight than the Council of States with its 46 members. It is also the president of the National Council who presides over the joint sessions.

Bills are prepared by the Federal Council, which relies heavily on a process of consultation (*Vernehmlassungsverfahren*), and it is here where the cantons play once again an important role. They are always included in this process of consultation, together with the political parties and the relevant interest groups. Although this process of consultation goes back to the beginning of modern Switzerland, it was greatly expanded after World War II. When a bill is passed by the federal parliament, implementation is most often left to the cantons. The federal administration has no regional offices in the cantons as the United States federal administration has in the states. Federal taxes are collected by the cantonal authorities. For social security payments, a federal program, citizens have to deal with the cantonal and the communal authorities. Cantons, finally, have a say in any changes to the constitution which must be submitted to a mandatory referendum. For such referenda to pass, they need a majority of all Swiss voters as well as a majority of the cantons. Here again, the half-cantons have only half the weight of the full cantons. Since there are 20 full cantons and six half-cantons, there are 23 cantonal votes. A majority of the cantons means therefore that at least 12 cantons must support a constitutional amendment. It has happened eight times in modern Swiss history that a constitutional amendment has received a majority of the voters but not a majority of the cantons and therefore failed (Linder 1998, p. 74). In 1994, for example, a constitutional amendment concerning cultural policy received the support of 51 percent of all Swiss voters, but only ten cantons voted in favour. The amendment failed.

To what extent can the institutional framework account for the relatively high degree of linguistic harmony in Swiss history? Let us take the counterfactual situation that the constitution of 1848 would have established a centralized political system. Then the situation with regard to linguistic issues may have become as tense as in Belgium, which was until recently a very centralized country. In Switzerland, federalism allowed the linguistic minorities to keep their identities by managing many of their own affairs, especially with regard to education, which is always sensitive

for linguistic groups. With regard to being important players at the federal level, the Federal Council of 1848 had two French-speakers and one Italian-speaker among its seven members. Given that the linguistic minorities were only about 30 percent of the population, they were even slightly overrepresented in the Council. Ever since, the linguistic minorities have always had at least two representatives on the Federal Council.

In recent years, however, language has become an ever more important issue in Swiss politics. That the language cleavage is currently of high salience was revealed in an investigation of 51 recent federal referenda (Linder, Riedwyl and Steiner 2000). We captured the importance of the cleavage between German- and French-speakers with a variable obtained when we divided the number of German-speakers by the number of French-speakers for each district. This ratio turned out to be the most important variable in our investigation, being statistically significant for 35 of the 51 referenda. We captured the importance of Italian in looking at the percentage of Italian-speakers per district. This variable is significant for 27 of the 51 referenda, ranking third after social class.

GLOBAL AND REGIONAL INTEGRATION

That the language issue has become more important in Switzerland has much to do with European integration and globalization. I will argue this in the next section. But first I describe to what extent Switzerland participates in global and regional integration. For a very long time, neutrality was the key maxim for Swiss relations with the outside world. When modern Switzerland was created in 1848, this maxim was already so well established that it was written into the new constitution as the guiding principle for foreign policy. At the beginning of the Old Swiss Confederation in medieval times, however, neutrality was not yet seen as the maxim of how the Swiss cantons should deal with the outside world. Some of the cantons even pursued an aggressive foreign policy, such as advancing into Northern Italy. It was there that the Swiss lost a key battle in Marignano against the French. The retreat from Marignano is described in many history books as the beginning of Swiss neutrality. Although at the time this appeared to be a minor turning point, it is important that in the myths about Swiss history, Marignano received a prominent place giving the idea of neutrality deep roots in history and thus legitimacy.

During the European religious war of 1618 to 1648 the Swiss cantons were at great risk of becoming involved, with the Protestant and the Catholic cantons at opposite ends of the warring factions. There was no conscious decision to pursue a policy of neutrality and to stay out of the war. It was more a lucky circumstance that the war did not spread to the Swiss cantons. But after the awful destruction of this war, many Swiss began to realize that staying out of wars had great benefits, and the concept of neutrality began to take shape as a foreign policy device. At the Congress of Vienna in 1815, the Swiss neutrality was formally recognized by the large powers, and, in the context of the Treaty of Versailles, a document was signed in 1920 stating that Swiss neutrality was in the interest of world peace. By this meant that it was in the interest of an equilibrium among the large European powers: none of them controlled the strategically important mountain passages at the centre of Europe.

In World War II, Swiss neutrality was put to a severe test when the country was surrounded by the Nazi forces. In order to survive, Switzerland made many concessions to the Nazis, in particular with regard to the transport of war material through Switzerland, a harsh refugee policy, bank dealings with the Nazis, and the delivering of war material. In recent years, Switzerland has rightly been criticized for the fact that many of these concessions went too far. But immediately after World War II, the view prevailed among the Swiss people that it was thanks to their heroic military efforts that Hitler did not dare to invade the country. Thus, the legitimacy of neutrality as a foreign policy device was further strengthened, and great emphasis was put on the necessity of being militarily strong if neutrality was to be respected by the international community. During the Cold War, the notion could still be kept up that a militarily defended neutrality was the optimal foreign policy for Switzerland. The "brown" danger of Hitler was substituted with the "red" danger in the minds of most Swiss, and public opinion polls continued to show overwhelming support for the concept of neutrality.

