

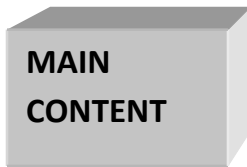


NATIONAL OPEN UNIVERSITY OF NIGERIA

SCHOOL OF ARTS AND SOCIAL SCIENCES

COURSE CODE: POL322

COURSE TITLE: COMPARATIVE FEDERALISM



POL322 COMPARATIVE FEDERALISM

Course Writer: **Dr. Adetola Odubajo**
Department of Political Science
University of Lagos
Akoka, Yaba, Lagos

Course Coordinator: **Abdul-Rahooof Adebayo Bello**
School of Arts & Social Sciences
National Open University of Nigeria,
Headquarters, Lagos

Programme Leader: **Prof. David Femi Otubanjo**
School of Arts & Social Sciences
National Open University of Nigeria
Headquarters, Lagos

Editor



National Open University of Nigeria
Headquarters
14/16 Ahmadu Bello Way
Victoria Island
Lagos
Abuja Annex
245 Samuel Adesujo Ademulegun Street
Central Business District
Opposite Arewa Suites
Abuja
Email: centralinfo@nou.edu.ng
URL: www.nou.edu.ng

National Open University of Nigeria 2013
First Printed 2013
ISBN: 978-058-949-X
All Rights Reserved
Printed by
For
National Open University of Nigeria

MODULE 1

UNIT 1: CONCEPTUAL CLARIFICATIONS

MAIN CONTENT

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

1.0 INTRODUCTION

As the first unit, we are taken through an understanding of the subject-matter of federalism by clarifying the major concepts in federal studies. Through this process, the student is made familiar with related terms and concepts, which lays the foundation for the understanding of the subject-matter. In effect, the students are able to understand the meanings, context of usage, similarities and differences in the various terms and concepts that are germane to the understanding of federalism.

2.0 OBJECTIVES

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

- Understand the meaning of federalism
- Explain the other related terms in federal studies
- Distinguish between federalism and other systems of government

3.0 MAIN CONTENT

3.1 Meaning

The workings of government structures and processes are dictated by the system of government in place. The system of government in turn finds expression in the contents of the constitution, or decrees, depending on whether the government is a dictatorial or democratic regime. The processes and structures are however constrained within the institutional maps and constructions in place.

At the level of structures and processes, there are two broad categorisations within which we can place modern governmental systems. The two broad categories are; the federal system and the unitary system. Occasionally, there are governmental systems that borrow from the attributes of these two broad categories, thus leaving us with a third category- the hybrid.

Fundamentally, the marked differences among the broad categories is concerned with the system of authority in the relationship among and between the layers of government. At the level of the federal system, authority is shared (there are various forms and methods of sharing- we shall be dealing with them in the relevant parts of this course material), while the unitary system allows the central authority take control of the state in a unified manner. In this case, all other layers of government take directives from the central authority. The hybrid system takes direction from both systems of government, by allowing the various layers of government take initiative about governance and administration in some areas, while ensuring that, directives are taken from the central authority in some other areas of governance and administration, especially as it affects the whole.

Our focus in this course concerns the system of shared rule- the federal system. It is however essential to clarify the various concepts that relate to the principles and standards of shared rule. According to Watts (1990: 6), three terms are distinguishable

in the explanation of federal system of government- these are, federalism, federal political systems and federations. The author explains federalism as a concept thus:

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

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

“The term “federal political system” refers to a broad category of political systems in which, by contrast to the single central source of authority in unitary systems, there are two (or more) levels of government thus combining elements of *shared-rule* through common institutions and *regional self-rule* for the government of the constituent units”.

Watts (1990) further explains federation as a system:

“... in which neither the federal nor the constituent units of government are constitutionally subordinate to the other, i.e. each has sovereign powers derived from the constitution rather than another level of government, each is empowered to deal directly with its citizens in the exercise of its legislative,

executive and taxing powers and each is directly elected by its citizens”.

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

3.2 Species of Federal Political Systems

Confederation- According to Daniel Elazar, this takes place when “several pre-existing polities joined together to form a common government for strictly limited purposes, usually foreign affairs and defence, and more recently economics, that remains dependent upon its constituent polities in critical ways and must work through them”. Watts (1990: 8) expatiates further: ... “but the common government is dependent upon the constituent governments, and therefore having only an indirect electoral and fiscal base”. The examples of such arrangements in past centuries include: Switzerland for most part of the period 1291-1847 and the United States of America between 1776-1789. Watts (1990) argue that the European Union represents a classic case of modern confederation, however, the union increasingly incorporates some features of federation.

Federation- Daniel Elazar defines a federation as “a compound polity compounded of strong constituent entities and a strong general government, each possessing powers delegated to it by the people

and empowered to deal directly with the citizenry in the exercise of those powers”. The powers referred to above include; legislative, administrative and taxing powers. The fact should also be acknowledged that the representative exercising these powers are directly elected by the citizens as custodians of the powers.

Federacy- This is an arrangement, “whereby a larger power and a smaller polity are linked asymmetrically in a federal relationship in which the latter has substantial autonomy and in return has a minimal role in the governance of the larger power. Resembling a federation, the relationship between them can be dissolved only by mutual agreement”. Some of the common examples of such arrangements are the relationship between Puerto Rico and the United States of America, and also of Kashmir and India.

Associated State- This is described as “an asymmetrical arrangement similar to a federacy but like a confederation in that it can be dissolved by either of the parties under pre-arranged terms”. The relationship between Cook Islands and New Zealand is a typical example.

Consociation- This connotes “a non-territorial federation in which the polity is divided into “permanent” transgenerational religious, cultural, ethnic or ideological groupings known as “camps”, “sectors”, or “pillars” federated together and jointly governed by coalitions of the leaders of each”.

Union- This refers to “a polity compounded in such a way that its constituent entities preserve their respective integrities primarily or exclusively through the common organs of the general

government rather than through dual government structures”. New Zealand and Lebanon are the typical examples.

League- This arrangement can be describes as “a linkage of politically independent polities for specific purposes that function through a common secretariat rather than a government and from which members may unilaterally withdraw at will, at least formally”.

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

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

Constitutionally
Decentralised

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

Hybrids- This explains political systems that combine the features of various other political systems. Watts (1990: 9) provides more elaboration. “Those which are predominantly federations in their constitutions and operation but which have some overriding federal government powers more typical of a unitary system may be described as ‘quasi-federations’”. The author’s detailed explanation deserves mention. “Examples are Canada initially in 1867 which was basically a federation but contained some unitary elements which have in the second half of the twentieth century fallen into disuse; India, Pakistan and Malaysia which are predominantly federations but whose constitutions include some overriding central emergency powers; more recently, South Africa (1996), which has most of the characteristics of a federation but retains some unitary features”. The author continues, “on the other hand, Germany while predominantly a federation, has a confederal element in the Bundesrat, its federal second chamber which is composed of delegates of the Land governments. The author argues that the emergent European Union after Maastricht is a typical hybrid because it combines much more fully the characteristics of a confederation and a federation. Noting that the EU is basically a confederation, but the union cannot deny the existence of the features of a federation in its structure and processes. Finally, the author submits: “Hybrids occur because statesmen are often more interested in pragmatic political solutions than the theoretical purity”.

3.3 Data on Federal Political Systems

List of Federations and their Component Units

Argentine Republic	22 Provinces, 1 National Territory, 1 Federal District
Commonwealth of Australia	6 States, 1 Territory, 1 Capital Territory, 7 Administered Territories
Federal Republic of Austria	6 Lander
Belgium	3 Regions, 3 Cultural Communities
Brazil	26 States, 1 Federal Capital District
Canada	10 Provinces, 3 Territories, Aboriginal Organisations
The Federal and Islamic Republic of the Comoros	4 Islands
Ethiopia	9 States, 1 Metropolitan Area
Federal Republic of Germany	16 Lander
Republic of India	25 States, 7 Union Territories
Malaysia	13 States
United Mexican States	31 States, 1 Federal District
Federated States of Micronesia	4 States
Federal Republic of Nigeria	36 States, 1 Federal Capital Territory
Islamic Republic of Pakistan	4 Provinces, 6 Tribal Areas, 1 Federal Capital
Russian Federation	89 Republics
St. Kitts and Nevis	2 Islands
South Africa	9 Provinces
Spain	17 Autonomous Regions
Swiss Confederation	26 Cantons
United Arab Emirates	7 Emirates
United States of America	50 States, 2 Federacies, 3 Local Home-Rule Territories, 3 Unincorporated Territories, 130 Native American Domestic Dependent Nations
Republic of Venezuela	20 States, 2 Territories, 1 Federal District, 2 Federal Dependencies, 72 Islands
Federal Republic of Yugoslavia	2 Republics

Source: Watts (1999)

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

List of Confederations

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

Source: Watts (1990)

List of Associated States, Federacies and Condominiums

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

Source: Watts (1999)

List of Decentralised Unions with Some Federal Features

Name	Number of Constituents
Antigua and Barbuda	2 Islands
Cameroon	10 Provinces
People's Republic of China	22 Provinces, 5 Autonomous Regions, 4 Municipalities, 2 Special Administrative Regions (Hong Kong) and (Macau)
Colombia	23 Departments, 4 Intendencies, 3 Commissaries

Fiji Islands	Consociation of 2 Ethnic Communities
Ghana	10 Regions
Georgia	2 Autonomous Regions
Indonesia	27 Provinces
Italy	15 Ordinary Regions, 5 Autonomous Regions
Japan	47 Prefectures
Myanmar/Burma	7 States, 7 Divisions
Namibia	14 Regions
Netherlands	11 Provinces, 1 Associated State
Papua New Guinea	19 Provinces, 1 Capital District
Portugal	2 Autonomous overseas Regions
Solomon Islands	4 Districts
Sudan	6 Regions, 1 Federally administered Province
Tanzania	2 Constituent Units
United Kingdom of Great Britain and Northern Island	4 Countries, 5 Self-governing Islands
Ukraine	24 Oblasts, 1 Autonomous Republic, 2 Metropolitan Areas
Vanuatu	Constitutionally Regionalised Islands

Source: Watts (1990)

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

3.4 Scholarly Interpretations of Federalism

Arguably, the most authoritative explanation of federalism is that presented by one of the iconic researchers of federal political systems in the twentieth century- Kenneth C. Wheare. According to Wheare, federalism is a system of government in which there is,

“a division of functions between co-ordinate authorities, authorities which are in no way subordinate one to another either in the extent or in the exercise of their allotted functions”.

In achieving this kind of arrangement, Wheare submits that there would be “the method of dividing powers so that the general and regional governments are each, within a sphere, coordinate and independent”. The author lists the following as the essential ingredients of federalism:

- a. Division of power among other government;
- b. A written constitution showing the division of powers;
- c. Coordinate supremacy of two orders of the government, with regards to their respective functions.

Inherent in Wheare’s explanation of federalism is the existence of a peculiar kind of value system that guides political interactions within independent States, and sometimes, between independent States. In effect, the emphasis here is on the existence of political interaction that takes a cultural garb, which the citizens rely on to advance their national cause, and through which national aspirations are attained. This culture is embedded in the notion of autonomous existence of the layers of government (at least two, but could sometimes be three), and the overarching coordinate relationship such that none of the layers of government has the constitutional right to lord it over others.

Critics have however described Wheare’s explanation of federalism as the institutional approach to federalism, which they argue is legalistic and restrictive. The argument is that the explanation does not take cognizance of the peculiarities of federal political systems on the basis that, not all political systems are the same. Furthermore, there is also the import of ignoring the socio-cultural peculiarities of the people. In essence, the bonds that tie different people together, for which they seek accommodation within a single political system are as varied as the number of states in existence. Thus, while these sets of political systems may adopt a system that recognises the existence of more than one layer of government, the patterns of practising federalism are varied.

Instructively, while Wheare's definition of federalism may be the most authoritative, other scholars have attempted to situate the federal political arrangement within the context of the existence of levels of authorities within a State, that focus their coordinate relationship on mutual concerns for achieving national aspirations. While Wheare's efforts is said to rely heavily on constitutional provisions, while ignoring the sociological dimensions of federalism, Livingstone's efforts is regarded as being mainly focussed on dissecting federalism as a function of social diversity rather than of constitutional architecture. Accordingly, Livingstone explains the concept of federalism as a political system that take cognizance of the socio-cultural environment, hence the processes and structure of the federal political system should be synchronised to suit the character of the socio-cultural environment. In effect, salient issues, such as; the historical political development, system of government, institutional structures of accommodation, among others, must be considered in the workings and processes of federalism. This point of departure buttresses the point that there is no true federalism. Aside of the provision for the structure that are common to federal political systems, and which differentiates them from unitary systems, the practise of federalism is basically designed to fit into the uniqueness and peculiarities of individual federal political systems. This is because the pull-issues, and the union and separateness-induced prerequisites for federalism are different in federal states.

From the foregoing, it is made clear that the practise of federalism is non-uniform. Accordingly, Linder (1994: 156) submits:

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

Watts (1999: 6) also lends credence to this by arguing that: "There is no single pure model of federation that is applicable anywhere in the worlds". As such, federalism is patterned in accordance to the nature of challenges that brought the federal option into

consideration in the first instance. Despite this though, two broad variants of federalism have been identified, these are the: Anglo-Saxone viewpoint and the European viewpoint. It is contended that the Anglo-Saxone idea of federalism is heavily skewed in favour of political considerations, while the European idea is more of the legal conceptualisation of federalism. The major difference in both viewpoints is that while the Anglo-Saxone (practised by the US, Canada and Australia) allows for parity among the levers of authority, the European tradition (as represented by Switzerland, Germany and Austria) allows for a broader participation from the lower levels of government. Elazar (1987) explains the difference between both traditions thus:

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

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

Self-Assessment Question

- Provide a succinct definition of federalism.

4.0 CONCLUSIONS

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

5.0 SUMMARY

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

6.0 TUTOR-MARKED ASSIGNMENTS

- Compare and contrast between a federal and a confederal system of government
- Explain the difference between the Anglo-Saxonist and European conceptualisation of federalism.
- Discuss a 'League' within the context of federalism

7.0 REFERENCES/FURTHER-READING

Elazar, D. Federal Systems of the World: A Handbook of Federal, Confederal and Autonomy Arrangements. *Jerusalem Centre for Public Affairs*. Retrieved from: <http://www.jcpa.org/dje/books/fedsysworld-intro.htm>

UNIT 2: THE INTELLECTUAL ORIGIN OF FEDERALISM

MAIN CONTENT

- 1.0 Introduction
- 2.0 Objective
- 3.0 Main Content
 - 3.1 Scholarly Contributions
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

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

2.0 OBJECTIVES

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

- Explain the origin of federalism
- Discuss the various phases in the development of federalism
- Identify each scholars' contributions to the development of federalism

3.0 MAIN CONTENT

3.1 Scholarly Contributions

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

weaknesses inherent in the arrangement of centrality. Johannes Althusius (1557–1630) is generally reputed as the father of modern federalist thought, because of his ever-green work, *Politica Methodice Digesta* (Althusius 1603) where he argued for the autonomy of Emdem. This was a period when such thoughts were against the authorities of the Lutheran provincial Lord and the Catholic Emperor.

Johannes Althusius' position at the time was motivated by the positions of the French Huguenots and the Calvinist teachings. As a permanent minority in several states, Calvinists developed a doctrine of resistance as the right and duty of “natural leaders” to resist tyranny. Essentially, mainstream Calvinists insisted on sovereignty in the social circles, to be only subordinated to God's injunctions. On the other hand, The French Protestant Huguenots developed a theory of legitimacy. The theory is based on the principle that a people (as composed in politically delineated territories) have God-given rights to resist rulers whose authorities and legitimacy can be questioned. In this respect, Althusius jettisoned theocratic dictates for a non-sectarian, non-religious contractualist political theory of federations that prohibited state intervention even for purposes of promoting the right faith. Significantly, the “accommodation of dissent and diversity prevailed over any interest in subordinating political powers to religion or vice versa”.

Althusius' position on the acceptable political arrangement within any political entity is based on the principle of living together in mutual benevolence. This is derived from the fact that the mutual interdependent nature of man brings about desired comfort. Thus, it is apparent that the claims of the collectives to legitimacy and political power is derived from the interconnected and interwoven relationships among them, rather than individualistic autonomy. Each collective however claims “autonomy within its own sphere against intervention by other associations”.

Deriving from this intellectual tradition, other scholars attempted variations of federal political orders, mainly as a political association aimed at accommodating diversities, while also being a tool for resolving inter-state conflicts. Arguably the first effort in this respect is Ludolph Hugo's work (*De Statu Regionum Germanie*, 1661), where the

distinguished confederations based on alliances, decentralized unitary states such as the Roman Empire, and federations, characterized by ‘double governments’ with territorial division of powers.

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

“A ‘confederate republic’ with separation of powers allows sufficient homogeneity and identification within sufficiently small member units. The member units in turn pool powers sufficient to secure external security, reserving the right to secede. Member units serve as checks on each other, since other member units may intervene to quell insurrection and power abuse in one member unit”.

This arrangement is partly reflected in the planning of the setting-up of the European Union. A different perspective to an appropriate political arrangement was presented by David Hume who counters the notion that smaller size is better. The author submits that, “in a large democracy ... there is compass and room enough to refine the democracy”. In his work, *Idea of a Perfect Commonwealth*, Hume’s recommendation focuses on a federal arrangement for deliberation of laws involving both member unit and central legislatures. The component units are bestowed with various powers, including partaking in decision-making at the centre. However, their laws and court judgments can be overruled by the powerful centre. In such geographically large

systems, there are better chances of protecting the decision-making process from the intrigue, passion and subjectivity that could go against public interest.

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

“The 1713 Peace Plan of Abbé Charles de Saint-Pierre (1658–1743) would allow intervention in member units to quell rebellion and wars on non-members to force them to join an established confederation, and required unanimity for changes to the agreement”.

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

“This federation does not aim to acquire any power like that of a state, but merely to preserve and secure the freedom of each state in itself, along with that of the other confederated states, although this does not mean that they need to submit to public laws and to a coercive power which enforces them, as do men in a state of nature”.

Remarkably, the US Constitutional Convention of 1787 provides the basis for contemporary federal political arrangements. One of the contributions of the Convention to modern federal thought is going beyond the unification of the member political units, but also people of various nationalities. In the bid to revise The Articles of Confederation of 1781 because of such issues as the weakness of the centre for the purpose of law enforcement and security, the convention made fundamental changes to the Articles of Confederation. The changes led to the jettisoning of the confederal

arrangement and the adoption of federalism as made in the constitution of 1789. With the landmark development, there emerged a new form of relationship between the centre and the component units.

The proposed changes however elicited widespread debates among concerned parties. For the anti-federalists, the major issue was the fear of undue centralisation which the new federal compact may lead to. For this category of people, there was the worry that the powers of the central authority would not be sufficiently constrained in a federal arrangement. It was equally alleged that the centre may eventually usurp the powers of the component units. They also feared that the centre might gradually usurp the member units' powers. Furthermore, there was the fear that such a massive geographical expanse with so many people of various races, religion and orientations and conflicting interests may not be able to avoid tyranny and work together harmoniously.

In consideration of the various perspectives to the debate, the authors of the Federalist Papers- James Madison, Alexander Hamilton and John Jay argued for the adoption of an interlocking federal arrangement. To them, the risk of tyranny is reduced in the large republics "where member units of shared interest could and would check each other" In effect,

"A rage for paper money, for an abolition of debts, for an equal division of property, or for any improper or wicked project, will be less likely to pervade the whole body of the Union than a particular member of it." (Federalist 10).

In furtherance of their beliefs in the federal arrangement, they argued that: "Splitting sovereignty between member unit and centre would also protect individuals' rights against abuse by authorities at either level", (Federalist 9). Also, in respect of the problems that may be associated with the allocation of powers, it was suggested that some authority should be placed with member units since they would be in the best position to address "local circumstances and lesser interests" (Federalist 37). The issue of defence and the economy also came up for consideration. In the views of the federalists, the centre should defend the territorial integrity of the state, while also

being in charge of coordinating its international economic relations. Furthermore, the federalists argued against granting member units veto power typical of confederal arrangements, since that would render the centre weak and cause “tedious delays; continual negotiation and intrigue; contemptible compromises of the public good” (Federalist 22).

For them, the issue of cutting down on undue centralization was germane. However, it should be handled not by constraining the extent of power in the relevant fields, such as defense, but instead by the composition of the central authority (Federalist 31). In their view, the people would maintain stronger “affection, esteem, and reverence” towards the member unit government owing to its public visibility in the day-to-day administration of criminal and civil justice (Federalist 17).

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

For Pierre-Joseph Proudhon, in his work, *Du Principe fédératif* (1863), federalism is the best way to ensure individual liberty and freedom in any political setting, where pacts have been entered to serve necessary and specific purposes. Subsequently, the changing phases of the world system, especially the devastating two World Wars provided impetus for considering federalism as suitable alternative political

arrangements for states. One of the reasons for a resort to federalism was because it was claimed that wars were as a result of “rampant nationalism”, there should therefore be other options to centralised states. Equally important was the fact that the high spate of decolonisation meant that the former colonies that were majorly multi-ethnic and multi-cultural had to adopt a suitable arrangement for their heterogeneity. It is also argued that globalisation has also been critical in providing opportunities for self-rule.

While Proudhon was wary of centralisation, authors such as Harold Laski warned of ‘The Obsolescence of Federalism’. The important problems, such as those wrought by ‘giant capitalism,’ require more centralised responses than federal arrangements can muster, thus, the call for a bit of central control; a notch higher than core federalists would recommend. In the process of its development, major issues continue to dominate the discourse on federalism, and these include; the reasons for federalism, and reasons for stability and instability; the legitimate division of power between component units and the centre; distributive justice, challenges to received democratic theory, and concerns about the politics of accommodation.