After the end of the Cold War, the situation dramatically changed for the justification of Swiss neutrality. Between what foreign forces should Switzerland be neutral? Against whom should the Swiss army be ready to fight? It was not only the end of the Cold War but also European integration that made Swiss neutrality problematic. With all its neighbours being members of the European Union, it became difficult to argue why Swiss

neutrality was in the interest of European peace and stability. There were increasing suggestions that Switzerland should join the European Union and the United Nations.

Historically speaking, neutrality meant that Switzerland did not join any military alliance. Thus, until very recently, membership in the North Atlantic Treaty Organization (NATO) was completely out of the question. Even now it is not politically a serious option, and probably not for some time to come. Switzerland has become, however, a member of the Partnership for Peace, which gives it some connection with NATO. Switzerland also found ways to send some troops to Bosnia and Kosovo.

The way Switzerland interprets its neutrality, the barriers to joining political organizations, are still very high, although somewhat lower than for military alliances. In 1920 Switzerland joined the League of Nations, hoping that the League would gain a universal character. This hope was not realized and in 1938 Switzerland returned from what it called differentiated to integral neutrality, no longer participating in any sanctions of the League of Nations. The disappointment with the experience of the League was so great that after World War II Switzerland decided to stay out of the United Nations, although it joined specialized agencies of the UN such as UNESCO and the World Health Organization (WHO). In 2002, finally, after a previously unsuccessful referendum, the Swiss voters accepted that Switzerland should become a full member of the United Nations. This ended the bizarre situation of Switzerland being the only European country, besides the Vatican, not being a regular member of the UN.

Economically, Switzerland was always accessible to the world and stressed the necessity of a free world market. As the Swiss Federal Statistical Office notes, Switzerland is among the countries of the world most involved in international trade.² In 1999, Switzerland had exports of US\$15,018 per inhabitant. For the 15 countries of the European Union the corresponding figure is only US\$6,887. Large countries have, of course, usually lower figures since they can sell more within their own national borders. Therefore, the most relevant comparison is with other smaller European countries. Here, the importance of exports for Switzerland becomes very clear. Neighbouring Austria exports only US\$11,588 per inhabitant. Even for the traditionally export-oriented Netherlands the corresponding figure is only US\$13,715 dollars. What are Switzerland's main exports? The stereotypical expectation is cheese, chocolate, and watches.

Although these products have some importance, they pale in comparison with chemical products and machines. The former is 30 percent of all exports, the latter is 29 percent. Thus, Switzerland has, technologically, a very modern economy. Its main export countries are Germany with 27 percent of all exports, the United States (13 percent), France (11 percent), Italy (9 percent) and the United Kingdom (6 percent). The high international economic involvement of Switzerland can also be seen by the number of resident aliens: 19.3 percent of the population.³ For the European Union (EU) the corresponding figure is 4.7 percent. A relatively high number of resident aliens live in Austria (9.3 percent) and Germany (8.8), but even these figures are much lower than in Switzerland.

As a consequence of the heavy economic involvement of Switzerland with the world, neutrality was never considered an obstacle to joining purely economically oriented international organizations such as the Organisation for Economic Co-operation and Development (OECD). Switzerland is also a member of the World Bank, the International Monetary Fund (IMF) and the World Trade Organization (WTO). With regard to European integration, Switzerland was always ambivalent. If integration could be seen only in economic terms, the country did not hesitate to join, but it feared the political aspect of European integration. Initially, Switzerland had hoped to find a solution by joining the European Free Trade Association (EFTA), whose most important member was Great Britain. But after Britain and most other EFTA members changed to the European Union, EFTA lost most of its importance with Switzerland, Norway, Ireland and Lichtenstein left as the only members. Switzerland now tries to reach special arrangements with the EU short of full membership. The first attempt failed in 1992 when membership in the European Economic Area was defeated by the Swiss voters in a referendum. In 2000, however, the Swiss voters accepted a bilateral treaty with the EU which regulates important matters such as labour market, transportation, and research. The Federal Council, the executive cabinet of Switzerland, sees full membership in the EU as the strategic goal of Swiss foreign policy. For the time being, parliament has refused to make such a commitment. And the voters do not seem to be ready to accept full EU membership any time soon; although it does not seem impossible to get a majority of the voters. But as we saw earlier, for important matters such as EU membership a majority of the cantons is also required and here a positive decision is out of reach for the time being.

IMPACT OF GLOBAL AND REGIONAL
INTEGRATION ON SWISS POLITICS

Earlier in the chapter, I argued that language has become an ever more important issue in Swiss politics and that this has much to do with European integration and globalization. This argument does not deny that other factors contribute to the increased salience of the language issue. One of these factors is the decreased importance of religion in Swiss politics. Religious and language cleavages used to crosscut each other. Such crosscutting cleavages helped to stabilize the country, because for some political issues French-speaking Catholics, for example, had more in common with German-speaking Catholics than with other French-speakers. With the vanishing of the religious cleavage, the language groups are more pitted against each other. Language has become more important in Swiss politics as cantonal borders have become less important. This is particularly true for the French-speaking cantons. The two largest French-speaking cantons, Geneva and Vaud, traditionally had their own special identities, and there was much rivalry between these two proud cantons. Now there is talk of merging the universities of the two cantons and even of merging the cantons altogether. Although a merger of the two cantons may never happen, the mere talk of it indicates that cantonal borders in the French-speaking region have become less important, which contributes further to the perception of a common French-speaking identity. Still another factor contributing to increased linguistic segmentation has to do with the increased importance of television for political discourse. The three major language groups all have their own programs. Efforts to broadcast trilingual programs have failed as the public did not watch them. The political discourse in Switzerland always takes place to a large extent within the individual language groups; and with the increased importance of television this has become even more so.