Self-Assessment Question

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

4.0 CONCLUSION

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

5.0 SUMMARY

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

6.0 TUTOR-MARKED ASSIGNMENTS

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

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

7.0 REFERENCES/FURTHER READING

UNIT 3: STRUCTURE OF FEDERALISM

MAIN CONTENT

1.0 Introduction

2.0 Objectives

3.0 Main Content

3.1 Competitive Federalism

3.2 Cooperative Federalism

3.3 Dual Federalism

4.0 Conclusion

5.0 Summary

6.0 Tutor Marked Assignment

7.0 References/Further Reading

1.0 INTRODUCTION

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

2.0 OBJECTIVES

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

- Explain the meaning of dual federalism
- Discuss the notion of competitive federalism
- Identify the differences between dual and competitive federalism

3.0 MAIN CONTENT

The federal arrangement is unique in several ways. One of such is that while federal political systems strive to achieve the aim of a minimum of two levels of government with jurisdictional responsibilities, the management of the relationship between the levels of government could be as diverse as possible. In essence, what obtains in

country A, may be different from a federal country B. Thus, the dynamic nature of federalism entails differences and varieties in the structure and mechanisms of federalism. These can be categorised as the competitive, dual and cooperative federalism.

3.1 Competitive Federalism

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

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

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

This is so because, the federal government is presumed to have the same kind of relationship and arrangements with all the state governments on the basis of constitutional dictation. Thus, the competition is limited to the lower levels of government. In reference to the Australian experience, Kasper (1994) provides for principles of cooperative federalism, as it relates to economic opportunities, these are:

1. Subsidiarity: this requires that decision-making should be centrally controlled if there is the possibility of its efficiency, as against being devolved to each state, if it would not be efficient.
2. Rule of origin: products and services should be accepted anywhere in the country, once they have been certified in one state.
3. Assignment of tasks: that is, the overlap between state and commonwealth responsibilities should be removed to reverse the gradual encroachment by the commonwealth into policy areas traditionally regarded as the states’ domains and responsible for a doubling up of regulation and administration; and
4. Fiscal equivalence: this holds that each unit of government should be responsible for its own revenue raising and people should pay in full for government services.

3.2 Cooperative Federalism

Cooperative Federalism can be defined as both a constitutional and political idea that focuses on the decentralisation of power and deemphasises the possibilities of equal sharing of power and governmental responsibilities among the various levels of government; federal, state or local levels. It implies the effort at tackling issues in a

cooperative manner among the levels of government, rather than the method of imposition of policy on the lower level governments by the central authority. It therefore envisages a situation in which the relationship among the levels of government can be regarded as both independent and interdependent such that there is an overlap of functions and financial resources, while knocking off the possibilities of total and absolute control of functions and resources by any single authority. Under this arrangement, the citizens' participation are accentuated by the cooperative nature among the layers of government.

Furthermore, the idea is that the levels of government interact cooperatively and collectively in order to resolve common problems, as against a practice of making policies on same problems- the implementation of such policies may eventually breed antagonisms between both layers because of the lack of common focus in making the policy. In reality, cooperative federalism does not recognise any clear distinction between federal and state functions, because of the recognition and acceptance that there are many areas in which the responsibilities and functions of the layers of government inter-lap.

Fundamentally, all levels share responsibilities in government process. There is high-level cooperation in working out details concerning the level of government that should take responsibility for particular areas and presenting policy direction and implementation for the purpose. Essentially therefore, the levels of government are considered as partners created for the purpose of the advancement of the whole, rather than oppositions making efforts to advance their own causes. The US example is apposite here:

“... drug enforcement involves federal agents, state troopers, and local police. The federal government supplies funds for education, but the state and local school boards choose curriculum and set qualifications for teachers”.

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

1. Federal and state governments should typically undertake government functions jointly rather than exclusively.
2. The federal government and component units routinely share power.
3. Power is not concentrated at any government level or any agency. The constitutional division of responsibilities allows citizens and groups wide-ranging access to different centres of influence.

In the final analysis, the idea of cooperative federalism refers to,

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

This type of federalism has been referred to as ‘marble cake’ federalism, which denotes the interconnectedness and interrelationship, not just among the various layers of government, but also, in the variety of crosscutting relationships among the layers of government. The ‘marble cake’ signifies the blurred distinction between the levels of government. The ‘marble cake’ explanation is typified with the diagram below:

Self-Assessment Question

- Define cooperative federalism

3.3 Dual Federalism

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

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

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

“While the federal government mandates certain rules that cover a multitude of smaller governments, the state or local authority is responsible for nearly everything else. In most systems, the states are allowed to check the national authority through representation in the central government. Some countries even have a system of judicial oversight in which legal recourse is available to the state or local power”.

The workings of dual federalism is maintained through specific criteria that emphasise the independence and autonomy of the levels of government, in other words, the balance of power must be maintained in such circumstances. It is critical to note that the federal power is derived through a system of laws, and thus, there are constitutional limitations to the extent of such powers and influences. As such, each of the layers of government controls an area or sphere of influence, where each of them maintains sovereignty that should not impact one another. Despite the demarcations, the two levels of government are expected to work together for the overall good of all, but do this by equally maintain some level of distrust and suspicion so that each can operate efficiently and effectively in its own sphere for the purposes of serving the citizens optimally.

As a result of the dual sovereignty exhibited in the practise of dual federalism, states’ rights are cautiously guided, so that the central government is restrained from infringing on spheres provided for the state government. an attempt to do so, constitutes a violation of the states’ constitutional rights. Despite the attempts at constitutional provisions, it is usually difficult to define how and when there is infringement on the rights and jurisdictions of the state. More so, when there is a resort to the courts for dispute resolution, which is usually the highest court in the

land, and a national institutions, the states are usually in the receiving end of judgments.

The origin of dual federalism is traceable to the birth of federalism in the US when the Articles of Confederation was rejected as the standard of political relationship. Significantly, the Articles of Confederation emphasised a weak central government, with only limited powers, which include, declaration of war, treaty agreements and defence. This arrangement was not all inspiring, leading to the cries for a more-inclusive arrangement that would establish a strong central government, and reduced role and jurisdiction for the states within the federal system. This is meant to be a middle-of-the-road arrangement between a confederation and a unitary system. Thus, emerged the ‘traditional’ federal arrangement of shared sovereignty between the centre and the component units, comprising of powers to the centre and some other reserved powers to the states.

Accordingly,

“Dual federalism is a theory about the proper relationship between government and the states, portraying the states as powerful components of the federal government --- nearly equal to the national government”.

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

1. The national government rules by enumerated powers only. The national government may rule by using powers specifically listed in the Constitution.
2. The national government has a limited set of constitutional purposes. The national government has only limited purposes.
3. Each government unit—nation and state – is sovereign within its sphere. National and state governments are sovereign in their own spheres.
4. The relationship between nation and states is best characterised by tension rather than cooperation. The relationship between the state and national governments are marked by tension.

4.0 CONCLUSION

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

5.0 SUMMARY

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

6.0 TUTOR-MARKED ASSIGNMENTS

1. Explain what is meant by dual federalism
2. Use the Australian example to highlight the principles of cooperative federalism.
3. What do you understand by competitive federalism?

7.0 REFERENCES/FURTHER READING

UNIT 4: INSTITUTIONS OF FEDERALISM

MAIN CONTENT

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
 - 3.1 The Executive
 - 3.2 The Judiciary
 - 3.3 The Legislature
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

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

2.0 OBJECTIVES

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

- Discuss the three arms of government
- Explain the contributions of each arm to the practice of federalism
- Identify the differences among the three arms of government

3.0 MAIN CONTENT

3.1 The Executive

This is one of the essential arms of government. The executive is responsible for giving direction to government policies and also charged with the implementation of those policies. It functions by working closely with the other arms in order to realise

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

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

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

The executive can be explained as “the aggregate or totality of all the functionaries or agencies which are concerned with the execution of the will of the state as that will has been formulated and expressed in terms of the law”.

Types of Executive Arrangements

1. Real or Nominal

The real executive is that which exercises substantive powers as dictated by the constitution. It is within the office of the real executive that the power for the actual executive control and administration of the country resides. While the nominal executive exercises ceremonial functions, and often times, acts as a symbol of the sovereignty of the state. In other words, the real executive is the Head of Government, while the nominal executive is the Head of State. The constitutions of some countries allows for both offices under an administration. For instance, in parliamentary democracies, such as India and Britain, the Prime Minister and his colleagues exercise real executive powers, while the President or the Monarch respectively exercise nominal executive powers. In the United States and Nigeria, the Presidents are the real

executives while there are no nominal executives, this same arrangement applies to the Governors of the various states.

2. Single/Plural Executive

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

The single executive is said to be advantageous for its principle of unity which is very relevant for the administration of the country. The advantage of the principle of unity is based on the fact that it encourages energetic responses to the challenges that may confront the state. The plural executive is also said to be advantageous for furnishing “greater guarantees against the dangers of executive abuse and oppression”. Furthermore,

“It renders more difficult executive encroachment upon the sphere of the legislature and upon the liberties of the people in general. It is difficult to have a coup de tat in a plural executive. It is likely to have a higher degree of ability and wisdom than is to be found in a single person”.

3. Cabinet System

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

4. Political and Permanent Executive

Political executives are officers of state who occupy the headship of various departments, but whose tenure of office is usually fixed, thereby being temporary. In Nigeria, the political executive consist of the members of the presidency- including the President, Ministers, etc. The president as the head of the executive is so referred only when he wins an election, and appoints the members of his team, whose stay in office are determined by him. In India, the political executive includes the Prime Minister, the ministers and the parliamentary secretaries. All these elected officials remain in office as long as their party wins the majority in parliament- they must resign as soon as they are no longer in the majority. Therefore, a political executive may be of either the parliamentary or presidential type, while it could also be under either the single or plural executive arrangement.

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

Characteristics of an Organised Executive

1. Unity in the Executive

Carrying out the functions of state requires unity of purpose, members of the executive must be determined to work as a united front in carrying out those onerous tasks.

2. Delegation of Responsibility

Members of the executive must be willing to delegate part of their functions for the purposes of efficiency and effectiveness. Despite having the final say, technocrats and experts are employed to work on the technical details of matters of states, therefore, the executive must be willing to delegate his responsibilities.

3. The Executive should be sufficiently Strong

The executive must at all time be able to rely on constitutional provisions for carrying out its duties and responsibilities. It is under such circumstances that the executive can appropriately serve the people. However, there is a note of warning:

“this does not mean that the government should be given too many powers. The reason is that if too many powers are given to the government, there is every possibility of a tyranny of the executive. Power must be relative to functions. Hence, only that much power should be given to the executive as is sufficient to enable it to perform its functions efficiently”.

4. Cooperation with the other arms of government

It is essential to institutionalise a warm working relationship between the executive and the legislature. This is a *fait accompli* in the parliamentary system, it is however a sensitive issue under the presidential system of government. For the purpose of keeping with the doctrine of separation of powers, the two arms of government must support each-other, while the legislature must not let go of its oversight functions.

5. Responsibility to the people

The executive must at all times be conscious of its responsibility to the people and work assiduously to ensure meeting their needs at all times. Furthermore, there should be the platform for the people to “decide at regular intervals whether they want the continuation of the executive or not”.

Functions of the Executive

1. Diplomatic Functions

The executive is responsible for establishing contacts with the rest of the world on behalf of the people. For this purpose, there is the requirements for the appointment of ambassadors, ministers and personal representatives. It is on the basis of the negotiations and agreements entered into by the representatives that the government of the country, as represented by the executive can enter into treaty with other countries. Although, the legislatures of countries practising the presidential system, may have the constitutional responsibility of ratifying a treaty entered into by the executive.

2. Administrative Functions

This is the primary role of the executive. For this purpose, both the political and permanent executives are fully engaged. It does with the day-to-day running of the machineries of government, which to an appreciable extent determines the performance of government.

3. Defence

The head of the executive is the Commander-in-Chief of the armed forces and he is to ensure the protection of the territorial integrity of the state, while equally ensuring the security of lives and properties through internal policing systems.

4. Judicial Functions

While the principles of separation of powers may be the norm in the presidential system of government, it does not foreclose the involvement of the executive in the judicial arm of government. For instance, most modern constitutions make the appointment of judges the prerogative of the president. Also, the executive also has the powers to grant pardon, even after the judiciary had performed its functions and duties.

5. Legislative Functions

Under the fusion of power principle of the parliamentary system, it is the executive that leads the legislature. “The executive summons the legislature, draws up its timetable and also decides which bills are to be enacted into laws”. Another example is that of the presidential system, in which the President of the US can veto a bill passed by the Congress.

Self-Assessment Question

Distinguish between political and permanent executives

3.2 The Judiciary

The judiciary is in charge of the dispensation of justice in any state. This responsibility is very important to the sustenance of civility. Without an impartial and independent judiciary, a state cannot exist. Such an environment would become the ‘Hobbesian’ state of nature where might was fundamentally right. However, in modern systems of government, the role of the judiciary cannot be overemphasised. According to Betham: “The administration of justice by the state must be regarded as

a permanent and essential element of civilisation and a device that admits of no substitute.” One of the essential ingredients for the functioning of the state is the independence of the judiciary. Often regarded as the ‘hope of the common man’, the judiciary is the last resort for anyone, where justice and equity are expected to be exhibited. The protection of the rights of the citizens can only be achieved by an unbiased umpire- the courts. Factors that ensure the independence of the judiciary include:

1. Methods of Appointment

In some parts of the world, (especially some select states in America) and in Switzerland, the judges are elected by the people and the federal chambers respectively. While this method has not gained popularity among scholars, its advantage is that the judges are somewhat independent of the executive, which to a reasonable extent may allow for fair dispensation of justice.

2. Tenure of Office

The period the judges spend in office is equally a determinant of the extent to which they can be impartial or otherwise. It is argued that:

If the judges are appointed for short terms, much of their independence is gone because they are always thinking of their reappointment and naturally they would not like to do anything which is going to annoy those in whose hands their reappointment lies.

3. Fixed and Adequate Salaries

The judge must be above want; he must be able to make ends meet in order to avoid the evil of corruption, which leads to impartiality and unfair dispensation of justice. In addition to salaries, other perks of office and allowances should reasonably meet their needs. This way, the judiciary would be attractive to the best brains and the best minds.

4. Appointees should be Highly Qualified People in the Field of Law

This is to forestall a situation in which lawyers before judges are more versed in the field of law. This may bring disrespect to the Bench, and make a mockery of the judicial system. Finally, Willoughby summarises the expectations regarding the independence of the judiciary thus:

Judges should be selected without regard to their political affiliations. Once selected, they shall hold office for a long term, for life or during good behaviour. They shall not be subject to dismissal by the executive, may be removed only for misconduct as established by a formal process of impeachment or address on the part of both Houses of Legislature. Their compensation shall not be withheld or diminished during their term of office.

Functions of the Judiciary

1. Administration of Justice

Essentially, the judge is duty bound to dispense justice on the basis of the dictates of the constitution. In other words, he should interpret the law impartially and pronounce judgments without fear or favour.

2. Law-making Function

Although the judge is not a member of the legislature, however, his view of the meaning of particular laws are equally considered as law, until set aside by a superior court of justice, or indeed, the legislature. Judicial decisions are a very important aspect of developing the legal system.

3. Custodian of the Written Constitution

The court decides whether laws passed by the legislature are *ultra vires* or not. In other words, a court of competent jurisdiction decides whether laws made by the legislature, whether state or central are within the competences of such legislatures.

4. Issuance of Writs

Courts also perform the function of giving relief in circumstances that have been determined to deserve such. For instance, the writ of mandamus; writ of habeas corpus; writ of certiorari and injunctions, etc.

5. Advices the Government

The court is duty bound to provide advice for government on complicated legal issues that may involve the two arms of government, or the various levels of government.

3.3 The Legislature

Arguably, the legislator is the most important arm of government. The main function of the legislature is law-making, law amendment and the repealing of laws. Therefore, the legislature provides the basis upon which both the executive and the judiciary can

work effectively. The government, and by extension, the people are directly affected by the activities of the legislature, thus, the work of the legislature is carried out with all seriousness. Essentially, every bill passes through three stages before being passed into law. The stages include, the first reading, second reading, committee stage, report stage and third reading. It is only the bills that enjoy the support of the majority of the members, who are the representatives of the people become law.

Functions of the Legislature

1. Financial

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

2. Other oversight Functions

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

3. Judicial Functions

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

4. Appointment of Public Officials

While the executive propose names of officials to be appointed by government, the legislature screens the proposed persons and either endorses or disapproves of the appointment of the proposed person.

4.0 CONCLUSION

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

5.0 SUMMARY

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

6.0 TUTOR-MARKED ASSIGNMENT

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

7.0 REFERENCES/FURTHER READING

UNIT 5: TERMS AND CONCEPTS IN FEDERALISM

MAIN CONTENT

- 1.0 Introduction
- 2.0 Objective
- 3.0 Main Content
 - 3.1 Intergovernmental Relations
 - 3.2 Consociationalism
 - 3.3 Symmetrical Federalism
 - 3.4 Asymmetrical Federalism
 - 3.5 Principle of Subsidiarity
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

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

2.0 OBJECTIVES

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

1. Familiarise themselves with various concepts in federal studies
2. Apply the terms and concepts in their discussions on federalism
3. Explain the terms and concepts treated here

3.0 MAIN CONTENT

3.1 Intergovernmental Relations

Oftentimes the concept of inter-governmental relations has been grossly confused and misunderstood by students and scholars of this field of study. Some people have tended to understand intergovernmental relations as a relationship between two governments in two sovereign nation-states. Even though this assessment or

conceptualization may not be completely wrong especially at the level of global analysis of government, but it tends to paint an unclear picture of the scope of our subject matter and creates the impression that inter-governmental relations has to do with purely international reactions to matters of state policy (Abonyi, 2006).

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

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

- Centre-State relationships
- State-State relationships
- State-Local Government relationships
- Local-Local Government relationships
- Centre-Local Government relationships

3.2 Consociationalism

From practical experiences, federalism can only function effectively and adequately only when democracy is the system of government. Democracy in such instance must be explicitly different from ‘civil-rule’ and must also be substantive rather than

procedural. One of the major types of democracy that has been effectively deployed by federal states to institutionalise power-sharing arrangements is consociational democracy. The consociational approach is a system employed by heterogeneous societies, made up of multicultural, multi-religious and multi-ethnic nations to stabilise the political environment by ensuring that political power-sharing arrangements are legitimised on the basis of consensus among the critical sectors of the society. The consociation seeks to reconcile societal segmental cleavages along ethnic and religious lines. The objective is therefore to ensure the following:

1. Governmental stability
2. The survival of power-sharing arrangements
3. The survival of democracy
4. The avoidance of political violence

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

5. Segmental isolation of ethnic communities
6. A multiple balance of power
7. The presence of external threats common to all communities
8. Overarching loyalty to the state
9. A tradition of elite accommodation
10. Socioeconomic equality
11. A moderate multiparty system with segmental parties.

Finally, the major features of a consociational arrangement are;

12. Coalition cabinet (often, collegiate executive)
13. Balance of power between the executive and the legislature
14. Decentralised federal system
15. Proportional representation
16. A rigid constitution
17. Elements of direct democracy

3.3 Symmetrical Federalism

Symmetric federalism is a federal constitutional arrangement in which the constituent states that make up the federation possess equal powers. Thus, each of the component

units have equal participation in the pattern of social, cultural, economic and political circumstances of the state. In effect, a symmetric federal system is one in which there is conformity and commonality in the relations of each separate political unit of the system to both the system as a whole and to the other component units.

Charles Tarlton provides the features of an ideal symmetrical federal system. According to the author, the model system is one composed of constituent political units with such characteristics as equal territory and population, with similar economic opportunities, similar climatic conditions, cultural patterns, social groupings and political institutions. In the workings of this system, each component unit will be concerned with the solution to the same sort of problems and with the development of the same sort of potentials. The author goes further, there would be no significant differences from one state to another in terms of the major issues about which the political organisation of a state might be concerned. Similarly, there would be no significant differences in terms of the political machinery and resources with which the state would approach the major issues.

The author also submits that in an ideal symmetrical federal system, each of the component units would have the same relationship with the central government. In other words, the division of power between central and state governments would be equal in every area. Furthermore, representation in the central government would be on equal basis for each of the component units, and the support provided for the component units by the federal government would be in unequal measure.

3.4 Asymmetrical Federalism

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

These are;

18. De jure asymmetry
19. De facto asymmetry

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

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

In the model asymmetrical federal system each component unit would have about it a unique feature or set of features which would separate in important ways, its interests from those of any other state or the system considered as a whole. Clear lines of division would be necessary and jealously guarded insofar as these unique interests were concerned. In the asymmetrical system it would be difficult (if not impossible) to discern interests that could be clearly considered mutual or national in scope...

Self-Assessment Question

What do you understand by symmetric federalism?

3.5 Principle of Subsidiarity

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

“... the principle of subsidiarity must be respected: a community of a higher order should not interfere in the internal life of a community of a lower order, depriving the latter of its functions, but rather should support it in case of need and help to coordinate its activity with the activities of the rest of society; always with a view to the common good”.

In effect, this means that the central authority should only be involved in local governance when the local authorities do not possess the capacity to handle such situations. Constitutionally, the activities of each level of government are stated and backed by law, such that competences and jurisdictions of each, do not interfere,

4.0 CONCLUSION

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

5.0 SUMMARY

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

6.0 TUTOR-MARKED ASSIGNMENTS

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

7.0 REFERENCES/FURTHER READING

Tarleton, C. (1965). Symmetry and Asymmetry as Elements of Federalism: A Theoretical Speculation. *The Journal of Politics*, Vol. 27, No. 4

MODULE 2 CHARACTERISTICS OF FEDERAL STATES

UNIT 1: HETEROGENEITY/DIVERSITY/ACCOMMODATION

UNIT 2: MAJORITY/MINORITY DEBATE AND IDENTITY POLITICS

UNIT 3: DEVOLUTION OF POWERS AND PRINCIPLES OF AUTONOMY

UNIT 4: REPRESENTATION; MARGINALISATION; POLITICAL POWER
RELATIONS

UNIT 5: FISCAL RELATIONS

UNIT 1: HETEROGENEITY/DIVERSITY/ACCOMMODATION

MAIN CONTENT

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
 - 3.1 Heterogeneity
 - 3.2 Diversity
 - 3.3 Accommodation
- 5.0 Conclusion
- 5.0 Summary
- 6.0 Tutor Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

In the previous module, the students were exposed to a broad spectrum of issues that are germane to the understanding of federalism. This unit would take us through some of the most important state features that inform the adoption of federalism. We shall see that differences in cultural values and orientation have not limited the political association of peoples over time.

2.0 OBJECTIVES

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

- Understand the meaning of heterogeneity
- Explain the meaning of plurality
- Identify some of the reasons for adopting federalism

3.0 MAIN CONTENT

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

3.1 HETEROGENEITY

The word hetero means 'combine' or 'different' character. This could be in form of cultural, ethnic, language, and other differences. Federalism is however a response to the societal division and diversity that arise as a result of heterogeneous character of some states. For instance, the Nigerian state is heterogeneous in cultural, ethnic and linguistic dimensions. There are over two hundred and fifty ethnic groups and approximately four hundred languages across the length and breadth of Nigeria. This accounts for the relatively high population of people in the country. These various groups were politically brought together by the colonial amalgamation 1914.

While the major ethnic groups are Hausa, Ibo and Yoruba, there are numerous minority groups that include, Efik, Tiv, Ijaw, Gwari, Idoma, Ighala, Itsekiri, among others. The need for these groups to co-operate and coexist harmoniously without rancour so that the country, Nigeria could experience political stability and economic development informed the adoption of federalism in the 1954 Lyttleton Constitution as the basis for politically structuring the Nigerian state. Thus, an attempt was made to

transform the heterogeneous nature of the Nigerian state into a positive outcome for all the people that are partakers in the political arrangement.

In various parts of the world, there are mechanisms for ensuring that plurality, which is derived from heterogeneity impacts positively on the development and advancement of the whole. The United States of America, India, Canada, Switzerland, etc. are composed of peoples from various backgrounds who are formed into groups that are distinct and identifiable by the differences in culture, norms and values, yet, these countries continually make attempts to ensure that the plural character of their environments enhances the ability for greatness.

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

Furthermore, it is equally imperative to be allowed to participate in the political process, such that all eligible individuals can be involved, at least, to the extent to which they wish to be involved. This could be in respect of standing for elections, and could merely be in terms of voting during elections. Of equal importance, is the management of the processes of acquisition and retention of political power. For heterogeneous societies with challenges from the inherent segmental cleavages, there must be generally acceptable and institutionalised process of political power-sharing, in order to ensure adequate representation for all groups. It is on the basis of adequate representation that a modicum of political stability can be achieved.

3.2 DIVERSITY

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

The diversity in heterogeneous societies is our point of departure. The situation is precarious in heterogeneous societies when diversity is not properly managed. Usually, it has a tendency to generate mutual mistrust and hatred, which often lead to deep-seated acrimony. On the other hand, its proper management puts the country in an advantageous position over its peers, and strengthens its capacity for growth and development. In political management strategies, States have been known to develop two approaches; one is the recognition and therefore institutionalisation of diversity, while the other approach attempts to erase the lines of diversity, by uniting all the various independent entities within it.

One of the ways that Nigeria has attempted to settle the problems arising from diversity is the inclusion of the Federal Character Principle in the various constitutions since 1999. This principle emphasises the need for the representation of groups in everything federal. This is a conscious legitimate attempt to recognise Nigeria's diversity and indeed, accommodate the diversity. Although the original intention of the government for introducing the Federal Character Principle was to ensure that the affairs of the government and its agencies at any level is not dominated by a few people from a particular group or a section of the country. This has achieved some measure of success in managing ethnic diversity in Nigeria, but it still remains an

inadequate mechanism for tackling the problem of accommodation. In effect, the Federal Character Principle that is meant for building unity in diversity by balancing official appointments among groups, ensuring mutual trust, accommodation of various interests, it has in practice, exacerbated divisions from many fronts.

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

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

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

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

This linguistic variation is capable of generating tension if not properly managed. The Swiss authority has overtime devised practical methods of handling the situation. Of particular interest is the legal aspect; peradventure a contradiction arises in the interpretation of the three official languages in respect of a federal law, the judge is expected to opt for the one that proclaims best, the perceived intentions of the law-makers. Moreover, the Swiss government has demonstrated greater determination in availing the relevant authorities with materials and resources to meet the challenges of working in a multi-lingua environment.

In addition to this, grants are made available with the purpose of projecting intercultural values for the benefit and appreciation of the various language communities. There is also the principle of language territoriality, in which the official language of a territory is determined by the canton that occupies the territory. These efforts, according to Fleiner (1996:93), means: “The confederation not only respects pluralism; it also considers pluralism as a specific value of Switzerland which forms part of the identity of the country.” The equal and unbiased focus given to the language groups requires:

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

A presentation of the relevant constitutional provisions would suffice: Article 18 of the 1999 Constitution states that “the freedom of language is guaranteed”. This provision is further strengthened in Article 70 where the official languages are specifically spelt out, with a proviso that “Romansh shall be an official language for communicating with persons of Romansh language”. In addition Article 70(2) states that:

The Cantons shall designate their official languages. In order to preserve harmony between linguistic communities, they shall respect the territorial distribution of languages, and take into account the indigenous linguistic minorities.

There are also time-tested mechanisms for managing the religious diversity in the country, such that in all ramifications, the Swiss have appropriately handled their diversity induced challenges. Fleiner (1996: 114) has identified the factors responsible for the successful management of diversity in Switzerland. These are; the concept of political union, secularization of the State, consensus principle, multi-loyalty, decentralization, influence of direct-democracy and democracy as a solution to ethnic conflict.

Self-Assessment Exercise

Explain one of the ways by which Switzerland manages diversity

3.3 ACCOMMODATION

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

Political accommodation has other significant components that need to be critically examined. One is the materialist basis of accommodation, which is often underplayed by analysts. Peoples' desire for material well-being is a big problem, which more often than not, makes inhabitants of a given territory to seek political accommodation. This is the case in federal systems where those that join the union desire to reap material benefits from the pooling of resources. Ideally, political accommodation is part and parcel of the federalist thought that enhances relatively poor units of the federal union to share from and have access to the resources and wealth of the relatively richer units. The deceptive belief that rich units should get richer and

poor units poorer negates the federal principle of political accommodation; rather federalism should bring about balanced and even development (Osaghae, 2010).

Thus, the overriding challenge is how to share the available resources without encouraging parasitism and indolence on the part of the poorer units and without deliberately distorting the development of the richer units. Similarly, the problem of equality and inequality needs to be resolved, since groups have unequal sizes, populations, resources and levels of development. Should unequal groups be treated equally? If so, how? How does the society ensure equal opportunity in the competition for power and positions? Should remedial and empowering interventions (affirmative action, reserved quotas and the like) be made to strengthen the capacity of people from minority, poor, disadvantaged and vulnerable groups to compete – and, if so, for how long? The Nigerian experience with these issues has been complex, but by and large, it shows that they are difficult to deal with despite the provision of creative constitutional and policy interventions meant to promote equitable access and even development.

In fact, Nigerian federalism is beclouded with the challenge of how the various components of the union can accommodate each other in terms of resource distribution as well as power sharing among them. In short, scholars (Soberu, 2012; Benjamin, 2012; Osaghae, 2006, 2010) of federalism are concerned about how federalism can bring about the equitable accommodation of the competing claims to self-determination, power, and resources to the satisfaction of several hundred ethnic nationalities, politico-administrative regions, and the major religious groups (Christian and Muslim) despite inequalities in population, size, resource endowment and level of development.

4.0 CONCLUSION

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

6.0 SUMMARY

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

7.0 TUTOR-MARKED ASSIGNMENT

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

7.0 REFERENCES/FURTHER READING

UNIT 2: MAJORITY/MINORITY DEBATE AND IDENTITY POLITICS

MAIN CONTENT

- 1.0 Introduction
- 2.0 Objective
- 3.0 Main Content
 - 3.1 Perspectives on Majority/Minority Debates
 - 3.2 Majority Group Politics
 - 3.3 Minority Group Politics
 - 3.4 Identity Politics
- 8.0 Conclusion
- 5.0 Summary
- 6.0 Tutor Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

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

2.0 OBJECTIVES

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

- Understand the meaning of identity politics
- Explain how identity politics impacts on the political stability of the state
- Clarify the majority/minority debate

3.0 MAIN CONTENT

3.1 PERSPECTIVES ON MAJORITY/MINORITY DEBATES

The starting point is the clarification of the majority and minority perspectives. We shall be examining the Nigerian and the American perspectives. From the Nigerian perspectives, both terms are viewed from the numerical understanding of majority being preponderant and minority being few in number. From the American

perspectives, the numerical consideration of determining majority and minority may not apply in all situations. Specifically, the assumption that minority groups may be small in number may be misleading.

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

3.2 MAJORITY GROUP POLITICS

According to John Farley (1995), "is any group that is dominant in the society, that is, any group that enjoys more than a proportionate share of the wealth, power, and/or social status in that society". The majority group always feels it is its natural and axiomatic right to monopolise state power and resources (Norbu, 1992), and for this reason, appointment and promotion to top bureaucratic political and economic positions are not bequeathed the minorities. More often than not, power rested with the privileged group that inherited it from colonial government, and as it has been observed, the state is used for accumulation as against legitimating purposes. Its structures, institutions and instruments are easily employed by the dominant forces to repress, exploit, suppress and marginalise others.

3.3 MINORITY GROUP POLITICS

The term 'minority' which sometimes refers to a minority group, is both conceptually and ideologically cloudy. The concept has quantitative, economic, social and cultural dimensions. It can be applied to ethnic, racial or religious groups. It has different meanings and consequences in different places and at different times. It is a group with a small numerical population relative to another or other groups. It may also refer to a powerless group or groups relative to more powerful groups in society. In the latter sense a minority is used and interpreted as a synonym for disadvantage (Alemika, 2001:98; 2003). Thus, a minority may be one with a small population or

one with very little power to influence decisions in the public domain within the society.

In spite of the diverse opinions on this subject, a number of scholars (Nnoli 1978; Otite, 1990) seem to have agreed that minorities are culturally specific and relatively cohesive groups which occupy a status of numerical inferiority and or socio-political subordination in relation to other cultural sections in the society (Amersfoort 1978; Suberu, 1996). Also, the concept of ethnic group is implied when invidious distinctions are not intended, while, the concept minority group, implies such invidious distinctions. The two concepts, nonetheless, underscore physical, religious, racial and other cultural features of a designated group which distinguish it from other dominant ethnic groups in the society. From the perspective of the United Nations, minorities are groups that are:

... numerically inferior to the rest of the population of a state, in a non-dominant position, whose members possess ethnic, religious or linguistic characteristics differing from those of the rest of the population, and show, if only implicitly, a sense of solidarity directed towards preserving their culture, traditions, religions or language (cited in Suberu, 1996:5).

In view of the above, the concept at times poses some problems regarding the basic features which should be appropriately applied to designate the minority status of a given group. Such features usually include statistical or numerical size, socio-economic and political power distribution, homogeneous physical and/or cultural traits, and differential treatment or status. With regard to the latter, there is also the question as to whether or not it is self-imposed; and whether or not members of the minority groups are collectively conscious of the differential treatment to which they are subject. More importantly, it implies low status in a social power relationship between a dominant power group and a dominated group (Eteng 1997:117). The minority groups vary depending on whether they are geographically concentrated or dispersed, whether they seek participation in, or isolation from, the broader political system, and whether the policies of the majority groups are made to enhance the liberation, continued subordination or elimination of such minorities (Amersfoort 1978:228-232).

Again, minority also means a group of persons who, by the factor of their physical or cultural characteristics, are singled out from others, and who, therefore, consider themselves as objects of collective discrimination. This means that minority status tends to possess an exclusion tendency from full participation in the life of the society. This exclusion character places the minority group more often than not in opposition to the majority group. Similarly, Schermerhorn (1997) conceptualised minorities as:

Sub-groups within a culture, which is distinguished from the dominant group, by reason of differences in physiognomy, language, customs or cultural patterns, including any combination of these factors.

In many societies, certain key features of ethnic minority have been identified, these include the fact that they are a collective of a social class which exist within a socio-cultural milieu. Its members are distinguished from the majority or dominant ethnic group in power, on the basis of inherent or contrived homogeneous physical/biological, national, racial, cultural and social characteristics. They are therefore, hated and deliberately excluded-socially, physically and, sometimes, legally, from participating in the social, economic, political economy concerns of the larger society. On account of this, they are self-conscious of their minority status, and often exclude themselves from the mainstream culture. A minority group is thus almost always embroiled in a discriminatory, unequal and clientelistic power relationship with the dominant ethnic majority groups, in which they often assume a subordinate status as the exploited, expropriated, disempowered, isolated, marginalised and then targeted.

Self-Assessment Question

Explain two of the characteristics of minority groups.

United States' Perspectives

Minority status has more to do with the distribution of resources and power than with simple numbers. According to Wagley and Harris (1958), a minority group has five characteristics, thus;

- The members of the group experience a pattern of disadvantage or inequality.

- The members of the group share a visible trait or characteristic that differentiates them from other groups.
- The minority group is a self-conscious social unit.
- Membership in the group is usually determined at birth.

Whatever the scope or severity of inequality, whether it extends to wealth, jobs, housing, political power, police protection, or health-care, the pattern of disadvantage is the key characteristic of a minority group. Because the group has less of what is valued by society, the term subordinate group is sometimes used instead of minority group. The pattern of disadvantage is the result of the actions of another group, often in the distant past, that benefits from and tries to sustain the unequal arrangement. This group can be called the core group or the dominant group.

The second defining characteristic of a minority group is some visible trait or characteristic that sets members of the group apart and that the dominant group holds in low esteem. The trait can be cultural (e.g., language, religion, speech patterns, or dress styles), physical (e.g., skin colour, stature, or facial features), or both. In the context of minority relations, groups that are defined primarily by their cultural characteristics are called Ethnic Minority Groups. Examples of such groups are Irish-Americans and Jewish-Americans. Groups defined primarily by their physical characteristics are Racial Minority Groups, such as African Americans or Native Americans.

Note that these categories overlap. For instance, the ethnic groups may have (or may be thought to have) distinguishing physical characteristics (for example, the stereotypical Irish red hair or Jewish nose), and racial groups commonly have (or are thought to have) cultural traits that differ from the dominant group (for example, differences in dialect, religious values, or cuisine). These distinguishing traits set boundaries and separate people into distinct groups. The traits are outward signs that identify minority group members and help maintain the patterns of disadvantage. The dominant group has (or at one time had) sufficient power to create the distinction between groups and, thus, solidify a higher position for itself. These markers of group membership are crucial:

Without these visible signs, it would be difficult or impossible to identify who was in which group, and the system of minority group oppression would soon collapse. It is important to realize that the characteristics that mark the boundaries between groups usually are not significant in and of themselves.

They are selected for their visibility and convenience, and objectively, they may be quite trivial and unimportant. For instance, scientists have concluded that skin colour and other so-called racial traits have little scientific, evolutionary, medical, or biological importance. However, skin colour is an important marker of group membership in our society because it was selected during a complex and lengthy historical process, not because it has any inherent significance. These markers are social constructions that become important because we attribute significance to them to serve selfish purposes

A third characteristic of minority groups is that they are self-conscious social units, aware of their differentiation from the dominant group and of their shared 'disabilities'. This shared social status can provide the basis for strong intra-group bonds and a sense of solidarity and can lead to views of the world that are quite different from those of the dominant group and other minority group. In some ways, minority and dominant groups can live in different cultural worlds. For example, public opinion polls frequently show vast differences between dominant and minority groups in their views of the seriousness and extent of discrimination in American society. A fourth characteristic of minority groups is that in general, membership is an ascribed status, or a status acquired at birth. The traits that identify minority group membership are typically not easy to change, and minority group status is usually involuntary and for life.

Nigerian Perspective

Here, the majority is taken as the ethnic group with the higher human population. This majority group possess comparative advantage over the group with lower number of population. The number is very critical in that the majority ethnic nationality can perpetually hold the instrument of power and politically dominate the minority group. The fear of possible domination by the majority group often create tension and anxiety

from the minority groups, hence, the persistent calls for constitutional protection. The minority agitation in the 1950s led to the emergence of a federal constitution in 1954. In Nigeria, the age-long minority challenge can be attributed to three key factors, namely;

1. The structure of the Nigerian state, coupled with the role of the state as the absolute controller of resources;
2. The absence of constitutional protection of minority rights.

The minority problem can also be traced to the ill-conceived colonial policy, which merged diverse groups under so-called regional formation that marked the beginning of domination politics in the country. In northern Nigeria, for instance, colonial chauvinism entrenched Hausa/Fulani as the regional identity and coercively integrated the minority groups, thereby super-imposing the language, culture, religions and socio-political organisation of the 'superior', dominant group. Hence, minorities' identities were either assimilated or suppressed (Danjibo, 2002). In the southern Nigeria, the Yoruba and Ibo regularly dominate, suppress and exploit the numerous minorities who mostly reside in the south-south zone.

3.4 Identity Politics

The shape of politics in heterogeneous societies is usually based on identities peculiar to each society, however, it is pertinent to ensure that the 'Us/Them' dichotomy in such situations do not lead to antagonisms. According to Osaghae and Suberu, identity could be broadly seen as any group attribute that provides recognition or definition, reference, affinity, coherence and meaning for individual members of the group, acting individually or collectively. Osaghae and Suberu state at least two approaches that could be used to capture and analyse the nature of Nigeria's identity diversity. One is to classify them on the basis of Geertz's (1963) famous distinction between primordial ties which are basically ascribed and based on the "givens" of life (tribe, kinship, and ethnicity among others), and civil ties, which hinge on industrial society-

type aggregations like class, political party affiliation, interest group membership, and so on. Let us examine each of the ties.

Primordial Ties

This type of ties are known to be prevalent in Africa and Asia. The resilience of such ties has made it difficult for the integrative revolution, which involves the erosion of primordial ties by civil ties, or what Oommen (1997: 35) describes as the transition from exclusionary and inequality-generating ethnicity and nationality identities to inclusionary and equality-oriented citizenship, to take place.

Civil Ties

Ties of civil nature are created on the basis of consciousness of differences or similarities as a result of the prevailing conditions in the society. This may include; social-class or gender identities. In comparison to others, the United States has transformed its primordial instincts into civil ties, especially that of liberty. Identity politics is therefore not based on issues of subjective considerations of familial linkages, but rather on the basis of civil ties derived from objective and well-thought commonalities.

Of all the federations, the United States represents a remarkable political achievement, the result of stitching together state and federal interests into a self-sustaining union. Each state has representation in the governance of the whole, and each state contributes to the union's overall success. So too, does each state maintain in trust a part of the nation's overall cultural and socio political heritage. And each plays a vital role in safeguarding and preserving America's future generations.

4.0 CONCLUSIONS

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

5.0 SUMMARY

The unit started with the majority/minority debate in order to lay the foundation for the actual meaning of each of the term to be adopted. Furthermore, the various

perspectives on the meaning of ‘minority’ is discussed before the discussion on the fundamental issue of Identity Politics.

6.0 TUTOR-MARKED ASSIGNMENT

1. Articulate the perspectives on ‘minority’
2. Explain Identity-Politics.
3. What are the three factors associated with the minority challenges in Nigeria?

7.0 REFERENCES/FURTHER-READING

UNIT3: DEVOLUTION OF POWERS AND PRINCIPLES OF AUTONOMY

MAIN CONTENT

- 1.0 Introduction
- 2.0 Objective
- 3.0 Main Content
 - 3.1 Devolution of Powers
 - 3.2 Principles of Autonomy
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

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

2.0 OBJECTIVES

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

- Understand the relationship between the centre and component units
- Explain the meaning of autonomy
- Discuss the meaning of devolution

3.0 MAIN CONTENT

3.1 DEVOLUTION OF POWERS

Inherent in federalism, is the necessity of dividing powers between member units and common institutions. Unlike in a unitary state, sovereignty in federal political orders is non-centralized, often constitutionally, between at least two levels so that units at each level have final authority and can be self-governing in some issue areas. In effect, the citizens are required to have obligations towards two governmental authorities, while they also expect their rights to be secured by two authorities. Inadvertently, power

distribution between the component units and the centre may not be uniform across federal states, but federalism emphasises some modicum of responsibility from at least two-levels of government. However, government machinery at the level of the component unit may also contribute to governance at the centre.

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

According to Crook & Manor (1998), devolution refers to “the transfer of governance authority for specified functions to sub-national levels ... that are largely outside the control of the central government”. This is legally binding on all parties, for it is usually captured in the constitution. Therefore, it entails the transfer of political authority to make decisions in spheres and areas demarcated for the sub-units. Devolution is more than just the transfer of power; it also engenders the spirit of co-operation and networking between different levels of government. Decentralisation by devolution is therefore, the transfer of functions, resources and decision-making to citizens themselves, who would exercise the powers ceded to their governments at the sub-unit level. The idea of decentralisation by devolution possess characteristics which seek to make the objectives of effective political administration compatible with democratic principles. These include;

1. the creation of sub-national jurisdictions at regional level;
2. the generalization of elections by universal suffrage to cover all sub-national jurisdictions;
3. the transfer of authority with sufficient financial resources for sub-national jurisdictions to carry out assigned functions;

4. the desire to respond to regional aspirations, which reflect the awareness of a community of interests at this level, and the desire of citizens to participate in the management of their affairs.