Although other factors also play a role in the increased salience of the language issue, European integration and globalization must be considered of crucial importance. The risk of European integration and globalization is not that Switzerland will suddenly break apart along linguistic lines, but that the language groups will drift apart. The French-speaking Swiss tend to see Switzerland as part of Europe and the world, whereas many among the German-speaking Swiss see the outside world as a constant danger. The more the French-speakers want to integrate into

Europe and the world, the greater the fears of many German-speakers that Switzerland is falling apart. That the German-speakers are particularly fearful that Switzerland is falling apart is related to their much longer roots in Swiss history. As noted earlier, the Swiss Confederation was founded in the thirteenth century in German-speaking Switzerland, whereas the other language groups, for the main part, joined around 1800. Many German-speakers fear that the French-speakers never really understood the *idea* of Switzerland and are therefore willing to abandon it. According to the traditional view, Switzerland was always threatened by external enemies — the Hapsburgs, Napoleon, Hitler, and many others. Given these permanent threats, Switzerland has had to fight to keep its independence. The best way to stay independent was to fortify the mountains and to remain neutral in international affairs. This myth of Swiss history is strongest in German-speaking Switzerland, especially in the mountain valleys where Switzerland was initially founded.

A charismatic politician from Zurich, Christoph Blocher, founded an organization "Action for a Neutral and Independent Switzerland," based on this historical myth of Switzerland. Its supporters are mainly from German-speaking Switzerland. The mission of the organization is that this time the danger for Swiss neutrality and independence comes from Brussels and the United Nations. There are even parallels drawn to the Nazis. As Switzerland had to defend itself against the Nazis, today it has to defend itself against the bureaucrats and the judges of the European Union. The threat of being ruled by foreign judges goes back to the foundation of the Swiss Confederation when the Hapsburg judges were expelled from Swiss territory. Therefore, it hits at the core of the Swiss historical myth when Christoph Blocher exclaims that Switzerland will never allow itself to be ruled by foreign judges. Politically, the Action for a Neutral and Independent Switzerland is similar to the Swiss People's Party; and here again, it is important to note that this party has its main support in German-speaking Switzerland.

What we see then is a clash between two perceptions of the place of Switzerland in Europe and the world. One perception is that Switzerland is a typical small European country and that it should take its place in the European Union and the United Nations like other small countries. The other perception builds on the historical myth of Switzerland that the Swiss people were always a special case (*Sonderfall*) in the sense that their very existence was constantly endangered and that therefore they must continue to be vigilant against potential threats to their neutrality and

independence. They further believe that they have to defend their federalist structure and direct democracy with extensive citizen participation in referenda.

The conflict over Swiss membership in the European Union and the United Nations will most likely have the consequence that the French-speakers will drift further apart. There will be increasing cooperation among the French-speaking cantons who will try more and more to resolve political problems on their own. They will also increasingly exploit all the constitutional opportunities that they have to cooperate with France. When the Swiss constitution was written in 1848, the cantons received a fair amount of authority to deal with other countries, in particular in matters involving border issues. The French-speaking cantons have already begun to use this authority. In the region between the canton Neuchâtel and France, for example, some hospitals are run on a common basis across the border. In the region of Geneva, there is an even more intensive cross-border cooperation on a large number of issues. Many people work in Geneva but live across the border in France, which means that many issues such as taxes, social security, and health insurance have to be resolved between the two countries.

Italian-speaking Switzerland in the canton of Ticino and in the southern valleys of the canton Graubünden are also likely to drift further away. Economically speaking, Italian-speaking Switzerland is to some extent part of the greater Milano region. The newly created first university in Italian-speaking Switzerland is likely to reinforce the drifting apart of this language region. When Italian-speaking Switzerland had no university of its own, its students had to study either in German- or French-speaking Switzerland, which bonded them to the rest of the country. This kind of bonding will continue to some extent because the newly founded university does not encompass all the faculties. On the other hand, it will attract students from Italy, which will reinforce the orientation of Italian-speaking Switzerland toward Italy.

In German-speaking Switzerland, there is also increasing cross-border cooperation. This is particularly true in the region of Basel, where France, Germany, and Switzerland come together. This cross-border cooperation in the region of Basel is institutionalized in the form of the *Regio Basiliensis*. The agglomeration of Basel extends to France and Germany such that it is hardly visible in everyday life where one country ends and another be-

gins. The airport is in France, and Germany has its railway station on Swiss territory.