It is therefore understandable that the region (sub-national units) appear in the debates on decentralization as the most appropriate level where reinforcement of institutions, and the coordination and coherence of actions could be ensured. Indeed, the sub-national units have more recently become the principal focus of economic development.

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

- a. How the powers should be allocated?
- b. How to ensure that neither member units nor the central authorities overstep their jurisdiction?
- c. How to maintain sufficient democratic control over central bodies?
- d. Who shall have the authority to revise the constitutionally embedded division of power?

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

1. The creation of a fairer political ground;
2. Protection of group and individual human rights;
3. Establishes checks and balances to central power;

4. Avoids winner-take-all political competition;
5. Prevents political violence among rival groups.

SELF-ASSESSMENT QUESTION

Discuss some of the constitution considerations for Devolution of Powers

3.2 THE PRINCIPLE AUTONOMY

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

CONCLUSION

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

5.0 SUMMARY

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

6.0 TUTOR-MARKED ASSIGNMENT

1. Distinguish between decentralisation and devolution of powers.
2. Explain the Principle of Autonomy
3. Mention some advantages of Devolution of Power

7.0 REFERENCES/FURTHER-READING

UNIT 4: REPRESENTATION; MARGINALISATION; POLITICAL POWER RELATIONS

MAIN CONTENT

- 1.0 Introduction
- 2.0 Objective
- 3.0 Main Content
 - 3.1 Representation
 - 3.2 Marginalisation
 - 3.3 Political Power Relations
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

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

2.0 OBJECTIVES

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

- Explain the forms of political representation
- Discuss marginalisation as a political concept
- Understand the importance of power-sharing in a federal system

3.0 MAIN CONTENT

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

3.1 Representation

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

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

At the level of the federal Executive, the President is elected along with the Vice-President to serve a period of four term, which can be extended for a maximum of two-terms (eight years). To assist the President and Vice in the administration of the country are cabinet ministers, and numerous other positions of administration. Representation in federal cabinet in Nigeria has largely been dominated by the major ethnic groups. During the Obasanjo era, the major ethnic groups had the greatest number of representation in view of their overall numerical strength and as it pertained to the post of major ministers. However, on zonal representation, the ministerial appointment was reasonably balanced. None of the six geo political zones was left out from key ministerial posts. But in terms of state of origin, the

appointment of the ministers' attained even balance, as every state had one representation of the ministers. This fulfilled the constitutional requirement since every state had a minister.

Importantly, and on comparative note for the first time, the minorities have become better represented in government than the pre-1999 era. For instance, there has been no other time in the history of Nigeria when people from the minority tribes have had as much representations in the appointment of service chief positions, federal parastatals, special adviser positions, Secretary to the Federal Government as well as the Head of Service of the Federation. Despite the complaint of over-sized cabinets, there is some justification in the fact that the cabinets under the three administrations so far, have attempted to include all parts of Nigeria on the basis of geo-political balance. In effect, the cabinets are able to accommodate the various shades of representations thus satisfying the criteria of wide participation and federal character principle. It has also helped to enhance fair ethnic representation, which hitherto used to be dominated by one or two major ethnic groups (Benjamin, 2012).

3.2 Marginalisation

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

Politically the process of relegation denies people access to formal power structure and participation in the decision making processes that impinge on their economic

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

Interestingly, the major ethnic groups in Nigeria equally complain of marginalisation. For the Ibos, the complaint is about the manner in which the rest of the country has prevented them from attain the post of the presidency. They claim that this is a punishment that the Nigerian state imposed on them because of the civil-war. The Yoruba complains about the ill-treatment of the Jonathan administration, and submits that this is the reason for a high number of prominent Yoruba personalities in the opposition. For the Hausa, the dynamics of political administration since 1999 shows that they have been short-changed in the leadership patterns of the country. In this regard, they claim marginalisation in their inability to claim the presidency of the country.

By and large therefore, the issue of marginalisation does not stop at the doorstep of the minority, neither does it reside solely with the majority. Heterogeneous countries all over the world always make conscious efforts to assuage all stakeholders so that no part of the state would feel short-changed in governance process. Federalism is a tool at achieving such an end, however, the nature of federalism must suit the peculiarities of each environment.

3.3 Political Power Relations

The 1979 and the 1999 constitutions made Nigeria a federal state, and proclaimed the presidential system modelled after the United States' arrangement as the system of government. As a federation, Nigeria is made up of 36 states 1 federal capital and 774

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

ARMS OF GOVERNMENT

At every level of governance in Nigeria, the three arms of government are institutionalised. This is given effect, by the constitution. However, the extent to which the roles are played, is subject to various environmental challenges.

The Legislature

The Nigerian legislature is made up of members who are elected by the people. They make the laws that govern the people. The legislature at the federal level has two chambers or houses. These are the Senate and the House of Representatives. The Senate is made up of three Senators from each of the thirty-six states and one Senator from the Federal Capital Territory- Abuja. On the other hand, the House of Representatives is elected on the basis of population and not the equality of states. The two Houses at the Federal level constitute the National Assembly.

The states operate single-chamber legislatures, i.e. 'unicameralism'. Members of the State Houses of Assembly are elected from constituencies that are more or less equal. The State legislatures make laws for the governance of the state. At the local level, the Councillors constitute the legislature. Each local government is divided into wards. Each ward elects a Councillor. The legislature at the local level makes bye-laws for the governance of the local government area.

Legislative Powers under the 1999 Constitution

Nigeria's presidential system operates on the principles of separation of powers. The law-making powers is within the purview of both the National Assembly and State Houses of Assembly. Accordingly, Section 4(1)-(2) of the 1999 Constitution states:

1. The legislative powers of the Federal Republic of Nigeria shall be vested in a National Assembly for the Federation which shall consist of a Senate and a House of Representatives.
2. The National Assembly shall have power to make laws for the peace, order and good government of the federation or any part thereof with respect to any matter included in the Exclusive legislative list set out in part 1 of the second schedule to this constitution.

For the State Houses of Assembly, Section 4(6)-(7) states: (6)

1. The legislative powers of a state of the federation shall be vested in the House of Assembly of the State.
2. The House of Assembly of a state shall have power to make laws for the peace, order and good government of the state or any part thereof with respect to the following matters, that is to say.

Furthermore, the constitution also set the scope and limitations of the law making powers allocated to each of the tiers of government. In effect, there is a 68 item exclusive legislative list for the National Assembly and there is also a 30 item concurrent legislative list for both the National Assembly and the State Houses of Assembly. In the case of conflict, "the federal legislation shall prevail and the state law becomes void to the extent of its inconsistency as stipulated by section 4(5) of the constitution". This enumerated list guides the law making competence of each tier, while the residual items are left for the states.

The Executive

This arm of government deals with the execution of the laws made by the legislature. Its functions include the general administration of the whole country or the state as the case may be. There is usually an Executive Council, chaired by the President or Governor, and which includes, the Vice or Deputy, and all Ministers or

Commissioners, and all other relevant political appointees. This scenario is equally played out at the Local Government Areas, where the Chairman is ably supported by the Vice-Chairman, Councillors, and various appointees in the administration of the area.

The Executive Power under the 1999 Constitution

According to Section 5 (1)-(3), the Executive Power of the Federation:

- a. shall be vested in the President and may subject as aforesaid and to the provisions of any law made by the National Assembly, be exercised by him either directly or through the Vice-President and Ministers of the Government of the Federation or officers in the public service of the Federation; and
- b. shall extend to the execution and maintenance of this Constitution, all laws made by the National Assembly and to all matters with respect to which the National Assembly has, for the time being, power to make laws.

The Constitution also states that the Executive Powers of a State:

- a. shall be vested in the Governor of that State and may, subject as aforesaid and to the provisions of any Law made by a House of Assembly, be exercised by him either directly or through the Deputy Governor and Commissioners of the Government of that State or officers in the public service of the State; and
- b. shall extend to the execution and maintenance of this Constitution, all laws made by the House of Assembly of the State and to all matters with respect to which the House of Assembly has for the time being power to make laws.

Furthermore, the Executive Powers vested in a State under subsection (2) of this section shall be so exercised as not to:-

- a. impede or prejudice the exercise of the executive powers of the Federation;
- b. endanger any asset or investment of the Government of the Federation in that State; or
- c. endanger the continuance of a Federal Government in Nigeria.

The Judiciary

The Judiciary is of equal status with the other two arms of government. The judiciary is vested with the power of interpreting the law. At the federal level, the Supreme Court interprets the Constitution and can over-rule an unconstitutional law passed by the Legislature. The Judiciary exists only at the federal and state levels. It does not exist at the Local Government level.

According to section 5(5) of the Nigerian Constitution, the justice system operates on the basis of the hierarchical order of the courts, which is outlined below;

- a. The Supreme Court of Nigeria;
- b. The Court of Appeal;
- c. The Federal High Court;
- d. The High Court of the Federal Capital Territory, Abuja;
- e. A High Court of a State
- f. The Sharia Court of Appeal of the Federal Capital Territory, Abuja;
- g. A Sharia Court of Appeal of a State;
- h. The Customary Court of Appeal of the Federal Capital Territory, Abuja;
- i. A Customary Court of Appeal of a State;

SELF-ASSESSMENT QUESTION

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

The Judicial Power under the 1999 Constitution

In Section 5(6), the Constitution proclaims the judicial powers of the Federal Government thus:

- a. shall extend, notwithstanding anything to the contrary in this constitution, to all inherent powers and sanctions of a court of law;
- b. shall extend, to all matters between persons, or between government or authority and to any persons in Nigeria, and to all actions and proceedings relating thereto, for the determination of any question as to the civil rights and obligations of that person;
- c. shall not except as otherwise provided by this Constitution, extend to any issue or question as to whether any act of omission by any authority or person or as to whether any law or any judicial decision is in conformity with the Fundamental Objectives and Directive Principles of State Policy set out in Chapter II of this Constitution;
- d. shall not, as from the date when this section comes into force, extend to any action or proceedings relating to any existing law made on or after 15th January, 1966 for determining any issue or question as to the competence of any authority or person to make any such law.

Local Government

The essence of the creation of local government areas is to ensure that governance gets to the people at the grassroots level. As the third tier of government, local government authorities are empowered to handle and administer the affairs of areas under their control. According to Section 7(2) of the 1999 Constitution, ‘the person authorised by law to prescribe the area over which a local government council may exercise authority shall-

- a. define such area as clearly as practicable; and
- b. ensure, to the extent to which it may be reasonably justifiable that in defining such area regard is paid to –
 - i. Common interest of the community in the area
 - ii Traditional association of the community in that area
 - iii Administrative convenience.

Essentially, economic planning that would lead to sustainable and enduring development agenda is critical to the work of local government authorities. In the pursuit of this agenda, the local government authorities require huge sums of money, a high percentage of which would be derived from statutory allocation. Accordingly, Section 6(a) and (b) of the 1999 Constitution state:

- a. The National Assembly shall make provisions for statutory allocation of public revenue to local government councils in the Federation; and
- b. The House of Assembly of a State shall make provisions for statutory allocation of public revenue to local government councils within the State.

In their wisdom, the framers of the constitution created a joint state and local government account in Section 162 (6) of the 1999 Constitution. For this singular act, the autonomy of the local government authority appears to have been eroded. In other words, the state government is in control of the accounts of the local government authorities, which in effect places the state government over and above the local government authorities.

POWER-SHARING ARRANGEMENTS

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

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

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

4.0 CONCLUSION

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

5.0 SUMMARY

The unit commenced with the explication of representation, after which the direct opposite, marginalisation is treated. It is made clear that indeed, while the constitution

supports representation, it does not encourage marginalisation. In the last part of the unit, the critical issue of power-sharing patterns is discussed.

6.0 TUTOR-MARKED ASSIGNMENT

1. Explain the pattern of representation in Nigeria
2. Discuss what you understand by political marginalisation
3. Outline the judicial powers of Nigeria.

7.0 REFERENCES/FURTHER-READING

UNIT 5: FISCAL RELATIONS

MAIN CONTENT

- 1.0 Introduction
- 2.0 Objective
- 3.0 Main Content
 - 3.1 Meaning of Fiscal Federalism
 - 3.2 Nigeria's Revenue Allocation Experience
 - 7.1 Brief Notes on Fiscal Federalism
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

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

2.0 OBJECTIVES

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

- Understand the meaning of fiscal federalism.
- Explain the main issues pertaining to imbalances in resource-allocation
- Summarise Nigeria's fiscal federalism experience.

3.0 MAIN CONTENT

3.1 MEANING OF FISCAL FEDERALISM

Mainly, fiscal federalism poses questions as to how the nature of financial relations in any federal system affects the distribution of the nation's wealth. Scholars have argued that in its working and processes, fiscal federalism is very much in accord

with the American model of federalism. The following explanations bear true resemblance to the nature of fiscal federalism.

1. As a panacea to challenges of governance in heterogeneous societies, federalism is a function of institutional arrangement purposely bothering on maintaining unity while at the same time preserving diversity. This implies that each tier of government is coordinate in its sphere of authority and should have appropriate taxing powers to exploit its independent sources of revenue (Vincent, 2001:42). The relationship between the central government and the authorities of the component units should be that of partners in progress, and therefore, as long as the state governments request for grants and subsidies from the central government, rights have been sold, and the relationship moves from the level of coordinate to superior/subordinate relationship. In effect therefore, financial subordination is antithetical to the principles of federalism. It follows that both state and federal authorities in a federation must be given the power in the constitution to have access to control its own financial resources. Each must have a power to tax and to borrow for the financing of its own services. This is in keeping in line with the notion that federalism is an arrangement whereby powers within a country are shared between central and component units in such a way that each unit operates directly within their jurisdiction. The cardinal principle of federalism that says no level of government is subordinate to another must be held sacrosanct even in cases of finance and revenue generation.
2. Musgrave (1959) and Oates (1972) opined that the finances and functions of government should be shared in a manner that is acceptable to all involved. Fiscal federalism is the allocation of tax powers and expenditure responsibilities to various levels of government. In Nigeria, this includes the central government, state governments and local government authorities.

3. Nyong (1999), states that fiscal federalism is the relations among various levels of government in respect to allocation of national revenue and tax powers within the federation. He asserts that the principle of fiscal federalism is anchored on revenue sharing (vertical) and distribution of revenue (horizontal) among various tiers of government (executive, legislature and judiciary).
4. Mobolaji (2002) submits that, in a federal state, each unit should have its own sphere of responsibilities, and each should be blamed or commended on how it functions within its own sphere.
5. Uche (2004), states that fiscal federalism is the criterion for government to share revenue among various tiers of government. Ofuebe (2005). This is one of the relevant inclusions in Section 162(2) of the 1999 Constitution of Nigeria.

For the avoidance of doubt therefore, fiscal federalism refers to the allocation of tax-raising powers and expenditure responsibilities between the levels of governments. Accordingly, fiscal federalism is anchored on the following objectives:

1. To ensure correspondence between sub-national expenditure responsibilities and their financial resources (including transfers from central government) so that functions assigned to sub-national governments can be effectively carried out;
2. To increase that autonomy of sub-national government by incorporating incentives for them to mobilize revenues of their own;
3. To ensure that the macroeconomic management policies of central government are not undermined or compromised;
4. To give expenditure discretion to sub-national government in appropriate areas in order to increase the efficiency of public spending and improve the accountability of sub-national officials to their constituents in the provision of sub-national services;
5. To incorporate intergovernmental transfers that are administratively simple. transparent and based on objective, stable, non-negotiated

criteria;

6. To minimize administrative costs and, thereby, economize on scarce criteria;
7. To provide 'equalization' payments to offset the differences in fiscal capacity among states and among local governments so as to ensure that poorer sub-national governments can offer a sufficient amount of key public services;
8. To incorporate mechanisms to support public infrastructure development and its appropriate financing;
9. To support the emergence of a governmental role that is consistent with market-oriented reform; and
10. To be consistent with nationally agreed income distribution goals.

It is also pertinent to understand that revenue sharing/allocation is connected to the functions performed by the government structure or agent concerned. Essentially, the assignment of functions informs the basis for the determination of revenue rights and the delimitation of tax-raising powers. As earlier noted, powers, functions, jurisdictions, responsibilities and competences of the various levels of governments are classified into various legislative lists. Circumstances and the peculiar history of the country determines the basis for the classification. However, the assignment of functions for federating units are usually organised thus (Akindele & Olaopa, 2002):

1. Functions which can be more efficiently performed by the federal government than lower levels of government should be assigned to the former (i.e. be placed in the exclusive legislative list). These include national defence, external relations (including borrowing and external trade), banking, currency, nuclear energy, etc.
2. Functions whose benefits are more local than national but with the possibility of spill over effects should be placed in the concurrent list. Such functions include industrial, commercial or agricultural development, post primary institutions, health care, etc.

3. Functions which are purely local in character, in the sense that the benefits accrue, in the main, to limited geographic areas within the country, are usually assigned to local authorities. Such functions would include the establishment and maintenance of markets, car parks and public conveniences, refuse disposal, primary education and the construction and maintenance of local roads and streets.

3.2 NIGERIA'S REVENUE ALLOCATION EXPERIENCE

Nigeria's revenue allocation experience has been an arduous task; in efforts at satisfying all stakeholders, there has been continuous reviews of the sharing formula. Despite the numerous reviews, there remains the feelings of dissatisfaction among a cross-section of Nigerians as regards what is distributed from the Federation Account. A list of the principles used for the reviews is presented below:

1. Derivation Principle/Resource Control

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

2. National Development Principle

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

3. Principle of Equality

This principle attempts to be fair and just in the distribution of the country's

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

4. Equality of Population

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

5. Landmarks and Geography

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

6. Absorptive Principle

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

7. Internal Revenue

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

Challenges of Fiscal Federalism in Nigeria

According to Suberu (1998):

The Nigerian federal system plays a pre-eminent role in collective distributive interest in Nigeria. Typical consideration is usually given to ethnicity, and the associated primordial paradigms of communalism, religion and regionalism have emerged as the primary organising principles for conceptualising, articulating, protecting or promoting collective distributive interests in Nigeria.

Furthermore, Ayodeji (2005) submits:

Apart from being highly political, the issue of revenue allocation has become largely intractable in Nigeria due to a number of factors among which are the 'highly pluralistic nature of the Nigerian society; a succession of political upheavals, a dearth of reliable socio-economic data; a lack of consensus on appropriate distributive criteria and sharp economic fluctuations generated by the shift from peasant agriculture to an oil-based economy. Essentially, the shift to a monocentric oil economy has been particularly baneful, as it has intensified and focused distributive conflicts around a single source of revenue, namely federally-collected petroleum export rents.

In this respect therefore, the following factors can be identified as inhibiting the practise of fiscal federalism in Nigeria.

1. The unconstructive dominance of the federal government in revenue sharing from the Federation Account;
2. Nigeria's centralist system of fiscal relations;
3. Over-dependence on oil revenue;
4. Conflict over the sharing principle;
5. Disharmonious federal-state relations.

Self-Assessment Question

Explain internal revenue within the context of fiscal federalism.

The following suggestions have however been put up as solutions to the problem.

1. Undertake a reversal of the age-long fiscal dominance by the federal government;
2. Redress the prevailing mismatch between the central government and the component units by raising the level of taxing assignment of sub-national

governments;

3. Provision must be made for an efficient sharing formula between the centre and other tiers of government. This formula should also satisfy the broad objectives of inter-regional equity and balanced national development;

4. To this end the present vertical revenue allocation formula should be reviewed by the federal government to increase the percentage to lower governments in order to strengthen their fiscal capacity and enable them play strong role in nation building;

5. Diversification of the economy to viable and productive sectors would reduce the over-reliance and over-dependence on the oil industry. This would encourage greater economic performances by the state governments;

6. The state governments should be encouraged to diversify and strengthen their fiscal base by widening and deepening internally-generated revenue potentials. To this end, local tax administration should be improved, unproductive local taxes eliminated, and untapped tax potentials identified.

7. It is important to improve on the present state of fiscal discipline at every level of governance, in order to sustain macroeconomic stability.

3.3 Brief Notes on Fiscal Federalism

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

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

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

1. Federal and state governments are involved in purely local functions in an uncoordinated fashion;
2. The administration of sales tax by all three levels creates duplication and confusion;
3. Administration of the general value-added tax by the states involves unresolved issues about tax crediting on interstate trade;
4. The states and municipal revenue-sharing funds do not distribute revenue fairly and equitably;

5. Conditional transfers are arbitrary and driven primarily by political considerations. Programs work at cross-purposes and the subjective nature of these transfers may be sending the wrong signals to lower levels of government about laxity in fiscal management.

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

The author provides some options for resolving the anomaly. The options are listed below:

1. Immediate reversal of direct federal involvement in functions of purely local nature such as primary and secondary education, such as, urban grading, bridges, zoning, etc.
2. The three sales taxes should be combined into one to be administered by the federal government on behalf of state and local governments. The proceeds from the tax should be shared by the three levels in proportion to their current intake from this source.
3. The administration of rural property tax should be turned over to the state level.
4. The revenue sharing and transfer programmes should be restructured.