Do all these developments mean that Switzerland will slowly cease to exist as a nation-state? When in 1991, the 700th birthday of the Swiss Confederation was celebrated, some artists and intellectuals only half-jokingly coined the motto "700 years are enough" (*700 Jahre sind genug*). Shortly afterwards, at the world exposition in Sevilla, the official Swiss booth had the theme "Switzerland does not exist" (*La Suisse n'existe pas*). And recently, a federal councillor speculated that some day Switzerland may indeed cease to exist. It has been suggested that Geneva should separate from Switzerland and, analogous to Monaco, become its own country. All these ideas were said and written in order to provoke and should therefore not be taken too seriously. But it is nevertheless noteworthy that the very existence of Switzerland has become a theme for public discourse. In the initial thirteenth-century treaty which laid the foundation for the Swiss Confederation, it was solemnly stated that the treaty shall be eternally valid. In the current political culture of Switzerland it has become difficult in the minds of many people, especially the young, highly educated, and urban dwelling, to see the existence of Switzerland in terms of eternity. Old songs and poems glorifying the eternal existence of Switzerland are shrugged off by many.

For all practical purposes, however, Switzerland will most likely continue to exist for a long time to come. There will be a Swiss national soccer team, and the Swiss social security system will still pay benefits. But if the cleavage over the identity of the Swiss deepens, this will put severe strains on the country. This cleavage is particularly troublesome because it is to a large extent superimposed on the language cleavage between German- and French-speakers. Over the centuries, Switzerland has developed an accommodative or consociational style of conflict management across the various cleavage lines (Steiner 1974). The challenge for the future is to keep this consociational decision-making style for issues involving the cleavage over what the Swiss identity should be (Steiner 2002). Accommodating the two divergent views of Swiss identity is a big task for Swiss politics. Traditional patterns of consociationalism do not seem to work. One major difficulty is that the groups with different identities of Switzerland cannot easily be identified. To some extent it is a cleavage between French- and German-speakers. But there are many

German-speakers, especially the young, the highly educated and urban dwellers, who support the concept of an open Switzerland. On the other hand, the traditional view of Switzerland has also some support in French-speaking Switzerland. If the conflicting groups cannot easily be identified, consociationalism is difficult to achieve because it remains unclear between exactly what groups accommodation should take place. Conflicts over one's national identity are also particularly difficult to accommodate because it is difficult to find a middle ground. Where is the middle ground between a backward and a forward looking view of Swiss identity? But consociationalism presupposes that a middle ground can somehow be found.

FUTURE SCENARIOS

It is an interesting challenge to speculate on how the salience of the Swiss identity cleavage will develop under the four future scenarios: (i) regional dominators, (ii) a global club, (iii) shared governance, and (iv) cyberwave. I expect that under the first two, the cleavage over Swiss identity will further increase, whereas the second two are likely to decrease the salience of the cleavage.

Under *regional dominators*, the supporters of the old Swiss identity will make the argument that the outside world remains dangerous with powerful blocs confronting each other and that Switzerland is better off staying out of such confrontations and staying neutral and independent with a strong army. On the other hand, there will be those who argue that Switzerland, like other smaller European countries, has no choice but to integrate into the European bloc and to defend its national interests within this bloc. As a consequence, the cleavage over Swiss identity will become stronger. The French-speakers will further drift away and will seek special arrangements with the European Union in specific issue areas. The same will happen for the region of Basel and the Italian-speakers. Overall, the federal ties within Switzerland will weaken. The cantons will become more important. Groups of cantons will increasingly tackle common problems. Cross-national regions will increase in importance.

Under the conditions of the *global club*, Switzerland as a small country is marginalized. The supporters of the traditional Swiss identity argue that under these conditions it is pointless to try to play a role in world affairs and that the reasonable thing to do is to rely on the maxim of

defended neutrality. Those opposed to this identity are also not happy with the conditions of the global club, but they declare that the concept of defended neutrality is a myth if a few powerful actors dominate world affairs. Thus, the cleavage over Swiss identity grows with one side arguing that neutrality is still a valuable concept and the other side dismissing the concept as lacking any basis in reality. No great changes will occur in the federal structure of Switzerland, but the country will feel increasingly powerless and frustrated not knowing in what direction to turn. There will be many deadlocks and stalemates in the federalist system. Referendum outcomes will be increasingly negative since the two identities block each other.

If, under the conditions of *shared governance*, economic and political power in the world are exercised within a balanced system of global government and the equality and responsibility of the individual states are recognized, the supporters of the old identity of Switzerland will have increasing difficulties making the case that Switzerland should stay neutral. The concept of neutrality will continue to lose its credibility. Thus, the cleavage over the nature of Swiss identity will slowly lose salience. Most Swiss will turn to the notion that their country is just a regular small European democracy. The country finds its role in the world. Domestically, it is easier to have a well-functioning federalism since the question of the correct Swiss identity vanishes from the political agenda. Relations between the federal level and the cantons are quite smooth with both levels showing signs of great vitality. Referenda outcomes will rarely lead to a blockage of the system.

Under the *cyberwave* scenario, individualism and libertarianism are celebrated, and anarchic forces lead to a diminished ability and role for governments to govern. Under these conditions, it becomes also very difficult for the supporters of the old Swiss identity to make the case that Switzerland should stay independent and neutral. Independent of what and neutral between whom? Given the difficulty of answering these questions in a credible way, the cleavage over Swiss identity will weaken since the traditional identity will lose more and more ground. But it also becomes less important to be Swiss at all. Cantons often act on their own, seeking their own niches in the dynamic world economy. Depending on the situation, they collaborate as easily with regions outside Switzerland as with other Swiss cantons. Big cities such as Zurich and Geneva become quite independent actors on the international economic scene.

NORMATIVE CONCLUSIONS

In my conclusions I want to take a normative stance and tackle the question about which of the four scenarios is best for Switzerland, as well as for Europe. My normative position is based on an ethics of discourse (see Steiner 1996).⁴ As Melissa Orlie puts it, people should attempt to imagine other views and be willing "to deliberate, to listen and respond to others' claim about our effects and possibly to modify them" (1994, p. 693). Agreeing with Kristen Renwick Monroe, I reject "the view of human nature as exclusively self-interested, acquisitive, aggressive, and individualistic" (Monroe 1991, p. 396). Politics should be more, in the words of Orlie, than the "thoughtless assertion of power." As an ideal to strive for, politics in a democracy should be an arena where citizens are willing to listen to each other and to consider the interests of others. Of course, citizens never quite know what the interests of others are because they can never *transcend* their own self; but people can make an effort to understand the interests of others and to *transfigure* their way of life in the sense that they consider not only their own interests but also the interests of others. Habermas calls such a way of governing a deliberative democracy (Habermas 1992).

The classical nation-state as it developed in the last 400 years in Europe is not hospitable to such ethics of discourse across national borders. The classical nation-state is characterized by the imposition of political, economic, military, and cultural boundaries. As a consequence, the national boundaries are firmly set and do not allow easy exit.⁵ Either one is British or French, Italian or Spanish, and so on. The interests of one's nation-state tend to be seen in conflict with the interests of other nation-states. If the others win, we lose. Living in such a political environment makes it hard to consider the interests of people outside one's own nation-state. As we know from European history of the last four centuries, an international system based on the classical nation-state easily leads to war. People outside the boundaries of one's own state are easily seen as enemies and not as other human beings whose interests one should also consider. Recent tragic events on the Balkan once again remind us in a sad way of this danger.

In my view, a multilayered political system with fluid borders is more hospitable to an ethics of discourse at the international level. In such a political environment people activate different identities at the local,

regional, national, and European levels. There are also identities that reach across national borders. Such multiple identities should help people to imagine identities outside the set of their own. To imagine other identities does not necessarily mean that one is willing to consider the interests of the people with these other particularities, but the chances are better that one would do so. Considering the interests of other groups may lead to a learning process whereby it becomes a *habit* to imagine other identities and to consider the interests of the people holding these.

There are, however, also severe risks if a country takes this path. As Stefano Bartolini shows, fluid boundaries with easy possibilities to exit weaken domestic political structures, which, in turn, may lead to feelings of insecurity among many citizens (Bartolini 1997). They feel at a loss and long for the well-established order of the classical nation-state with its firmly set boundaries. It is precisely such a backlash that currently happens in Switzerland with the strengthening of the Swiss People's Party and the prominent role of such organizations as the Action for a Neutral and Independent Switzerland. From the perspective of ethics I am concerned about this backlash, and it is not easy to know what to do about it. Writing this chapter gave me hope that there may be some world scenarios that decrease the importance of the old nationalistic identity of Switzerland and that strengthen an identity more open to Europe and the world. The most promising scenarios in this respect are the scenarios of shared governance and cyberwave, or, even better in my view, a combination of the two. Under these conditions, Switzerland may serve as a useful model for Europe. European citizens will still have a certain identity within their nation, but no longer in a nationalistic sense. In addition to their national identities, they have local and regional identities, and some of these do cross national borders. These multiple identities will mean that politics in Europe will no longer be dominated by nation-states, but that regions and supranational institutions will play an important role. Such a model would be particularly helpful in reducing tensions in Eastern Europe. The model has the potential of being applied to the world at large.

Notes

1. In the course of history three cantons have split into half-cantons.
2. For this statement and the figures quoted below, see <www.statistik.admin.ch>.

3. Although it is quite difficult to become a Swiss citizen, Switzerland depends to a large extent on foreign workers.
4. For a current research project using this normative approach and applying it to empirical data see the Web site <www.ipw.unibe.ch/discourse>.
5. See, on the question of boundaries and exit options in the classical nation-state, Bartolini (1997).