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

The Principles of Expenditure Assignment

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

The Principles of Tax Assignment

1. Economic Efficiency Criterion
2. National Equity Considerations
3. Administrative Feasibility Criterion
4. Fiscal Need or Revenue Adequacy Criterion

Instruments of Intergovernmental Finance

In order to ensure equity, transparency, efficiency and accountability, there are basic instruments that are germane to intergovernmental fiscal relations. According to Shah, these include:

1. Tax-Base and Revenue-Sharing Mechanisms- this is used to correct fiscal imbalances or mismatched revenue means and expenditure needs arising from the constitutional assignment of taxes and expenditure to different orders of government. Tax-base sharing means two or more government levy rates on a common base. While revenue-sharing agreements specify how revenues are to be shared among the federal government and the sub-national governments, with complex criteria for allocation, and for eligibility and the use of funds.
2. Intergovernmental Transfers or Grants- these can be classified into two: General Purpose (Unconditional) and Specific Purpose (Conditional or Earmarked). The General Purpose refers to transfers provided as general budget support. Such transfers have constitutional backings. In summary, such “transfers are intended to preserve local autonomy and to enhance inter-jurisdictional autonomy”. For the Specific Purpose, it is meant those transfers that are intended to provide incentives for governments to undertake specific programmes or activities.

The author equally outlines the objectives of fiscal national transfers. These are;

1. Bridging Vertical Fiscal Gaps
2. Bridging the Fiscal Divide through Fiscal Equalisation Transfers
3. Setting National Minimum Standards
4. Compensating for Benefits Spillovers
5. Influencing Local Priorities

4.0 CONCLUSION

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

5.0 SUMMARY

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

6.0 TUTOR-MARKED ASSIGNMENT

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

7.0 REFERENCES/FURTHER READING

MODULE 3: FEDERAL STATES

UNIT 1: NIGERIA

UNIT 2: UNITED STATES OF AMERICA

UNIT 3: SWITZERLAND

UNIT 4: INDIA

UNIT 5: BRAZIL

UNIT 1: NIGERIA

MAIN CONTENT

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
 - 3.1 Political History
 - 3.2 Evolution of Federalism
 - 3.3 Intergovernmental Relations
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

Nigeria is the most populous black nation in the world and it is made up of over 250 ethnic groups. The largest of these groups are the Hausa, Yoruba and Igbo. Nigeria is a country located in West Africa with a coast on the Gulf of Guinea and the Atlantic Ocean. With the largest economy in Africa and a rich deposit of oil, Nigeria remains a key player on the international arena. Neighbouring countries include Benin, Cameroon, Chad and Niger.

Nigeria is a federation; composed of 36 states, bound by one constitution with three tiers of government. Like most countries in Africa, Nigeria has a colonial history. The impact of Britain, Nigeria's former colonial master; in the body polity, or the peoples and culture of Nigeria cannot be dismissed. There has been wide debate as to what kind of federalism Nigeria practices as well as what kind of relationship exists between the central government and the federating states. This unit traces the political history of Nigeria and introduces the students to the evolution of Nigeria's system of shared rule- and separate rule, the federal system.

6.0 OBJECTIVES

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

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

7.0 MAIN CONTENT

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

7.1 POLITICAL HISTORY

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

The political history of Nigeria from about 1849 until it attained independence in 1960 is largely the story of the transformational impact of the British on the peoples and cultures of the Niger-Benue area. The British were in the Niger-Benue area to pursue their interests. The first critical step in this uncertain path was taken in 1849 when, as part of an effort to "sanitize" the births of Benin and Biafra, which were notorious for the slave trade, the British created a consulate for the two births.

From here, the British attempted to deepen involvement in the political and economic lives of the city states of the Bights and to rival with the French who also began showing imperial ambitions in the area. The result, in time, was that the British converted the coastal consulate and its immediate hinterland into the Niger coast protectorate. The apparently irreversible logic of this development led to deeper and closer involvement in the administration of the peoples and societies of this segment of Nigeria which, by the middle of the twentieth century, came to be known as eastern Nigeria. The second step, along the same path, was taken about 1862 when the British annexed the Lagos lagoon area and its immediate environs and connected same into a crown colony. According to the British, they did this in order to be better able to abolish the slave trade which used that area as an export point.

In contrast, Nigerian historians argued they did so to be better able to protect their interest in the vital trade route that ran from Lagos, through Ikorodu, Ibadan and similar communities, to the Niger waterways in the north and beyond into Hausa land. Be that as it may, by 1897, British influence had spread to all of Yoruba land which was subsequently attached to Lagos as a protectorate. The politically administered unit which came to be known as western Nigeria in the 1950s came at the end of this second step.

The third step in this unchartered path came in 1888 when the British Imperial government took over the National African Company and transformed it into the Royal Niger Company, chartered and limited. It also acquired political and administrative powers over a narrow belt of territory on both sides of the river from the sea to Lokoja, as well as over the vast area which, in the 20th century, came to be known as northern Nigeria. Thus, by about 1897, three main territories had emerged as British colonial possession. One change, perhaps the major one, was that the charter of the royal company was withdrawn and the territory under its shadowy control was declared the protectorate of Northern Nigeria and brought under the colonial secretary. Similarly, the Niger coast protectorate, which had been under the foreign secretary, was renamed the protectorate of southern Nigeria and brought under the colonial secretary. The Lagos colony and protectorate underwent no change while continuing under the controlling authority of the colonial office. With these three units then

brought under the colonial office, the situation was created in which the management of their affairs came to be informed by the same theory and practice of administration.

The amalgamation of 1914 offered an opportunity for making changes in the unsatisfactory arrangement, but not much was achieved in this area. All that was created was a body known as the Nigerian Council which met once a year to listen to what may be called the Governor's address on the state of the colony and the protectorate of Nigeria. The body had no legislative powers whatsoever. The same ambivalence based on imperial self-interest that characterized the Lugardian approach to seeing and treating Nigeria as one political entity and Nigerians as members of one political family was also evidenced in the constitutional development efforts of his successors.

For example, while the Sir Hugh Clifford constitution of 1922 introduced the elective principle for legislative houses for the first time, the legislative council which replaced Lugard's Nigerian Council legislated for the colony and southern provinces while the Governor continued to legislate for the Northern provinces through proclamations. The forty-six member council, presided over by the Governor was dominated by ex-officio and nominated members. The legislative council system thus implied a division of responsibility to govern Nigeria between the United Kingdom-based British government and the government established in the colony. Besides, Nigerians were excluded from membership of the executive council.

The Richards constitution of 1946, though it had among its objectives the promotion of the unity of Nigeria and securing greater participation by Nigerians in discussing their affairs, deliberately set out to cater for the diverse element within the country. Significant provisions of this new constitution included the establishment of a reconstituted legislative council whose competence covered the whole country; the abolition of the official majority in the council; the creation of regional councils consisting of a House of Chiefs in the North, whose roles were purely advisory rather than legislative. Significantly, however, the Richards Constitution was designed without full consultation with Nigerians which explains the hostility with which it was greeted, especially in the south. Although the Richards constitution was expected to

last for nine years, opposition to it, especially from the political leaders, was so strong that a new constitution, the Macpherson constitution, was promulgated in 1951.

Unlike the preceding constitutions, there was significant participation of Nigerians in its making from the village level up to the Ibadan general conference of 1950; the major provisions of the constitution were as follows; the establishment of a 145-member House of Representatives, 136 of them elected to replace the legislative council; a bicameral legislature for both the north and west, one being the house of chiefs while the east retained the unicameral House of Assembly; the establishment of a public service commission to advise the Governor on the appointment and control of public officers; the competence of the regional legislatures to legislate on a range of prescribed subjects while the central legislature was empowered to legislate on all matters including those on the regional legislative list.

Substantially, therefore, the 1951 constitution was more or less a half-way house between regionalism and federalism. Between 1951 and 1954, two important constitutional conferences were held in London and Lagos between Nigerian political leaders and the British government. These resulted in a new 1954 federal constitution whose main features were; the separation of Lagos, the nation's capital, from the Western Region; the establishment of a Federal Government for Nigeria comprising three regions, namely north, west and east with a Governor-General at the centre and three regional Governors; the introduction of an exclusive federal legislative list as well as a concurrent list of responsibilities for both the federal and regional governments, thus resulting in a strong central government and weak regions; regionalization of the judiciary and of the public service through the establishment of regional public service commissions, in addition to that at the federal level. From the point of view of the evolution of the Nigerian state, the most significant aspect of the 1954 constitution, which remained in force until independence in 1960, was that the Lugardian principle of centralization was replaced by the formula of decentralization as a matter of policy in the administration of the Nigerian state.

7.2 EVOLUTION OF FEDERALISM

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

1. Geographical and historical factors.
2. The British governmental deliberately imposed the federal system on Nigeria in order to maintain a neo-colonial control.

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

The formal adoption of a federal system in Nigeria occurred in 1954 during British rule. The British considered federalism as a means to accommodate the diverse ethnic, religious and linguistic composition of the country (Adamolekun, 1989). Because a federal structure required a division of power sharing between the central, regional and local governments, federalism was deemed especially beneficial for plural

societies seeking unity while retaining aspects of their individual identities. The Nigerian federation compromised the eastern region dominated by Igbos, the western region dominated by Yorubas and the northern region dominated by the Hausa-Fulani. The adoption of a federal system, while aimed at regulating ethno-political conflicts was itself based on ethnic heterogeneity rather on factors such as geographic diversity (Jinadu, 1985).

In each of these regions a single party dominated the political arena. In the west, the Action Group was dominant from 1951-62, in the east, the National Council of Nigerian Citizens (NCNC) from 1951-66, and in the north, the Northern People's Congress from 1951-66. Each dominant political party represented its dominant ethnic group both in terms of membership and political objectives. This result was ironic, given the fact that the objectives of Nigerian federalism was precisely to avoid altogether, or at least to minimize, the potential for political conflict stemming from ethnic divisions. The ineffectiveness of the federal structure to ameliorate ethnic divisions was evident in the fact that the regional governments were much stronger than the national government. Thus from its very inception as a nation-state, Nigeria's heterogeneous society seethed under the double yoke of the colonial rule and hegemonic rule of particular ethnic groups (Tade, 2003). This "federal" arrangement continued through Nigeria's independence in 1960. Ethnicity is key to understanding Nigeria's pluralistic and often divisive society.

The implementation of federalism, rooted in ethno-regional identity, inevitably led to the politicization of ethnicity in Nigerian political landscape and exacerbated ethnic conflict. Eventually, ethnic discrimination and the regional struggle for wealth played a role in the events leading to the Nigerian civil war in 1967. The military takeover in 1966 marked a turning point in Nigeria's political history and ushered in a political framework of military rule that dominated Nigeria for the next three decades. Military rule in Nigeria changed the balance of power between the central government and the regional governments in favour of the central government. One of the strategic steps taken by the Federal Military Government (FMG) under the leadership of General Gowon (1966-1975) was the restructuring of the federation into twelve states. The

Mohammed/Obasanjo military regime (1975-79) continued the trend of reconstructing the federal structure to give more administrative powers to the federal military government. Another significant move by the federal government, in an effort to increase its administrative dominance, was the initiation of local government reforms in 1976 and the creation of seven additional states. Again, states creation was done more or less along ethnic lines, bringing the total number of states in the federation to nineteen. The local government reforms initiated by the federal government effectively ended the jurisdiction of the state governments over the local governments.

From 1979-83, there was a short-lived attempt to return to democratic rule under a presidential system. The demise of the second republic and the subsequent military takeover of the government in 1983 returned Nigeria to the division of power that was established during Obasanjo regime (1976-79). The Babangida regime (1985-93) and the Abacha regime (1993-98) were arguably the most tyrannical forms of rule in Nigeria. The incipient federal structure under colonial rule, with equal co-sharing of political powers between the regional government and the national government, combined with the state creation process of the first military regime set the stage for extreme manipulation of ethnic heterogeneity. By the end of the Abacha regime, (1993-98) the concept of a federal system (or its aberrations) as experienced in the Nigerian political context, and its potential as a mechanism for constraining the inherently destabilizing force of ethnic heterogeneity, was subsumed in the struggle for democracy, basic human freedom and civil rights.

Self-Assessment Exercise

1. Mention factors necessitated the adoption of federalism in Nigeria?

7.3 INTERGOVERNMENTAL RELATIONS

In Nigeria, the practice of inter-governmental relations during both the colonial era and the first republic, very much exhibited traits of the principal/agent model. For instance, a local government authority functioned more as field administrative unit of regional and later state governments. Before the second republic in 1979, the state

governments were empowered to enact legislation that would ensure the establishment, structure, composition, finance and functions of the local government council (Bello, 1995). Meanwhile, Ayoade (1988), opined that the Nigerian federal structure with a multiple decision of relational and political structure, identified six levels of inter-governmental transactions within the levels;

- 1) Federal-state relations.
- 2) Federal-state-local relations
- 3) Federal-local relations
- 4) Inter-state relations
- 5) State-local relations
- 6) Inter-local relations

The constitutional existence of states and local government varies from one country to another. For instance, in a federal system like America, the constitution recognizes two tiers of government only, the state becomes the basic constitutional unit of local government because the 10th Amendment of the American constitution reserves for the state, the power to determine for itself the nature, scope and functioning of local government within its jurisdiction. For Nigeria, Njoku (1998) submits that the local government is technically a creation of the federal government as the third tier, its local prerogatives defined by the constitution and legislation.

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

In Nigeria, there are three levels of government; the federal, state and local government. The constitution stipulates the division of power and functions in the

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

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

In respect of revenue sharing arrangement, the 1999 constitution stipulates an arrangement that allows for statutory allocation of public revenue from the federation account held at the centre for the states and local governments [section 7 (6);162 ((1)-(8)]. This fiscal dominance of the federal government is a very great challenge to fiscal federalism. Onimode (1999) refers to this as fiscal unitarism and according to him, it can be adduced to the unified military structure where authority and power are centralized at the top and command and instruction are dictated from top to bottom. In respect to the provision of certain welfare and infrastructural facilities, the different levels of government inter-relate in the pursuit of certain programmes of development. They also inter-relate in the provision of infrastructural facilities such as construction of roads, electrification, agriculture etc. Regarding this, it is clear that the economic predominance of the centre could engender political attitudes that are antithetical to

federal practice, including fierce struggles for the control of the centre as this will result in a politicized and conflicting system of inter-governmental relations with little room for cooperation (Roberts, 1999). With such predominance, Gboyega (1990) argued that the federal government could even behave as if it has more stakes in some states than others along political party line.

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

Table 1
Political Indicators

Capital city	Abuja
Number and constituent units	36 states; Abia, Adamawa, Akwa Ibom, Anambra, Bauchi, Delta, Ebonyi, Edo, Ekiti, Enugu, Gombe, Imo, Jigawa, Kaduna, Kano, Kastina, Kebbi, Kogi, Kwara, Lagos, Nassarawa, Niger, Ogun, Ondo, Osun, Oyo, Plateau, Rivers, Sokoto, Taraba, Yobe, Zaramfara. 1 Territory: Abuja Federal Capital Territory
Political system	Multi-party
Head of State (Federal)	President, directly elected to serve 4- year term.
Head of Government (Federal)	President, Federal Executive Council (cabinet) The executive council is comprised in part with the input of the state governors.
Government structure (federal)	Bicameral –parliament/national assembly Upper house – senate, 109 seats. Senators are elected for a 4-year term in 36, 3-seat constituencies, and 1 in a single seat constituency

	(the federal capital) Lower House- House of Representatives, 360 seats. Members are elected for a 4 year term in single seat
Head of State Constituents units	Governors
Head of Government Constituents units	Government and the state executive council.

8.0 CONCLUSION

In conclusion, Nigeria adopted the federal system of government because of her multi-cultural, multi-ethnic, and multi-religious peculiarities. Federalism guarantees the platform for accommodation and compromise mechanisms in a heterogeneous and diverse society. The federation continues to grapple with inter-governmental relations that are heavily skewed in favour of the centre. It should be noted that, the choice of federalism as the preferred system of government was not accidental but was seen by the founding fathers of Nigeria as the most viable option for protecting the core interest of the federating units.

9.0 SUMMARY

The foundation and general outcome of what we have today as Nigerian federalism was laid in the colonial era. The strength of the centre and the contradicting tendencies, as well as the hegemony of the federal might which was already in place during the colonial days was passed on to the post-colonial Nigerian state. The evolution of Nigerian federalism did not depart from the general tendencies established during colonialism with regards to the centralizing tendencies in content,

spirit and structure. Undisputedly, the constitution preserves the autonomy of each tier of government but there is no denying the extent of federal power. This derives primarily from the military origin of the constitution, and the fact that the country operates a single economy in which economic activities belong to the exclusive legislative list.

6.0 TUTOR-MARKED ASSIGNMENTS

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

7.0 REFERENCES/FURTHER READING

- Adamolekun, L. and Ayo, S. (1989). "The Evolution of the Nigerian Federal Administration System". Publius: Journal of Federalism. Winter Press.
- Appadori, A. (2004). The Substance of Politics, Manzar Khan, Oxford University.
- Ayoade, J.A. (1993). Federalism in Nigeria- Problems with the Solution, Faculty Lecture. University of Ibadan.
- Elaigwu, J.I. (1994). The Nigerian Federation: Its Foundations and Future Prospects, Abuja, Nigeria. National Council on Inter-Relations.
- Elazar, D.J. (2005). Federal Systems of the World. Harlow,UK, Longman.
- Federal Republic of Nigeria (1999) Constitution of the Federal Republic of Nigeria, Lagos. Federal Government Press.
- Gboyega, A. (1999). 'Intergovernmental Relations and Federalism in Nigeria: A Research Agenda,' A paper presented at NISER Staff Seminar Series.
- Jinadu, A. (1974). 'A Note on the Theory of Federalism' in Akinyemi, A., Cole, P. and Ofonagoro, W. (eds), Readings on Nigerian Federalism. Nigerian Institute of International Affairs, Lagos.
- Oginna, A. (1996). A Handbook on Local Government in Nigeria. Owerri, Versatile Publishers.

- Okafor, J. (2010). Local Government Financial Autonomy in Nigeria: The State Joint Local Government Account. *Commonwealth Journal of Local Governance*, Issue 6.
- Onimode, B. (1999). "Towards Effective Budgeting under a Democratic System," A paper presented at the Policy Seminar on 1999 Federal Government Budget at CBN/NCEMA/NES Collaborative Program, Lagos.
- Osuntokun, J. (1979). "The Historically Background of Nigerian Federalism" in A.B Akinyemi (Ed.) *Readings on Federalism*. Ibadan University Press.

UNIT 2: UNITED STATES OF AMERICA

MAIN CONTENT

- 1.0 Introduction
- 2.0 Objective
- 3.0 Main Content
 - 3.1 Political History
 - 3.2 Evolution of Federalism
 - 3.3 Intergovernmental Relations
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

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

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

Court is the final arbiter in the interpretation of the Constitution and of division of powers. And in the event of a conflict between the federal and state legislatures, the state legislation will be rendered void to the extent of its inconsistency. Our focus in this course is on America's political origin and the development of its federalism.

2.0 OBJECTIVES

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

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

3.0 MAIN CONTENT

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

3.1 Political History

The origin of the United States of America has always been a subject of debate among historians. The most popular legend is that of the arrival of Christopher Columbus in 1492 in modern day America. In recent decades American schools and universities have shifted back in time to include more on the colonial period and more on the prehistory of the Native people. Indigenous peoples lived in what is now the United States for thousands of years before European colonialists began to arrive, mostly from England, after 1600. By the 1770s, the thirteen British colonies contained two and a half million people. In the 1760s British government imposed a series of taxes while rejecting the American argument that any new tax had to be approved by the people. Tax resistance, especially the Boston Tea Party (1774), led to punitive laws by

Parliament designed to end self-government in Massachusetts. This led to armed conflicts which began in Massachusetts; American Patriots drove out the royal officials out of every colony and assembled mass meeting and conventions. Those Patriot governments in the colonies then unanimously empowered their delegates to Congress to declare independence.

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

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

After reconstruction, the power of the national government was not asserted to a similar degree, but rapid industrialization of the country created forces of nationalization that would lay the foundation for the growth of federal power. In the twentieth century, two world wars, and the emergence of the United States as a world power would re-define the character of US federalism. The national government, particularly the office of the President would assume increased significance and authority. Today, the national government is far stronger than it was when it was first

established. All the three branches of government have assumed greater power in the federal system than they had in the early years.

3.2 Evolution of Federalism

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

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

Until the New Deal, the prevailing concept of federalism was “dual federalism” a system in which the national government and states have totally separate sets of responsibilities. Thus foreign affairs and national defense were the business of the federal government alone, while education and family law were matters of the states exclusively. The New Deal broke this artificial distinction and gave rise to the notion

of “cooperative federalism”, a system by which the national and state governments may cooperate with each other to deal with a wide range of social and economic problems. Cooperative federalism characterized American intergovernmental relation through the 1950s and into the 1960s. According to Elazar (1981), President Lydon Johnson’s Creative Federalism as embodied in his Great Society program was a major departure from the past. It further shifted the power relationship between government levels toward the national government, the expansion of grant-in-aid system and the increasing use of regulations.

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

Self-Assessment Test

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

3.3 Intergovernmental Relations

The national government has three branches- the bicameral Congress serving as the legislative branch, the independently elected President heading the executive branch and the Supreme Court heading the judicial branch. The relationship of each of these branches to the states has changed since the federation was created. With the rise in power of presidency along with the increasing responsibility of that office for the national economy, Presidents have become the national political figures they were

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

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

Table III: Political Indicators

Capital City	Washington, District of Columbia
Number and type of constituent units	50 States: Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North

	Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming.
Political system- federal	Federal Republic
Head of State- federal	President. The President and Vice President are elected on the same ticket by an Electoral College. The President can serve no more than two 4-year terms.
Head of government- federal	President. The President appoints the Cabinet, but the Cabinet members must be approved by the Senate.
Government structure	Bicameral: Congress Upper House- Senate, 100 seats. Senators are elected to serve 6-year terms, with one-third elected every two years. Lower House- House of Representatives, 435 seats. Representatives are directly elected to serve 2-year terms. Each state is guaranteed at least one representative.
Constitutional court-highest court dealing with constitutional matters	Supreme Court
Head of state and government – constituent units	Governor- popularly elected with term in office varying from 2 years (2 states) to 4 years (48 states), depending upon the states.