References

- Bartolini, S. 1997. "Exit Options, Boundary Building, Political Structuring." Florence: European University Institute. Unpublished paper.
- Habermas, J. 1992. *Faktizität und Geltung: Beiträge zur Diskurstheorie des Rechts und des demokratischen Rechtsstaats*. Frankfurt a. M.: Suhrkamp.
- Lijphart, A. 1999. *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries*. New Haven: Yale University Press.
- Linder, W. 1998. *Swiss Democracy: Possible Solutions to Conflict in Multicultural Societies*, 2d ed. London: Macmillan.
- Linder, W., H. Riedwyl and J. Steiner. 2000. "Konkordanztheorie und Abstimmungsdaten: eine explorative Aggregatsanalyse auf Bezirksebene," *Swiss Political Science Review* 6(2):27-56.
- Mesmer, B. 1998. "Reformbedarf im Innern – Druck von aussen. Die Helvetik im historischen Kontext," *Neue Zürcher Zeitung*, 21./22. Februar, S.67.
- Monroe, K.R. 1991. "John Donne's People: Explaining Differences between Rational Actors and Altruists through Cognitive Frameworks," *Journal of Politics* 53(May):394-433.
- Orlie, M.A. 1994. "Thoughtless Assertion and Political Deliberation," *American Political Science Review* 88(September):684-95.
- Steiner, J. 1974. *Amicable Agreement versus Majority Rule: Conflict Resolution in Switzerland*. Chapel Hill, NC: University of North Carolina Press.
- 1996. *Conscience in Politics: An Empirical Investigation of Swiss Decision Cases*. New York: Garland Publishing.
- 2002. "The Consociational Theory and Switzerland Revisited," *Acta Politica* 37 (Spring/Summer):104-120.
- Steiner, J., A. Bächtiger, M. Spörndli and Marco Steenbergen. 2004. *Deliberative Politics in Action. A Cross-National Study of Parliamentary Debates*. Cambridge: Cambridge University Press.

6

Economic Liberalization and Political Federalization in India: Mutually Reinforcing Responses to Global Integration

Mahendra Prasad Singh

INTRODUCTION

India in 1950 adopted a parliamentary federal constitution that bore a striking resemblance to the Canadian constitution; this can be attributed to the British colonial heritage in both countries. The dominance of one party, the Indian National Congress, with which India began its independent existence as a nation, further reinforced the parliamentary tenor of its politics, and this overshadowed its federal aspects. In the economic sphere, India, soon after independence, adopted a strategy of development with a planning commission and the state as the major agent of change and growth. The 1990s, however, witnessed a significant transformation in the Indian polity, including a decline in the Government of India's role. The two most notable dimensions of this change are political federalization and economic liberalization.

India has moved cautiously away from a planned economy, controlled largely by the government according to the principles of democratic socialism. At the same time as Delhi's control over the economy has relaxed, some states of the Indian Union have seized the opportunity to encourage the private sector.

Economic liberalization was preceded by a degree of political federalization. The two factors subsequently reinforced each other. The decline

of Delhi's control over the economy was prefigured by the decline of the national party system. One-party majority governments, the norm until 1989, were replaced by federal coalition governments in which regional parties play an important role. This has strained the parliamentary system originally designed for a more centralized federation according to the principles of parliamentary supremacy.

There have also been signs of global and regional integration, but India is perhaps exceptional in being relatively unaffected by these trends. If anything, India has experienced economic liberalization (in the sense of deregulation and partial privatization) more than globalization. Also, its trade has been relatively more inclined toward globalization (with the United States and the European Union especially) than integration within the region of South Asia.

Both globalization and regionalization are highly contested terms, depending on which side of the exchange the protagonist is speaking from. My approach here is not to proceed from theories but to move empirically from praxis by sketching out the emerging scenario in which India finds itself today. I begin therefore with the rather open-ended definitions of the term:

Globalization might be defined as the rapid intensification of social, economic, and political transactions, necessitated by the emergence of issues that transcend international boundaries and facilitated by technological developments (especially in telecommunications and transportation). Regional integration would be characterized by the same processes, but in a smaller geographical area (e.g. Western Europe or North America) (Institute of Intergovernmental Relations 2000, p. 1).

Inevitably, nationalism, regionalism, and globalism would be dialectically interrelated with contradictions and complementarities.

This chapter is organized into seven sections. The next section shows how India's economic growth has arguably improved since 1990. It also situates India in its regional and global contexts. India is a middle-level regional power rather low on economic development, but with great potential. With neo-liberal economic reforms currently under way, India is gradually integrating itself into the larger regional and global economies, but because of both internal and external impeding factors the pace has been rather slow. The third section outlines the structure of the parliamentary federal constitution and the aggregate governments in India with

a focus on their historical origin, evolution, and contemporary developments. Section four explores the extent of India's global and regional integration in economic, technological, and cultural terms. Section five analyzes the impact of global and regional integrations on the Indian federal system, while section six sketches the probable future scenarios. Finally, the last section presents the conclusions.

INDIA IN CONTEXT

India, a developing economy in its South Asian regional and global economic contexts, is a bundle of paradoxes. Lloyd and Susanne Rudolph (1987, p. 1) aptly characterize it as "a rich-poor nation with a weak-strong state." The end of British colonial rule in 1947 and partition of the country left it with a mixed legacy of problems and possibilities. Independence found India facing an uncertain yet not entirely bleak political and economic future. British rule had accelerated the transition of the Indian economy from feudalism into capitalism, though in a colonial setting. The initial impact of independence on the regional and global integration of the Indian economy was rather negative. India under British rule was both regionally and globally more integrated than it was to be immediately after independence. Partition sowed the seeds of perpetual regional discord and conflict. The colonial experience prompted India to look for national, economic self-reliance to get out of the "near stagnation" of the Indian economy whose "growth of aggregate real output during the first half of the twentieth century [was] estimated at less than 2 percent a year, and per capita output by half a percent a year or less. There was hardly any change in the structure of production or in productivity levels. The growth of modern manufacturing was probably neutralized by the displacement of traditional crafts, and in any case was too small to make a difference to the overall picture" (Vaidyanathan 1982, reprint 1984, p. 947).