4.0 CONCLUSION

The nature of American federalism has changed as the relative positions of the national and state governments have evolved. Although the national government took a limited role for much of the country's history, it expanded its influence considerably in the early twentieth century.

5.0 SUMMARY

In this unit, you would have learnt about the history of American federalism and the various phases it passed through. We have also attempted to analyze the intergovernmental relations and explore how federal institutions are based on the principle of the separation of powers between executive and legislature with Presidential-Congressional institutions involving a system of checks and balances. In

American federalism, the states are not administrative units that exist only to implement policies made by some government, but they are coordinate partners in the working of the federal system.

6.0 TUTOR MARKED ASSIGNMENT

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

7.0 REFERENCES/FURTHER READING

Beer, S. (1993). *To Make a Nation: The Rediscovery of American Federalism*. Cambridge: The Belknap Press.

Elazar, D. (1966). *American Federalism: A View from the States*, New York, NY: Thomas Crowell Co.

Elazar, D.J. (1981). “The Evolving Federal System.” In Pious, Richard, ed. *The Power to Govern: Assessing Reform in the United States*. Proceedings of the Academy of Political Science.

UNIT 3: SWITZERLAND

MAIN CONTENT

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
 - 3.1 Political History
 - 3.2 Evolution of Federalism
 - 3.3 Intergovernmental Relations
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor Marked Assignment
- 7.0 References/ Further Reading

1.0 INTRODUCTION

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

2.0 OBJECTIVES

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

- Explain the origin of Switzerland’s political history.
- Describe the growth of federalism and the factors behind the growth.
- Discuss the nature of intergovernmental relations in Switzerland.

3.0 MAIN CONTENT

In order to set the tone for this discourse, it is important that we understand the origin of Switzerland’s political history. In 1848 the people and cantons of Switzerland adopted a federal constitution. This constitution was a compromise between the

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

3.1 POLITICAL HISTORY

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

The anniversary of the charter's signing (August 1, 1291) is now being celebrated as Switzerland's National Day. Between 1315 and 1388 the Swiss Confederates inflicted three crushing defeats on the Habsburgs, whose aspiration to regional dominion clashed with Swiss self-determination. During that period, five other localities (cantons in modern-day parlance) joined the original three in the Swiss

Confederation. Buoyed by their feats, the Swiss Confederates continuously expanded their borders by military means and gained formal independence from the Holy Roman Empire in 1499. Routed by the French and Venetians near Milan in 1515, they renounced expansionist policies. By then the Swiss Confederation had become a union of 13 localities with a regularly convening diet administering the subject territories. Swiss mercenaries continued for centuries to serve in other armies; the Swiss guard of the Pope is a vestige of this tradition.

The Reformation led to a division between the Protestant followers Zwingli and Calvin in the German and French parts of the country respectively, and the Catholics. Despite two centuries of strife, the common interest in the joint subject territories kept the Swiss Confederation from falling apart. The traffic in the mercenaries as well as the alienation between the predominantly Protestant Swiss and their Catholic neighbours kept the Swiss Confederation out of the wars of European powers, which formally recognized Swiss neutrality in the Treaty of Westphalia in 1648.

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

Switzerland industrialized rapidly during the 19th century and by 1850 had become the second most industrialized country in Europe after Great Britain. During the World War I serious tension developed between the German, French and Italian-speaking parts of the country, and Switzerland came close to violating its neutrality but managed to stay out of hostilities. During World War II, Switzerland came under

heavy pressure from the fascist powers, which after the fall of France in 1940 completely surrounded the country. Some political and economic leaders displayed a mood of appeasement, but a combination of tactical accommodation and demonstrative readiness to defend the country helped Switzerland survive unscathed.

The Cold War enhanced the role of neutral Switzerland and offered the country a way out of its diplomatic isolation after World War II. Switzerland did not for many decades join the United Nations, even though Geneva became host to the UN's specialized agencies. Switzerland also remained aloof in the face of European integration efforts, waiting until 1963 to join the Council of Europe. It still remains outside the European Union. Instead, Switzerland in 1960 helped form the European Free Trade Area, which did not strive for political union. Following the Cold War, Switzerland joined the Bretton Woods institutions in 1992 and finally became a member of the United Nations in 2002.

3.2 Evolution Of Federalism

If the 1848 settlement represented a delicate compromise between the desires of the liberals and radical majority and the fears of the conservative minority, it could not for long resist new pressures from both the liberal-radical movement and economic necessity. At this time, the new federal state was still extraordinarily decentralized, with limited competences exercised at the central level. The pressures that had led to the transformation of the confederation into a federal state were now pushing in the direction of a greater centralization of the latter. The main drive was the desire to harmonize regulations across cantons, in order to facilitate economic activity on a country-wide basis. After a failed attempt in 1872, a wide-ranging constitutional revision was approved in 1874 giving more power to the centre, notably on matters of defense, private law, transport and the environment.

As noted above, the 1874 revision left the institutional structure largely unchanged, with the significant exception of a strengthening of the powers and independence of the Federal Tribunal. In fact, the most significant innovation of the new constitution was the introduction of an optional referendum for ordinary legislation, whereby 30,000 citizens could challenge any law passed by the Federal Assembly, adding to

the mandatory referendum for constitutional reviews. Even more important in this respect was the introduction, in 1891, of the popular initiative for partial constitutional amendments. These instruments became the pillars of the system of direct democracy that has profoundly shaped the Swiss political system. In particular, as discussed in more detail below, direct democracy has played a crucial role in constraining the centralizing tendency of the political dynamics and thus has preserved some of the peculiar features of Swiss federalism.

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

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

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

the strengthening of Swiss citizenship and the building of a welfare state; and a strong nationalist ethos in the Radical Party.

SELF-ASSESSMENT EXERCISE

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

3.2.1 Intergovernmental Relations

Switzerland is a federation composed of 26 cantons (Article 1), of which six are so-called “half-cantons” arising out of the historic division of three cantons taking place before the foundation of the federation in 1848. These half cantons have the same independence as the other 20 cantons (Articles 3), with the exception that they have only half the representation when the formal tools of shared rule are concerned. This means they have only one vote when the majority of cantons is required for a referendum (Article 142).

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

According to Church (2004), there are three sets of institutional actors in Swiss federalism: the federation, the cantons and the communes. All three levels of government have specific constitutional tasks though their nature and extent naturally vary and it is critical to include the communes because they play an essential role in

Switzerland. The author continues by stating that cantons still appear to be central actors. Not only are they the crucial middle level between the federation and the communes, they are also the building blocks of the state. Constitutionally, they are the only actors free to determine their own policy-making role within the limits of the federal constitution although, de facto, this freedom has been progressively reduced by the process of centralization discussed above.

Another unique characteristic of Swiss federalism is that there is a lack of judicial review on the federal level. This means that, unlike in other federations, the Federal Supreme Court has no direct influence on the balance of powers between the cantons and the federations, even though it is “the highest federal judicial authority” (Article 188). Fleiner and Lidija-Basta (2000), submit that the usual explanation of this unique constitutional provision is both historical mistrust of the population towards the power of the judges, and an extremely strong belief in democracy. This led the constitution-makers to the decision that judges should not be able to abolish what has been decided democratically.

Also the executive branch of the federal government, Federal Council, is a very important factor of shared rule, mainly because the Federal Council and its administration draft almost all law-making propositions and they negotiate whenever an international treaty is discussed. The Federal Council is composed of seven Federal Councillors, elected by both chambers of the Federal Parliament, each of whom is head of a ministry, and together they form the Swiss Executive. For government decisions, all members of the Federal Council have equal votes, which means that the Federal President is only *primus inter pares* (first among equals).

The division of functions between the three levels of government is primarily regulated through constitutional norms. The presence of constitutional rules at both federal and cantonal level means that each of the three levels operates within legal constraints and has to respect the autonomy and prerogatives of the other levels and to co-operate with them. This said, there is a clear hierarchy of levels. Cantonal constitutions and legislation constrain the communes’ margin of manoeuvre while the federal constitution and laws prevail over cantonal laws. Importantly, cantonal acts are

subject to judicial review by the Federal Tribunal while federal acts are not and can only be challenged through referendum.

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

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

Table IV: Political Indicators

Capital City	Bern
Number and type of constituent units	26 Cantons (6 Are Half-Cantons): Aargau, Appenzell (Ausserrhoden And Innerrhoden), Basel (Basel-Landschaft And Basel-Stadt), Bern, Fribourg, Geneve, Glarus, Graubunden, Jura, Luzern, Neuchatel, Unterwalden, (Nidwalden and Obwalden), St. Gallen, Schaffhausen, Schwyz, Solothurn, Thurgau, Ticino, Uri, Valais, Vaud, Zug, Zurich.
Political System- federal	Federal Republic
Head of state- federal	Technically, The Head Of State In Switzerland Is The Federal Council Which Serves Also As The Chief Executive Authority. A President Is Appointed To Serve A 1-Year Term And Chairs The Federal Council, Which Is Comprised Of 7 representatives serving 4-year

	terms.
Head of government- federal	President. The powers and duties of the Head of Government are shared among the 7 members of the Federal Council.
Government structure- federal	Bicameral- Swiss Federal Assembly Second Chamber- 46 seats. 2 members from each of the 20 full cantons and one from each of the 6 half-cantons. First Chamber- 200 seats. Members are directly elected for 4-year terms in proportion to the population of each canton.
Political system of constituent units	Unicameral: Parliament
Head of state- constituent units	Chairperson: Chair of the Executive Council
Head of government- constituent units	Chairperson and Executive Council

4.0 CONCLUSION

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

5.0 SUMMARY

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

6.0 TUTOR-MARKED ASSIGNMENTS

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

7.0 REFERENCES/FURTHER READING

- Aubert, J. (1974). *Petite Histoire Constitutionnelle de la Suisse*. Berne: Francke.
- Basta-Fleiner, L. and Fleiner, T. (2000). *Federalism and Multi-ethnic States-The Case of Switzerland*. Basel: Helbing & Lichterhahn.
- Church, C. (1983). *Europe in 1830: Revolution and Political Change*. London
- Church, C. (2004). *The Politics and Government of Switzerland*. Basingstoke: Palgrave
- Fahrni, D. (2003). *An Outline History of Switzerland from the Origins to the Present Day*. Zurich: Pro Helvetia
- McKay, D. (2001). *Design Europe: Comparative Lessons from the Federal Experience*. Oxford: University Press.

UNIT 4: INDIA

MAIN CONTENT

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
 - 3.1 Political History
 - 3.2 Evolution of Federalism
 - 3.3 Intergovernmental Relations
- 4.0 Conclusion
- 5.0 Summary
- 6.0 Tutor Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

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

2.0 OBJECTIVES

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

- Understand the political history of India.
- Explain the evolution of federalism in India
- As well as Intergovernmental Relation in India.

3.0 MAIN CONTENT

One of the consequences of colonialism in India is the spread of the English language, which aided mass mobilisation under the spiritual leadership of Mahatma Gandhi and

forged a political unity which the national leadership built upon. Mahatma Gandhi was the father of the nation, while Jawaharlal Nehru could be said to be the father of the Indian state. India experienced a disturbing decolonization period, but the founding fathers in their own wisdom deemed it fit to lay a solid foundation for a durable democracy.

India's social diversities have basically taken four forms: caste, religion, language and tribe. Of these, language and tribe are territorially concentrated. Castes have always been, and continue to be, highly dispersed. Because they are geographically concentrated, language and tribe became the mainstay of Indian federalism. We will explore the diverse languages and tribes that are in existence in India in the course of this study. In short, language and tribe became the foundations of Indian federation—partly because of their geographical concentration, and in part because these two identities were not viewed as profound existential threats to India. Nehru was initially ill-disposed towards language as the basis of statehood, but over time, he came round to accepting its legitimacy (Gopal, 2011).

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

3.1 Political History

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

the mood of the speech made by Jawaharlal Nehru on August 14, 2014, the eve of independence.

The struggle to place India on the path of development and progress was daunting. Ignorance, illiteracy and backwardness was the order of the day; as at 1951, only about 25% of male were educated, 7.9% of females were educated. The women were maltreated and had no say in politics, women participation in politics was at zero level. The initial task that confronted the founding fathers of India was that of social engineering and economic development. Hence, they were to build a democratic formation on undemocratic structures, and these were to be achieved avoiding bloodshed and authoritarianism, bearing in mind the broad interests in the society. The task was daunting, however India was able to pull through the rigours of economic, political and social development to build a stable political entity. In this drive, there were personalities that were nationalistic in orientation, who ensured India became a stable polity that continually attempts to provide economic empowerment and social justice. The next part of this unit would discuss individual contributions to the development of India.

MAHATMA GANDHI

Mohandas Karamchand Gandhi, a man born into a privilege caste and fortunate to have received quality education despite not being the best of students, soon to be known as the father of Indian independence movement. On October 2nd 1869 in Porbandar, Gujarat, in North West India, the Chief Minister of Probandar welcomed into their Hindu Modh family, a boy, soon to be famously known as ‘Mahatma’, a word meaning ‘Great Soul’ Father of the Nation, Bapu ("Father"), Gandhiji. At the tender age of 13, Gandhi was made to marry in line with tradition and consent of their parents, a 13 year old girl by the name Kasturba Makhanji, a woman that supported Gandhi’s aspirations until she died in 1944. She bore him his first of four sons in 1888.

In the year 1889, he got admission to study at University College London, which he embraced with both arms. He left India with his wife and new born baby to become a barrister in London. Gandhi adhered to Hindu tradition of vegetarianism while in London, though some of the Indians he met in London ate meat, he also tried to adopt the lifestyle he met in London, of smoking, wearing expensive suits and drinking alcohol, but he soon realized that that lifestyle was meaningless and not for him, so he went back to his simple lifestyle for the remaining years he spent in London. Immediately after passing the bar exams in London, Gandhi moved back to India, and he was there for two years trying to practice law, only to realize that he was not well grounded, besides it was not easy securing a job in India then.

He got the opportunity to work for a year in South Africa, he later spent 21 years in South Africa helping to fight discrimination. As a result of the gross segregation confronted by his countrymen in South Africa, and with him also being a victim, as it was reported that at some point he was thrown out of a first class train despite having valid ticket, he formed the Natal Indian Congress on May 22, 1894. Their movement was built around using non-violent protest to promulgate their stance. Gandhi channeled the activities of the Natal Indian Congress (NIC) towards liberating the injustices confronted by Indians in South Africa.

Although the Natal Indian Congress (NIC) was first an association for wealthy Indians in South Africa, Gandhi worked assiduously to ensure that their membership was extended to all classes and castes of Indians living in South Africa. Gandhi's activism was read about in major dailies across Indian and England. He was seen as a reformer and a leader of the oppressed Indians living in South Africa. Gandhi returned to India in 1916, with the intentions of taking his wife and two children back to South Africa. India as at that time was experiencing an outbreak of bubonic, which was caused by dirty hygiene and sanitation. Gandhi and many other Indians volunteered to assist in inspecting the latrines in India then.

Though many people preferred to inspect the latrines of wealthy people, Gandhi volunteered to inspect the latrines of both wealthy and unprivileged people, only to soon find out that the wealthy people in India were the worst in terms of unhealthy sanitation. As Gandhi's returned to India, his fame and achievements in South Africa

had made him a people's favourite, so he took time to travel round India to get acquainted to his people and further learn about their sufferings and yearnings. By the year 1921, he was already the leader of Indian National Congress, where he reformed the Indian National Congress's constitution to one of complete independence for India. Some of his activism landed him in prison on 10th March 1922, whereby he served a 6 year jail term, but was released after 2 years in jail in February 1924.

After his release in 1924, Gandhi laid low for a while, only to return to the scene in 1928, and in the year 1930 when the government imposed taxes on salt, Gandhi led a 250 mile protest to the sea to take his own salt. The government as at then, realizing the huge political influence that Gandhi had, they had to negotiate with him on issues such as women liberation, poverty alleviation, eradication of unemployment, improved standard of living and ultimately independence of India. As a result of The Salt March protest, the British viceroy Lord Irwin, agreed to the Delhi Pact with Gandhi, as long as he called off the protest, which Gandhi did and the peaceful protesters that were jailed were released.

In 1934, Gandhi retired from politics, but he returned prior to the outbreak of World War II, when the British announced that India will be fighting side by side with the British without consulting any India leader. This show of arrogance by the British provoked the Indians and propelled them to re-embark on the Independence movement. The British realizing that another protest stares them in the face, then decided that they were going to grant India independence after World War II. Gandhi was not pleased with this declaration, he wanted independence urgently, and so he started the "Quit India" campaign in 1942.

This provoked the British, and they arrested Gandhi and jailed him. When Gandhi was released in 1942, he met a situation of chaos, because the idea of independence had divided the people of India on the basis of religion; the Muslims and the Hindus. The Hindus were in the majority in India, so the Muslims felt that an independent India would mean that they would be segregated and decision making would be in the hands of the Hindus, so the Hindus decided to break away and have their own country. When Gandhi saw this, he did everything possible to bring about peace among his people, but the British had already been successful in convincing the Muslims against

Gandhi's will. The British, realizing that a civil war stares them in the face, they decided to give Pakistan and India independence on August 15, 1947.

Throughout Gandhi's life, he escaped six known assassination attempts, the first was in Pune where he was to deliver a speech. The first assassination attempt on Gandhi's life was suspected to have been carried out by Godse, who was a Hindu fundamentalist opposed to Gandhi's tolerance of all religion and the use of non-violent protest. The same man, Godse, was to fourteen years later, be responsible for the assassination of Gandhi on his way to Birla House for prayer meeting. Nathuram Godse, walked before Gandhi, took a bow and shot Gandhi three times with a semi-automatic pistol, as he fell and died. This happened, January 30, 1948. Gandhi was 78 years old. Godse and his co-conspirators were both imprisoned until their trial on 8th November 1949.

JAWAHARLAL NEHRU

Jawaharlal Nehru was born on November 14, 1889, in Allahabad India. His father was a famous barrister in Allahabad. He got his education at the Trinity College, Cambridge England. In 1912, he returned home to practice law after obtaining a law degree at the Inner Temple in London. After some years of returning to India. His political orientation gathered momentum when he met Gandhi in 1919, he was immediately marvelled at Gandhi's tactics of using peaceful protest and civil disobedience to condition the British to listen to the yearnings of the people. Even Gandhi himself saw in the young lad, the future of the whole of India. Some writers hold the view that Gandhi took him into the party in order to convince more young Indians to join the movement.

Jawaharlal Nehru and his family abandoned expensive cloths and western lifestyle to go the Gandhi way of wearing khaki and Gandhi's cap. By the year 1922, he was elected President of the Allahabad Municipal Corporation in 1924. He held the position as the city's Chief Executive for two years, when he resigned citing lack of cooperation of civil servants and British officials. He later became General Secretary of the All India Congress committee between 1926 and 1928. It was during this congress that Jawaharlal Nehru made a call for full political independence from the British. Gandhi then gave the British two years to give Indians full dominion within

India. The British government did nothing to respond to this call. Jawaharlal Nehru was elected President of the Indian National Congress in 1929, and a resolution declaring independence for India was passed in 1930, that same year, Gandhi also instigated a disobedience movement which was successful.

This disobedience movement was what led to the Salt Walk of 1930. At first, Jawaharlal Nehru was opposed to this idea, but as soon as he realized that the ordinary Indians were in full support of this movement, he himself took salt from the sea. He was arrested during this movement and jailed for six months. With Gandhi taking the more religious role, Jawaharlal Nehru stood firm politically as he drafted what was called 'Fundamental Rights and Economic Policy', which included the right to vote, socialism, freedom of expression, rights of women etc. and was adopted by the whole of the assembly. This was what made them to refer to Nehru as "The Architect of Modern India".

When World War II broke out in 1939, the British went on without consultation with any Indian leader to declare that India will fight side by side with the British. This offended the India's National Congress leaders. Nehru consulted with the Congress leaders and declared that they wanted democracy, and they would only support the British if the British would pledge to give India independence. The British viceroy turned to the Muslim leader Muhammad Jinnah to get support, pledging to give them, the Muslim dominated part of India, independence as Pakistan. Mohammed Jinnah pledged military strength towards the British course, but this provoked angry reaction in the Indian National Congress. In the run-up to independence, a general election was held in which the Indian National Congress won majority of the seats in the assembly, and thus, had the responsibility of presenting the Prime-Minister. Nehru emerged as the first Prime-Minister of independent India. Under his leadership, the platform for an enduring democratic culture was erected for India.

3.2. Evolution of Indian Federalism

Historical factors have played crucial roles in the adoption of a federal constitution with strong unitary features in India (Rao and Singh, 2002). After the partition of India, the onus of drafting a constitution in line with federal principles fell on the Constituent Assembly (CA), formed in 1946. They had prolong deliberation over the

issue and finally decided to settle for a “unitary” federalism. The passing of the India Independence Act and the eventual Partitioning of India led the Constituent Assembly to adopt a more unitary version of federalism. The drafting of India’s federal constitution was conditioned by federal examples from places like the USA and Canada, and infused with local peculiarities. They gave room for changes that might not be possible if they had a constitution with strict federal principle. The result of this was a constitution that could meet the peculiar needs of the India nation.

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

However, in the initial months of its existence, before Partition became an accepted fact, the Constituent Assembly did not express itself in favour of a strong central government. The Union Powers Committee of the Assembly, headed by Nehru, had in its first report provided for a very weak central government. But once the decision on Partition was taken and announced on 3 June 1947, the Constituent Assembly considered itself free of the restraints imposed by the Cabinet Mission Plan of 1946, and moved quickly in the direction of a federation with a strong Centre. It is rather a merit of the Constitution that it visualizes the contingencies when the strict application of the federal principle might destroy the basic assumption on which the Constitution is built.