The post-independence patterns of economic development displayed at least three different trends. First, from the 1950s to the end of the 1970s India followed a strategy of economic development that aimed at heavy industrialization together with import-substituting national self-reliance. The result was a mixed economy with the state sector seeking to scale "the commanding heights of the economy," but leaving some scope for the private sector. Domestic industries were protected from global competition. These objectives were to be achieved through centralized (though democratic) planning and a state-regulated economy. There was a modest

improvement over the rate of economic growth registered during the British Raj. The total gross domestic product (GDP) growth rate in the first three decades between 1950–51 and 1980–81 declined, however, from 4.1 to 3.3 percent, from 6.3 percent to 4.8 percent in the industrial sector, and from 3 percent to 2.1 percent in the agricultural sector (Ahluwalia 1999, p. 9).

Second, liberalization of the public sector began in a somewhat limited way in the 1980s, and it resulted in acceleration of GDP growth to 5.6 percent per annum. This was better than the performance of developing economies as a whole (*ibid.*, p. 2). But the better performance of the economy in the 1980s could not be sustained. It was hampered by the populist policies of the governments. This required huge subsidies. Another obstacle was the rent-seeking propensity of the political and bureaucratic elites. There was also a lack of development on the export front. The balance-of-payment problems arising in the mismatch of exports and imports assumed the proportions of a crisis in 1990–91.

Third, this finally necessitated the acceleration of economic reforms beginning in July 1991. The economic reforms included deregulation of the economy from state controls, disinvestment of government shares in the public sector, opening up of the economy to foreign trade/investment/and technology, and financial sector reforms aimed at increased productivity. Economic reforms gradually inched GDP growth between 1993–94 to 1996–97 forward to 6 to 7.5 percent, the average for the period being 6.8 percent (*ibid.*, p. 9). But these rates tended to decline somewhat thereafter. The overall growth in 2001–2002 was 5.4 percent, “supported by a growth rate of 5.7 percent in agriculture and allied sectors, 3.3 percent in industry, and 6.5 percent in services (Government of India 2002, p. 2).

Its large population and land surface area makes India the dominant economy with the fastest growth rate in South Asia. Its GNP was \$442.2 billion in 1999 and the average annual growth rate was 6.9 percent in 1998–99.

However, major South Asian countries did not differ substantially in GNP per capita in 1999. Sri Lanka’s GNP per capita with \$3,056 is higher than India’s. Moreover, with a growth rate of 5 and 4.6 percent, Bangladesh and Nepal were ahead of Pakistan and Sri Lanka. Pakistan’s and Sri Lanka’s growth rates were the lowest in the region: 3.6 and 3.8 percentage points respectively (World Bank 2001, pp. 274–75, Table 1).

Table 1 gives some additional information about the economic profile of the South Asian region. India led the region with the highest values

TABLE 1
Economic Growth in South Asia

Country	Average Annual % Growth					
	GDP 1990-99	Agricultural Value Added 1990-99	Industrial Value Added 1990-99	Services Value Added 1990-99	Exports of Goods and Services 1990-99	Gross Domestic Investments 1990-99
India	6.1	3.8	6.7	7.7	11.3	7.4
Pakistan	4.0	4.3	4.9	4.6	2.7	2.1
Sri Lanka	5.3	1.5	7.4	5.6	8.4	6.2
Bangladesh	4.8	2.3	3.9	6.3	13.2	7.0
Nepal	4.8	2.3	7.0	6.0	14.3	5.7
Bhutan	-	-	-	-	-	-
Maldives	-	-	-	-	-	-

Source: *World Development Report 2000/2001*, compiled from World Bank (2001, pp. 294-95, Table 11).

of average annual growth rate in GDP in 1990-91 (6.1 percent), services value-added (7.7 percent), and gross domestic investments (7.4 percent). However, Pakistan was marginally ahead of India in agricultural value-added (4.3 percent), Sri Lanka in industrial value-added (7.4 percent), and Nepal and Bangladesh in export of goods and services (14.3 and 13.2 percent respectively).

PARLIAMENTARY FEDERAL STRUCTURE AND PRACTICE

The Structure

The constitution of India is parliamentary and yet in some respects federal. The Parliament, with overriding powers over state legislatures, is supreme, subject only to judicial review premised on fundamental rights of citizens and centre-state division of powers and revenues. Some of these regular powers of Parliament can be further augmented with the sanction

of the federal second chamber, the Rajya Sabha, whereby Parliament can legislate in the national interest on subjects within the exclusive jurisdiction of the states. Also, during constitutionally contemplated emergencies — national, regional, fiscal — the parliamentary federal structure of the government for all intents and purposes becomes unitary (Part XVIII of the Constitution of India).

The head of state at the centre, the president of India, is elected by an intergovernmental electoral college consisting of the elected members of both Houses of Parliament and elected members of the Legislative Assemblies of the states. The head of the provincial state, the governor, is appointed by the government at the centre and functions as the link between the two levels of government. The heads of the governments at the two levels are the prime minister and the chief ministers respectively, who, advised by their respective Cabinets, exercise the real governmental authority. The president and the governor use discretionary powers in the formation of the government and the dissolution of the popular chamber in the event of the party system failing to produce a clear legislative majority. The governor can reserve a bill passed by the state legislature for consideration by the president (which means the Union Cabinet) who may disallow it (article 201).

An issue of great federal relevance here is the nature of the treaty-making power of the Union. As in Australia, but in contrast to Canada, the power to make and implement treaties lies solely with the central government. The Indian constitution does not *expressly* make treaty-making an executive power. In terms of explicit provisions (Seventh Schedule, entries 10 to 16 of the Union List) it is within the jurisdiction of the Parliament of India. However, since the executive power of the Union is normally coterminus with its legislative jurisdiction, the federal executive can make treaties by implication on behalf of Parliament. The implied executive power is construed by the Supreme Court as the residue of functions of government, which are not legislative or judicial (*Madhav Rao v. Union of India*, 1971).¹ The Supreme Court has further ruled that in conformity with the constitution or law the executive power may be exercised without prior legislative sanction (*Maganbhai Ishwarbhai Patel v. Union of India*, 1969, and *Ram Jawaya v. Union of India*, 1955).² Article 253 of the constitution empowers Parliament "to make any law for the whole or any part of the territory of India for implementing any treaty." There are two cases — *State of Tamil Nadu v. Union of India* and *State of*

Punjab v. Union of India — pending before the Supreme Court which argue that states should also have a say in signing international treaties like the World Trade Organization (WTO) that affect areas within their exclusive jurisdiction, for example, agriculture.

The Rajya Sabha, the federal second chamber of Parliament, consists of 238 members elected by the members of the Legislative Assemblies of the states through a system of proportional representation by means of the single transferable vote. Twelve additional members are nominated by the president based on their standing in the areas of literature, science, art, and social service (article 80). Representation is given to the states on the basis of proportionality of the population rather than equality of states as federating units. The Rajya Sabha is subordinate to the Lok Sabha in terms of collective responsibility of the Cabinet. It is further subordinated by limitations on its ability to originate money bills. It is also hampered by being less than half the size of the Lok Sabha when disagreements between the two houses are resolved in joint settings (article 108). In his classic study of the Indian Parliament in the 1950s, Morris-Jones (1957, p. 256) found that the workings of the Rajya were more amenable to a *parliamentary* rather than *federal* interpretation of its role.

However, the decline of the Congress Party's dominance and regionalization of the party system in the 1980s at the state level and after 1989 at the Union level has invested the Rajya Sabha with a greater federal relevance. A differential party configuration in the two Houses, which has been typical in the post-Congress dominance phase, enables the Rajya Sabha to block the intentions of a Union government to legislate in national interest in an area of exclusive state jurisdiction, and to create a new All-India Services (articles 249 and 312).

The 26-member Supreme Court is appointed by the Union executive in consultation with such judges of the Supreme Court and High Courts in the states as the president may consider necessary (in the case of the chief justice) and mandatory consultation with the chief justice (in the case of other judges) (article 124). In terms of the Supreme Court judgement in the *S.C. Advocates-on-Record Association v. the Union of India* (1982) the president of India is bound to appoint the most senior judge of the Supreme Court as the chief justice and follow his or her advice in appointing other court judges. Judges of the Supreme Court shall not be removed from office except by presidential order after a decision in each House of Parliament by a majority of the membership and two-thirds

majority of those present and voting (article 124, clause 4). Their privileges and allowances shall not be varied to their disadvantage after their appointment (article 125, clause 2).

The judiciary in India is thus an integrated rather than bifurcated structure. But it may, and has, encouraged federalization and weakened parliamentary supremacy (centralization) by buttressing judicial review and state rights.

Union-State Division of Powers and Revenues

Legislative subjects are divided between Parliament and the state legislatures according to three lists: Union, State, and Concurrent (Seventh Schedule). Consisting of 96 entries, the exclusive Union List includes defence, foreign affairs, banking, insurance, currency and coinage, citizenship, railways and airways, interstate trade and commerce, census, All-India Services, audit and accounts of the Union and the states, taxes on income other than agricultural income, customs and export duties, corporation tax, Union excise duties, any other matter not enumerated in other lists, etc. The exclusive State List consists of 61 entries, including public order and police, local government, public health and sanitation, agriculture, fisheries, land revenue and agricultural income tax, state excise duties and sales taxes, etc. The Concurrent List contains 47 entries including criminal law and procedure, civil procedure, marriage, contracts, torts, trusts, labour, planning, education, etc. Both the Union and state legislatures can legislate on these items, with Union law prevailing in cases of conflict (article 246 and the Seventh Schedule).

Intergovernmental Agencies

Article 263 of the constitution provides for the establishment of an Inter-State Council (ISC) to address issues of common concern or disputes between or among states and the centre. It may be taken as an indicator of the centralized nature of the Indian federal system during the Congress Raj up to the 1980s, that the centre managed to go without setting up a constitutional intergovernmental council. The Inter-State Council was implemented eventually in 1990. This coincided with the transformation of the one-party dominance under the Indian National Congress into a multi-party system in the Lok Sabha election in 1989 and the onset of a