Some writers have argued that the Indian constitution has all the essential features of a federal constitution, e.g. rigidity, written constitution, supremacy of the constitution, etc. Meanwhile, some other writers hold a different notion. They argue that the existence of coordinate authorities independent of each other is the strength of the

federal principle, and in the absence of this feature the Indian Constitution does not qualify to be described as federal. The Indian Constitution elaborately defines the power distribution between the federal government (Centre) and the States. This part is divided into legislative and administrative powers. The Seventh Schedule of the Constitution created three lists of subjects, one each meant for the Centre and States, and a concurrent one of subjects that fell under joint domain of the Centre and states. The Constitution has also tried to minimize conflict between the Union and the states by clearly specifying the legislative powers of each. It contains three lists of subjects. The subjects listed in the Union List can only be legislated upon by the union parliament, the ones in the State List only by the state legislatures, and those in the Concurrent List come within the purview of both, but in case of conflict between Union and state legislation, the Union law will prevail.

List 1—Union List—has 97 subjects in respect of which the Centre is empowered to enact laws.

List 2—State List—has 66 subjects that fall under the competence of a State for legislation.

List 3—Concurrent List—has 47 subjects on which both the Centre and the States are empowered to legislate and enact laws.

3.3. Intergovernmental Relations in India

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

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

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

In line with the constitution, the Prime Minister and the council of ministers hold executive powers. The President appoints from the majority party in the Lok Sabha, the Prime Minister, but in situations whereby there is no majority party the president appoints a person who has the confidence of the majority of the members of the Lok Sabha. The Lok Sabha resigns as soon as it loses confidence, in line with collective principle. Though according to the constitution, they are asked to resign after a

breakdown of power, they are asked by the President to continue until a new one is in place. The Prime Minister has the power to appoint ministers and also recommend their dismissal, subject to the President's approval.

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

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

The Supreme Court established in 1950 is the apex court in the India, consists of the Chief Justice, who is the most senior justice, and twenty-five other justices appointed by the President after consultation with judges of the supreme and high court in India. They stay in office till sixty-five years of age and can only be unseated if two-third of parliament vote and a resolution is reached on the judge's improper conduct. The Supreme Court has original jurisdiction also in all disputes between the Union and states as well as between states and original jurisdiction, and also in case of appeals or writs relating to enforcement of Fundamental Rights, that is, a person can

straightaway appeal to the Supreme Court without going through the normal layers of the judicial hierarchy [Article 32]. (2000).

4.0 CONCLUSION

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

5.0 SUMMARY

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

6.0 TUTOR MARKED ASSIGNMENT

1. Give a brief account of the life, time and contribution of any one of India’s nationalist leaders.
2. Write a short note on India’s Lok Sabha.
3. Examine the impact of Partitioning on the making of India’s federal constitution.

7.0 REFERENCES/FURTHER READING

- Ambedkar, cited in S.C. Kashyap, *Our Constitution*, New Delhi, 1994, p.44.
- Center for Research on Economic Development and Policy Reform Working Paper No. 140
- Dynamics Of Indian Federalism By M. Govinda Rao*July 2002
- D.K. Singh, *V. N. Shukla's Constitution of India*, (7 Edition), (Delhi: Eastern Book Company, 1982)
- India After Independence 1947-2000 Bipan Chandra Mridula Mukherjee Aditya Mukherjee penguin books
- King, Robert D. (1997). *Nehru and the language politics of India*. Delhi: Oxford University Press
- Lawrence Saez, *Federalism without a Centre (New Delhi: Sage Publications, 2002)*
- Rao and Nirvikar Singh (2002a), “Fiscal Transfers in a Developing Country - The Case of India”, Paper presented in the Seminar in Comparative Federalism, University of Birmingham, January 18-19.
- Stepan, Alfred. (1999). Federalism and democracy: Beyond the US model. *Journal of Democracy* 10(4): 19–34.
- Surendra Singh and Satish Misra (2002). *Federalism In India: Time for a Relook?* ORF issue Brief

UNIT 5: BRAZIL

MAIN CONTENT

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
 - 3.1 Political History
 - 3.2 Evolution of Federalism
 - 3.3 Intergovernmental Relations
- 4.0 Conclusion
- 6.0 Summary
- 6.0 Tutor Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

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

2.0 OBJECTIVES

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

- Understand the dynamics of Brazil's political history
- Explain the nature of federalism in Brazil
- The character of intergovernmental relations in Brazil.

3.0 MAIN CONTENT

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

3.1 Political History

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

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

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

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

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

3.2 Evolution of Federalism

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

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

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

In the final analysis,

The consociative arrangements mean that the dispersion of powers throughout the political system facilitates the incorporation of almost all political forces and economic and social interests of the Brazilian society. The combination of a weak party system, low barriers to participation, and proportional representation at all levels (federal, state and local) produces some sort of compensation to the electoral force of Presidents, Governors and Mayors, who are directly elected.

Self-Assessment Question

Discuss the two main features of Brazil's federal system

3.3 Intergovernmental Relations

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

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

... The Brazilian constitution provides detailed rules for the management of the over 5,500 municipalities that are autonomous in strictly local affairs. Each municipality operates under its own constitutional provisions, called Organic (Basic) Law, which must be approved by a qualified majority in the Municipal Council.

In the final analysis, it will be observed that Brazil's federalism is built on a high-level of decentralisation, this is in spite of the experiences of the monarchical system and

military rule. These two systems thrive on over-centralisation of powers. In a unique way, Brazil's states may be regarded as more powerful than the central government. Though a matured federalism, Brazil keeps adjusting its constitution to meet up with emerging challenges.

4.0 CONCLUSION

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

5.0 SUMMARY

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

6.0 TUTOR-MARKED ASSIGNMENTS

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

7.0 REFERENCES/FURTHER READING

Costa, V. (2002). Brazil

Shah, A. (1990). The New Fiscal Federalism in Brazil. Working Papers. The World Bank

MODULE 4: COMPARATIVE ISSUES IN FEDERALISM

UNIT 1: CONSTITUTIONALISM

UNIT 2: INTRA-GOVERNMENTAL RELATIONS

UNIT 3: DECENTRALISATION

UNIT 4: INTERGOVERNMENTAL RELATIONS

UNIT 5: DEMOCRACY

UNIT 1 : CONSTITUTIONALISM

MAIN CONTENT

1.0 Introduction

2.0 Objective

3.0 Main Content

3.1 Meaning of Constitutionalism

3.2 Constitutionalism in Brazil

3.3 Constitutionalism in India

3.4 Constitutionalism in the United States of America

9.0 Conclusion

5.0 Summary

6.0 Tutor Marked Assignment

7.0 References/Further Reading

1.0 INTRODUCTION

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

2.0 OBJECTIVES

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

- Understand the meaning of constitutionalism
- Differentiate between constitutionalism and constitution
- Explain constitutionalism in Brazil, India and the US

3.0 MAIN CONTENT

3.1 Meaning of Constitutionalism

The term, 'Constitutionalism' is derived from the word 'Constitution'. Constitution can be defined as the collection of principles according to which the powers of government, rights of the governed, and the relations between the two are adjusted. It is the fundamental law according to which the relations of individuals to the community are determined. Constitutionalism on the other hand refers to strict compliance to the instructions provided by the constitution. Obedience to the constitution is what is generally referred to as constitutionalism. For constitutionalism however to be functional it requires the rule of law. The rule of law in its general usage means the supremacy of the law over both the governors and the governed. In other words, this means that no one within a particular territory is above the laws of that territory. Essentially, the rule of law often exists to protect three important principles, viz:

1. Division of powers especially among the executive, legislature and judiciary;
2. The fundamental human rights of citizens; and
3. Judicial review especially in order to have justice in society.

Constitutionalism is a tool used in engendering and measuring the extent of legitimacy of a government. It requires not only the followers to obey the constitution, but also the compliance of the governors to the dictates of the constitution. It is this factor that has made constitutional governments more related with democracies. Let us now assess the practise of constitutionalism in selected cases. Although, the meaning and notion of a constitution is universal, however, the practise and workings of the constitution are determined by various factors that may include, the character of the political elite, history of the state, among other issues. We shall be drawing our examples from Brazil, India and the US.

3.2 Constitutionalism in Brazil

Brazil has a unique political history of which a number of constitutions were adopted. This is the consequence of a hitherto unstable political terrain, made worse by incessant military incursions. The first in the series of constitutions is that of 1822,

followed by the others that were adopted in the twentieth century, until 1988, which remains the last constitution to be adopted. In all of the efforts at evolving an acceptable and suitable constitution, attempts were made at institutionalising the principles of constitutionalism in the various constitutions, but these efforts could not be considered to have been successful. The first attempt came immediately after independence from Portugal, with the setting up of a Constituent Assembly. The Constituent Assembly could not actualise the purpose for which it was set-up, and as such, it was dissolved and subsequently, a new constitution was imposed by Emperor Pedro 1.

Though the Constitution was inspired by the French Constitution of 1791, however, the Constitution could not advance the rule of law and the protection of fundamental human rights. The Constitution therefore failed in the following regards;

1. The fusion of power in the authority of the Emperor;
2. The incompatibility of the wordings of the constitution and actual realities in the economic and social sphere.

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

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

A new constitution emerged in the twentieth century, precisely in 1934. The 1934 Constitution was remarkable for the inclusion of important democratic tenets. Firstly, the Constitution provided for a government with popular support, in addition to encouraging the principles of welfarism in governance, thereby, giving government

the opportunity to reduce inequality in the society. Remarkably, the constitution provided for women suffrage. However, part of the failings of the constitution was that the suffrage was not universal, because beggars and illiterates were denied the rights to vote. In contrast to the 1934 Constitution, the new Constitution of 1937 was an authoritarian constitution inspired by the 1935 Constitution of Poland. While the constitution provided for the recognition of some rights, it was not fully implemented.

The country was presented with another opportunity in 1946, with the enactment of a constitutional charter that returned the country to democratic practise. Among others, the constitution adopted multiparty democracy, and provided for the respect of individual rights. Unfortunately, the constitution did not make provisions for illiterates and people that could not express themselves in the national language. The 1964 coup led to the suspension of the 1946 constitution. For the purposes of legitimacy, the military junta adopted a constitution in 1967. True to type, the constitution was a reflection of military dictatorship with no regards for the rule of law and the fundamental human rights of the citizens.

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

1. The promotion of the principle of popular sovereignty, submitting that the legitimisation of the use of powers emanates from the people directly or through the election of political representatives.
2. Also, the constitution introduced political pluralism as a foundation of the Federal Republic of Brazil thus recognising diversity of opinions and ideas, allowing for multiplicity of political parties.
3. Universal suffrage.

In summary, the 1988 constitution established a state based on rule of law and the separation of powers. This constitution also provides for the protection of rights; the rights to life, liberty, equality, security and property were categorised as inviolable. Other than individual rights, social rights, such as; rights to education, health, housing, leisure, etc. are also included in the constitution.

3.3 Constitutionalism in India

India's federalism is strengthened by the quality of its democracy. The country is generally regarded as the largest democracy in the world. The making of India's constitution can be traced to the country's independence from Britain in 1948. However, India's practise of constitutionalism is strongly connected to the country's colonial history and the people's distrust for political power. The constitution also acts as a tool to challenge the traditional discriminatory practises of religion and the caste systems. By challenging the discriminatory traditional systems, the constitution provides the enabling environment for the institutionalisation of constitutionalism. Thus by dismantling traditional hierarchies, it sought to usher in a era of freedom, equality and justice. Prior to the adaption of the Indian constitution, there was widespread inequality and discrimination. Thus after series of proposals and constitutional experiments in the 1940s the adoption of the Indian constitution marked the first time of equality, based on justice and fairness.

Some of the remarkable aspects of the proposals for the making of the constitution include;

1. The creation of a union of India
2. The union should have a legislature and an executive constituted from British-India and the states.
3. Subjects not other than the union subjects should be handled by the provinces.
4. Opportunity for provinces to seek amendments to the constitution at 10-year intervals
5. The states would retain powers not ceded to the union

Further to these, the constitution follows the modern practice of laying down fundamental rights; the state shall not deny any person, equality before the law or the equal protection of the laws. The state shall not discriminate against any citizen on grounds only of religion, race, caste or sex. There shall be equality of opportunity to all citizens in terms under the state etc.

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

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

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

1. The constitution did not necessarily specify how it was going to achieve a social revolution.
2. The constitution did not empower the state to intervene in market driven 'humiliation'.
3. The constitution also failed to address other key important issues. Issues such as marriages between individuals (citizens) of different religions, recognition of the rights of 'illegitimate' children. Even the rights of equality of citizens remains ambiguous.

4. The constitution failed to promote equal access to political power. Hence, certain casts have been left out in this respect.

3.4 Constitutionalism in the USA

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

The constitution's strength can be found in such founding documents as the declaration of individual's independence, as expressed in the Bill of Rights. The American constitution also emphasizes the principle of separation of powers. The organs of government enjoy relative autonomy within the American system. In making and amending the constitution, specific processes are required. Bills are given three readings in one house, referred to committees, reported, debated, considered by the other House and sent to the Executive head for his signature. Over the years, there have been over twenty two amendments to the constitution. Categorically speaking, there are various methods of amending the constitution.

1. Proposal by a two-thirds vote in each house of congress and ratification by three-quarters of the state legislatures.
2. Proposal of two thirds votes in each house of congress and ratification by conventions in three-quarters of the states.

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

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

Self-Assessment Question

List two methods of amending the US Constitution.

4.0 CONCLUSIONS

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

5.0 SUMMARY

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

6.0 TUTOR-MARKED ASSIGNMENTS

1. List the major focus of the rule of law.
2. What are some of the remarkable elements in the Indian Constitution?
3. Highlight the major failures of the first constitution in Brazil.

7.0 REFERENCES/FURTHER READING

UNIT 2: INTRA-GOVERNMENTAL RELATIONS

MAIN CONTENT

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

1.0 INTRODUCTION

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

2.0 OBJECTIVES

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

- Understand the meaning of the separation of powers principle.
- Articulate the measures taken by our selected cases in ensuring adherence to the principles of separation of powers
- Identify constitution provisions relating to separation of powers.

3.0 MAIN CONTENT

3.1 DEFINE SEPARATION OF POWER

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

It is believed that whenever the right of making and enforcing the law is vested in the same man or the same body of men, there can be no public liberty. The magistrate may enact tyrannical laws and execute them in a tyrannical manner since he possesses all that is required to be unquestionable. Where the judicial power is joined with the legislative power, the life, liberty, and property of the subject would be in the hands of arbitrary judges whose decisions would be regulated only by their opinions and not by any fundamental principles of law which though legislators may depart from yet judges are bound to observe. Separation of power is often backed by the constitution which acts as a source of authority for these powers. It is worthy of note that although these three arms are to be distinct, they are also expected to work in a coordinate manner. Thus, there are usually provisions for checks and balances of one-another in the constitutions of both the presidential and cabinet systems of government.

3.2 Separation of Powers in Nigeria

Nigeria is a federation of 36 states, a federal capital territory and 774 local government areas. Before now, Nigeria had operated on various constitutions. As a matter of fact, the 1999 constitution is a revised version of the 1979 constitution.

Apart from the few new provisions and innovations contained in the 1999 constitution, one can conclude that the 1999 constitution is a verbatim reproduction of the 1999 constitution. In between constitutions however, Nigeria has witnessed various military coups and military regimes. These regimes had contempt for the constitution. Usually when a military takes over power, the constitution is suspended indefinitely. The military head thus become lord and judge. Elements of Separation of Powers in the 1999 constitution.

Legislative Powers

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

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

Executive Powers

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

Judicial Powers

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

DISCUSSION

Like many countries, the constitution of Nigeria stipulates the existence of a separation of powers. It is a fundamental principle that underlines the constitution. The constitution clarifies the roles and boundaries of the three arms of government. Such provisions can be found in the 1999 constitution of the Federal Republic of Nigeria as follows;

Part 1 section 23 states that the president of the country shall appoint the chief justice of the nation subject to the confirmation by the senate. Part (1) section 231(1) states that the appointment of a person would require the president, the recommendation of the judicial council and the confirmation of such appointment by the senate. In a different section, the constitution subjects the acts of the parliament to judicial review by the judicial council. The constitution provides means by which the different arms of government can relate to each other or otherwise, check each other. The main purpose for all these measures is to safeguard the state from arbitrary rule. For instance, bicameralism as practiced at the federal level prevents the concentration of too much power in one man.

The system works by way of checks and balances. For instance, whereas the executive has the power to convene the legislature, the executive has the power to veto the decision of the legislature; the legislature in turn has the power to impeach the executive. This in itself keeps the parties in check. The judiciary in itself seen as the hope of the common man helps to assure justice within the country. The judiciary operates on set laws as established by the legislature and the authority of the executives. Hence, even though the three arms have separate powers, there are other aspects of the constitution which make interaction between the three arms inevitable for the execution of the provisions of the constitution.

Another instance is the President being the Commander in Chief of the Armed Forces of the federation cannot declare war without the prior knowledge and approval of the legislature at the same time, the legislature even the judiciary gets approval for their security details from the President. Another area of interest is the budget which can

only emanate from the executive, it must however pass through the legislature before the final assent by the executive is sought. From the foregoing, it is quite obvious that separation of power is often imperative for achieving necessary decorum in governance. It is however necessary to point out that a strict adherence to separation of powers will merely stifle the govern processes. However what is often obtainable is both a separation and fusion of power, here fusion of powers means the arms of government acting on specific issues as checks on each other.

3.3 Separation of Powers in India

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

The doctrine of separation of power is not fully accepted. The Indian constitution does not indeed recognize the doctrine of separation of power in its absolute rigidity but the functions of the different parts or branches of the government have been sufficiently differentiated and consequently it can be said that one organ or branch of the government understands better than to assume the responsibilities of other arms of the government. In other words, separation of powers is practiced in India but not necessarily rigidly. Like other constitutions, the executive power is vested in the President. However there is no corresponding provision vesting the legislative and judicial powers in any particular organ.

The legislative and executive arms are closely related with each other. For instance, the president is merely theoretically the head of the executive, in practice however, on

a closer look at the political operations of India, it is clear that the prime minister and his cabinet of ministers exercise deeper executive powers than the president. On the other hand, on specific matters, the president also performs legislative and judicial functions. What then exists is a separation of powers that is mute yet operational. It is followed without necessarily mentioning it. What has really informed this is the incredibly large size of the country and the multiplicity and complexities of its cultures. The separation of powers is necessary to create balance.

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

Self-Assessment Question

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

3.4 Separation of Powers in Brazil

The Brazilian federal system is built around a union of semi-autonomous entities. All of the operations of Brazil derives authority from the Federal constitution which is the Supreme law of the land. Brazil has had eight constitutions since independence in 1822, beginning with the constitution of March 25, 1824. The 1988 Citizen constitution recognises the three arms of government- the executive, the legislature and the judiciary. The executive as recognized by the constitution is headed by the president who is both the head of state and government. He is to be advised by a cabinet of ministers. The legislative power is exercised by the National Congress of Brazil which operates from two chambers- the Federal Senate and The Chamber of Deputies.

Judicial power is exercised by the judiciary consisting of the Supreme Federal Court, the Superior Court of Justice and other superior courts, the National Justice Council

and the Regional Federal Courts. It is safe to surmise that the Brazilian constitution allows for relative autonomy in the workings of the different arms of government.

3.5 Separation Of Powers In The United States

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

Legislative Powers

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

Executive Powers

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

Judicial Powers

Resides in the Supreme Court and other inferior courts established by congress. The operation of the separation of power principle is controlled by the existence of checks and balances among the three arms of government. The legislative arm is empowered to make and enact laws whereas, the executive headed by the president has the power to veto laws made by the Congress. The judiciary on the other hand is empowered to declare the legislation of the Congress unconstitutional. The president may settle disputes between the two houses of congress. For instance, when the two houses cannot agree on a date for adjournment, the president may intervene. The president is also empowered to convene either or both houses for emergency sessions.

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

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

All in all, the principle of separation of power allows for a more balanced and democratic government. Though it is not always that checks and balances engender smooth operation process.

4.0 CONCLUSION

The underlying philosophy of the principle of separation of powers is the need to ensure that the powers of the arms of government do not reside in any particular arm. Essentially therefore, no one person or group of persons can be in total control of government. However, there can be no strict adherence to the principles of separation of powers, even in a presidential system where powers are not expected to be fused. A

strict adherence has negative implications, because each of the arms would exist in isolation, and therefore, cause distortion and gridlock in governmental processes.

5.0 SUMMARY

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

6.0 TUTOR-MARKED ASSIGNMENTS

1. Discuss what do you understand by Separation of Powers
2. Outline the roles of the legislature in Nigeria.
3. Explain the executive check the legislature in the United States of America

7.0 REFERENCES/FURTHER-READING

UNIT 3: DECENTRALISATION

MAIN CONTENT

- 1.0 Introduction
- 2.0 Objectives
- 3.0 Main Content
 - 3.1 What is Decentralisation of Government?
 - 3.2 Decentralisation of Government in Switzerland
 - 3.3 Decentralisation of Government in Nigeria
- 4.0 Conclusions
- 5.0 Summary
- 6.0 Tutor Marked Assignment
- 7.0 References/Further Reading

1.0 INTRODUCTION

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

2.0 OBJECTIVES

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

- Understand the meaning of decentralisation.
- Explain the major issues of decentralisation in Switzerland.
- Explain the major issues of decentralisation in Nigeria.

3.0 MAIN CONTENT

3.1 Decentralisation of Government

Decentralisation may be defined as a conscious effort that takes away the focus of power from one level of government- the centre, and spreading it to lower levels of government in order to provide a robust, effective and efficient administration. It is a general belief that decentralisation of government is capable of addressing the need of the poor, the need of those who are at the periphery of society, of those who have been cut off from the centre, and may never have access to the centre. It is therefore necessary to decentralise power so that this category of people can feel the impact of the government. The focus of decentralisation is to ensure the effective administration of development, national cohesion and national integration. The process of decentralisation of power often requires the existence or creation of different levels of government. When power is not decentralised, it is said to be centralised. Accordingly,

The failure of most countries to be able to administer development to the interior or the sub national level has often times been attributed to the failure to decentralise the governmental power. It is believed that decentralization aids equitable distribution of public services and increased citizens' participation.

Federal systems must toil to achieve decentralisation of governance process. With the usual minimum of two layers of government, the centre would be unnecessarily loaded if functions and responsibilities are not decentralised. The regional and local government are key to successful decentralisation exercises. It is therefore imperative to equip the various layers of government with the necessary requirements to meet the developmental needs of the people.

3.2 Decentralisation in Switzerland

The federation of Switzerland was created in 1848. It was formed by several independent states. These states are known as Cantons. These Cantons retain relative autonomy even within the federation. In return, they give some high-tasking authorities to the federal government. The Cantons retained their rights to enact their

own laws, create their own political organisation- their own executive, legislature and judiciary. The Cantons may have right of secession by way of referendum. They also enjoy right of initiative to make decisions best suitable for them. As such, techniques and strategies applied by the various Cantons towards development tend to be varied. The Cantons are further divided into 3,000 communes or local governments. These communes also enjoy a degree of autonomy. There is however no definite size for each commune. Hence a commune could be as small as having 100 inhabitants or as large as having 400000 inhabitants. Their political autonomy is derived from an unwritten tradition within the communes. Their autonomy is based on the following:

1. The right to exist- The communes have the right to make decision on whether to remain as they are or become a part of another Commune through a merger. Neither the Cantons nor the Federal government can alter the nature of their existence without the consent of the people of the affected commune.
2. The freedom to choose their political structure- Within the legislation of the Cantons, the Communes have the power to choose their own political structure.
3. The freedom to legislate, plan and to implement within the boundaries of Cantonal legislation- The communes have responsibilities to their constituents. These include; constructing and maintaining local roads, developing local transportation, collecting garbage and managing general sanitation, running and maintenance of primary and secondary schools, planning of land use, providing of public assistance to the poor.
4. The right to impose taxes- They decide on how a tax rate to be collected is calculated. These rates are however subjected in some areas to ratification by a citizens assembly.
5. The right to act on all areas which are not covered by cantonal or federal legislations. Functions not exclusively reserved to the federal or Cantonal governments.
6. The communes have the right to seek judicial remedy in times of disputes- All its rights are constitutionally protected and could be redressed at the Swiss federal Tribunal.

FINANCIAL DECENTRALIZATION

Income

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

Expenditure

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

1. A tradition of participation at the local level- In Swiss communities, the local people can directly take part in government through a community assembly or make important decisions by way of referendums or right of initiative.
2. A strong identification of elected political leaders at the local level with their communities- Officers at the local level often get to such position not because of their political ambitions rather by their identification with the common ideals of the people at the local level. Many times, they are members of the same community groups and associations that perform nongovernmental aid within such communities.
3. A strong identification of citizens with their communal or cantonal government- Because of the autonomy enjoyed by Swiss communities the people can easily identify with their local government before the federal government and as such pursue development at every level.
4. A strong tradition of constitution making at the local level.
5. The bottom up approach of the Swiss constitution. What this implies is that unlike a country like Nigeria where power emanates from the centre to the states, in the Swiss case, power emanates from the states to the centre.
6. Also the communes have the power to implement federal law. They exercise initiative on how best to apply laws made by the federal government. The federal unit may however act as supervisor. Another factor is the institutionalized possibility of the Cantons and communes to influence

decisions at the federal level. Both the Communes and the Cantons are represented at the federal level.

7. Lastly, at the central level, government and parliament have to share their power with the people who can interfere through initiative and referendum. Parliaments consists of two chambers- the National Council representing the people and the Council of States representing the cantons. The federal court which is the highest court In Switzerland, reflects in its composition the relative strength of political parties, cultures and regions.

Self-Assessment Exercise

Highlight Switzerland's decentralisation format.

3.3 Decentralization in Nigeria

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

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

arrangements. Examples of this scenario has played out in Nigeria, Kenya, D.R Congo, among others.

The 1999 Constitution of the Federal Republic of Nigeria which recognises three levels of government divides inter-governmental responsibilities, thus the federal government has control over the Exclusive Legislative List, both the state and the federal government have control over the Concurrent Legislative List, while the fourth schedule of the same constitution outlined the function that should be solely performed by the local government authorities, and at some point, in conjunction with the state government.

INCOME OF THE DECENTRALIZED GOVERNMENTS

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

1. **Lack of political will:** Despite pronouncements by various central governments, the idea of devolving power from the centre to the local governments has never been feasible. The central governments do not seem to want to relinquish their strong hold on power.
2. **The management challenges:** The local governments themselves lack human resource capacity
3. **Lastly, the docility of the Nigerian people:** The Nigerian populace have not been proactive in demanding changes and development in their communities. Hence, the central government remains reluctant to commit responsibility to the local government.

4.0 CONCLUSION

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

5.0 SUMMARY

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

6.0 TUTOR-MARKED ASSIGNMENTS

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

7.0 REFERENCES/FURTHER-READING

UNIT 4: INTERGOVERNMENTAL RELATIONS

MAIN CONTENT

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

1.0 INTRODUCTION

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

2.0 OBJECTIVES

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

- Understand the meaning of intergovernmental relations.
- Articulate the importance of intergovernmental relations to federalism
- Provide perspectives on intergovernmental relations in Brazil, India and the United States of America.

3.0 MAIN CONTENT

3.1 Meaning of Intergovernmental Relations

Intergovernmental relations refers to the interaction that takes place amongst the different levels of government within a country (Ugoh, 2011:18). By this simple

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

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

Furthermore, the nature of intergovernmental relations is such that combines three major issues namely; jurisdictional separation of powers among levels of government, resource control/fiscal arrangement, and the administrative mechanism for managing intergovernmental relations, including the judicial means, structures and processes of managing intergovernmental conflicts. All of these issues are usually provided for in the constitution of the country where such levels of government exist.

In a nutshell, intergovernmental relations is a concept associated with a federal system of government, where different tiers or levels of government exist within a country. To this extent, intergovernmental relations exists in federal states such as Nigeria, United States of America, India, Canada, Brazil, Switzerland, Germany, and Austria, where the Federal, States and local governments co-exist to undertake defined responsibilities, exercise powers, and claim control of resources within the limits established by the constitution. Let us now examine the character of intergovernmental relations in some of the federal states cited above.

3.2 Intergovernmental Relations in Brazil

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

According to its 1988 Constitution, Brazil is a federal republic with administrative powers and responsibility as well as fiscal control divided among three levels of government - central, state and municipal. Each of the 26 states has its own administration with defined powers compared to the Federal Government. In essence, the Brazilian constitutional federalist decentralization distributes powers among the 26 states and the over 5,000 municipalities of the Federation. This current federalist character was energized by the 1988 constitution with, for instance, increase in fiscal resources for the states and municipalities, at the expense of direct and indirect taxes formerly collected by the Federal Government.

In a way, the extent of federalism in Brazil can be interpreted as a decision of the federal level to solve the problem of diminishing budgetary resources within the context of stabilization and structural adjustment policies. The objective of the on-going decentralization is thus to share the costs of adjustment among the states. The government undertook constitutional reform in 1989 in order to put the current decentralization process into effect.

In effect, intergovernmental relations in Brazil centres on the interaction between and among the central, state and municipal levels of government. As earlier noted, the central issue in intergovernmental relations include division of administrative responsibilities, power sharing, fiscal allocation and resource control. On the issue of fiscal or financial relations, for instance, the Brazilian model is particularly and interestingly unique because it departs widely from the theoretical models and experience of most countries, where decentralization is generally a process planned

and coordinated by the central government (Shah, 2003), and financial transfers between the different levels of government are normally for purposes related with general or sectoral public policies. In Brazil, financial transfers are designed above all to ensure the fiscal and financial autonomy of the subnational levels of government (Afonso, 2014; 134).

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

Before the radical decentralization provided for in the 1988 constitution, the Union directly collected 70% of national taxes. In 1991, this proportion went down to 63%. From a 34% of national tax income, but as they were the spheres most affected by the centralization of the military government, this proportion went down to 22% by 1980. Eight years later, when the last major constitutional reform was approved, the greater political openness enabled them to recover five percentage points (Afonso, 2004:138). The municipalities, in contrast, were the main beneficiaries of the tax reform, increasing their proportion of national taxes received from 11% to 17% in the first ten years of operation of the new system. Finally, there is a system of intergovernmental relations in Brazil which mobilizes a considerable flow of resources for the purpose of vertical and horizontal decentralization of tax system.

3.3 Intergovernmental Relations in the United States of America

The United States of America (US) operates a federal system of government where the states and national government exercise separate powers within their own spheres of authority. The framers of the U.S. Constitution sought to create a federal system that promotes strong national power in certain spheres, yet recognizes that the states

are sovereign in other spheres. The U.S Constitution delegates specific enumerated powers to the national government (also known as delegated power), while reserving other powers to the states (reserved powers). Thus, American Federation is seen as a governmental mechanism in which all powers play their constitutional roles of promoting individual freedom; since individual liberation is the ideological foundation of the American system.

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

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

The third level of government in the US is the local government. There are 89,500 local governments in the US, including 3,033 counties, 19,492 municipalities, 16,500 townships, 13,000 school districts, and 37,000 other special districts that deal with issues like fire protection (Wikipedia, 2014). Local governments directly serve the needs of the people, providing everything from police and fire protection to sanitary codes, health regulations, education, public transportation, and housing.

3.4 Intergovernmental Relations in India

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

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

The state list consists of 61 items. Uniformity is desirable but not essential on items in this list. These items include; maintaining law and order, police forces, healthcare, transport, land policies, electricity in state, village administration, etc. The state legislature has exclusive power to make laws on these subjects. But in certain circumstances, the federal parliament can also make laws on subjects mentioned in the state list. Then the parliament has to pass a resolution with 2/3 majority that it is expedient to legislate on this state list in the national interest. The concurrent list consists of 52 items. Here again, uniformity is desirable but not essential on items in this list which include; marriage and divorce, transfer of property other than agricultural land, education, contracts, bankruptcy and insolvency, trustees and trusts,

civil procedure, contempt of court, adulteration of foodstuffs, drugs and poisons, economic and social planning, trade unions, labour welfare, electricity, newspapers, books and printing press, stamp duty (Fadia, 1984).

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

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

Though, according to the India Constitution, India is a federal country, there are criticisms that it is a unitary or quasi-federal state and much of this criticism stems from the functioning of centre – state fiscal/financial relations. As against legislative and/or executive supremacy of the centre, much of the criticism on centre – state fiscal/financial relations and fiscal federalism in India stems from the process of economic policy – making. Some of it is due to the emergence of the Planning Commission of India playing dominant role in economic policy making and disbursing a large sum of central funds to state governments as non-plan expenditures.

Unlike the Finance Commission of India, the backbone of centre-state fiscal/financial relations, the Planning Commission is a body not envisaged in the India Constitution.

In India, as per its constitution, the centre is bound to collect certain taxes on behalf of the states and must share a substantial portion with the state governments. And while deciding taxation the centre does not discuss the relevant issues with the states. Not only that the centre did not discuss this matter with the states, there is no mechanism to compensate such loss to the state governments. Furthermore, in the name of a plethora of centrally sponsored schemes, the centre has systematically eroded fiscal autonomy of states. Besides, the fact that many of these schemes are not discussed among the centre and states, some are either irrelevant to public goods requirements of many local jurisdictions and state governments are forced to bear some significant portion of their costs. These facts show that India is practicing fiscal centralism whereby it is the centre that has total say on the allocation of financial resources of the country.

4.0 CONCLUSION

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

5.0 SUMMARY

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

7.0 REFERENCES/FURTHER READING

Afonso, J. R. (2004), “The Relations Between Different Levels of Government in Brazil”, *Cepal Review*, 84. December, 133 – 155.

Anderson, w. (1960), *Intergovernmental Relations in Review*, Minneapolis: University of Minnesota Press.

Fadia, B (1984), *State Politics in India* (Volume 1), Radiant publishers, New Delhi

Ugoh, S. C. (2011), *Understanding Intergovernmental Relations in Nigeria*, Lagos; Sam Iroanusi Publications.

UNIT 5: HETEROGENEITY/DIVERSITY/ACCOMMODATION MAIN CONTENT

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

1.0 INTRODUCTION

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

2.0 OBJECTIVES

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

- Understand the meaning of democracy
- Explain the relationship between federalism and democracy
- Explain democratic practises in Brazil, India and the United States of America

3.0 MAIN CONTENT

3.1 Meaning of Democracy

The Word ‘democracy’ originates from two Greek words – ‘*demos*’, which means the people, and ‘*kratia*’, which means rule. In the literal sense, therefore, the word

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

Historically, democracy as a form of government started and existed crudely in the city-states of ancient Greece. All public affairs were discussed and decided in the assembly of the free and adult males. This is what is termed as “direct democracy”. Now such a form of government is not possible in the large nation-states of the world. Surprisingly, it still exists in five cantons of Switzerland (Johari; 2011:492).

However, a new form of democracy appeared in the modern age and soon became known as “representative government” or “popular government”. In this form of government, power is vested in the people, but its exercise is delegated to the representatives elected by the people. Therefore, in terms of operation, democracy has its direct or pure and indirect or representative forms. Furthermore, in respect of its nature and practice around the world, democracy has three other forms: liberal democracy, social democracy, and socialist democracy (Johari; 2011:492). In a liberal democracy, which is the most prevalent form, power is vested in the people and its exercise is delegated to the elected representatives. The basic principles of liberal democracy include; public accountability of government, constitutionalism or rule by law, political equality via voting, independence of the judiciary and freedom of the press, majority rule and recognition of minority rights, etc.

Social democracy is a bit different. It is different in the sense that in it, the interest of the individual is subordinated to the interest of the society. In social democracy,

individuals have the right to own and maintain private property, but the state has the power to impose reasonable restrictions on economic freedom of the individuals so as to eliminate the evils of poverty and exploitation. So, while liberal democracy draws inspiration from the philosophy of individualism, social democracy takes inspiration from social welfarism or seeks to harmonize individualism with socialism (Johari, 2011:493-494).

The third form of democracy – socialist democracy – is the type which originated from the political ideology of Karl Marx, Fredrick Engels, Vladimir Lenin, and others. These men view liberal democracy as a mechanism for promoting evils such as exploitation, oppression, subjugation, poverty and injustice. In fact, they denounce it as “bourgeois democracy”. To them, liberal democracy brings about class struggle, and that the only way to ensure social equality is to operate a socialist system whereby it is only the state, no individual, determines the political, social and economic destiny of the people. This model was in practice in the old USSR, Poland, former Czechoslovakia, Hungary, Romania, Bulgaria, Albania and East Germany (Johari, 2011:495). However, this model has seen its grand failure and most of these countries have embraced liberal democracy. In fact, the gap between liberal and social democracies is shrinking by the human face which now characterizes liberalism.

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

3.2 Democracy in Brazil

Brazil is the largest country in the Latin American region and the world’s fifth largest country, both by geographical area and by population. It was colonized by Portugal in 1500. It, however, gained its independence in 1822 with the creation of the Empire of Brazil, a unitary state governed under a constitutional monarchy and a parliamentary system. Democracy is a relatively recent achievement: Brazilian history. Since the end

of imperial era in late 19th century, the country has experienced two long periods of dictatorship in 1930 – 1945 and 1964 – 1985, and, for most of last century, political participation was rather limited. It was a convoluted evolution towards democracy, moving forward and backwards up to mid-1980s, when mass democracy was finally established (Lisboa and Abdel-Latif, 2013).

For most of its democratic history, Brazil has had a multi-party system, proportional representation. One of the key features of Brazilian democracy is its adherence to the principle of universal adult suffrage, albeit with some age limits. Voting is compulsory for the literate between 18 and 70 years old and optional for illiterates and those between 16 and 18 or beyond 70 years of age. Fifteen political parties occupy seats in the congress, but only four are in the majority – Workers Party, Brazilian Social Democracy Party, Brazilian Democratic Movement Party, and Democrats.

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

However, in the immediate post-military era, there were problems associated with Brazil's march toward a full democracy. While Brazil had made the passage from authoritarian to democratic government, it found it difficult to develop a well-defined and institutionalized democratic regime at the early stage of democratization (Hapogian and Mainwaring, 1987). Political institutions, particularly congress and

parties, at times more closely resemble objects of authoritarian rule than pillars of a democratic order. Unlike the cases of most Latin American countries that underwent transitions to democracy, in Brazil, authoritarian political actors and arrangements were still thriving under the democratic government. The military retained veto rights over key legislations, and most important decisions were taken by bureaucrats in economic and planning ministries and central bank without public or party debate. There were severe restrictions on human rights, and immense political, economic, and social inequalities persisted. There was a mix of democratic procedure and authoritarian practice. This impeded the transformation of institutions necessary for a consolidated democracy and thwarted policy changes that might upset an extremely in-egalitarian social order.

Today, however, with about thirty years of democratic practice, Brazil has not only improved in the area of social and political participation and equality, democracy has helped to deliver price stability. Though income distribution remains unfavourable, the progress of the last decade was remarkable (Lisboa and Abdel-Latif, 2013:8). By and large, Brazilian democracy has brought a lot of benefits to the Brazilian people. One important benefit of democracy in Brazil was the increase of public investment in education, as 1988 constitution established universal access to education. Democracy, therefore, may have led to a more transparent and collectively decided transfer mechanism, one that is fully accounted in government budget and subject to social scrutiny. That means that democracy may have led to the development of mechanisms more similar to the ones observed in developed economies.

Summarily, Brazil runs one of the biggest and most vibrant democracies in the world. Voting in Brazil is not only a right, but a duty for anyone who has come of age. All the representatives in government are elected, in all levels of government. Elections are free and fair, and votes are cast under a secret ballot system. All eligible citizens have equal rights to vote. More importantly, the press enjoys complete freedom.

3.3 Democracy in India

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

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

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

The civil society is also vibrant in India, and their activities have contributed significantly to the process of democratic deepening or consolidation in the country. The democracy movements in India evolved through structures of civil society and relied heavily on rich, domestic narratives of resistance to authoritarian rule to make their normative and political claims for democratic self – rule. Until it assumed power,

the India National Congress (INC) was more a social movement than a party, led by the quintessential movement entrepreneur, Mahatma Gandhi (Heller, 2010). According to Vora and Palshikar (2004), democracy in India is not just about periodic elections, nor about voter turnouts, nor about oratory. The central objective of India democracy is to enable every person to have a say in deciding about the greater collective social worth.

3.4 Democracy in the United States

The United States (US) is perhaps the biggest democracy in the world. The US is a federal constitutional republic, in which the president (who is the head of state and head of government), congress and judiciary share powers reserved to the national government, and the federal government shares sovereignty with the state governments. There are major differences between the political (democratic) system of the United States and that of most other developed democracies. These include greater power in the upper house of the legislature and the executive, and the dominance of only the main political parties. Other smaller political parties have less political influence in the US than in other developed country democracies, primarily due to the Electoral College System in the US.

One of the very core aspect of American democracy is the issue of suffrage. In America, the right of suffrage is a universal right for citizens 18years of age and older. Today, all adults, including women and men of any colour have the right to vote during elections. All states contribute to the electoral vote for President. However, the District of Columbia, and other US holdings like Puerto Rico and Guam, lack federal representation in Congress. These constituencies do not have the right to choose any political figure outside their respective areas.

The US operates a multi-party system. *ab initio*, there were no political parties in America because the Founding Fathers did not originally intend for American politics to be partisan. In fact, the first president of the US, George Washington, did not emerge from the platform of any political party and was not a member of any throughout his tenure as president. But the American two-party system later emerged

from Washington's immediate circle of advisers. And today, two political parties, the Democratic Party and the Republican Party continue to dominate American politics since the American Civil War. Other smaller political parties in American democracy include; the Libertarian Party, the Green Party, and the Constitution Party.

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

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

It is important to note, however, that at the base of American democracy is the ideology of liberalism. To this extent, what is being practiced in United States is liberal democracy. Liberal democracy is a form of government in which representative democracy operates under the principles of liberalism, i.e. protecting the rights of the individual, which are generally enshrined in law. It is characterized by fair, free, and competitive elections between multiple distinct political parties, a separation of powers into different branches of government, the rule of law in everyday life as part of an open society, and the equal protection of human rights, civil liberties, and political freedoms for all persons.

Largely, American liberal democracy guarantees the protection of fundamental rights and freedoms or liberty of its people. At the same time, it places limits on the exercise

of certain freedoms in the public interest. There are various legal limitations such as copyright and laws against defamation. Also, there are set limits on activities that may be considered detrimental to the development of America. These include; limits on anti-democratic speech, on attempts to undermine human rights, and on the promotion of justification of terrorism.

4.0 CONCLUSION

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

5.0 SUMMARY

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

6.0 TUTOR-MARKED ASSIGNMENTS

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

7.0 REFERENCE

Bryce, J. (1921), *Modern Democracies*, New York: Macmillan.

Gauba, O. P. (2003), *An Introduction to Political Theory*, 4th edition, India: Macmillan India Ltd.

Hapogian, F. and S. Mainwaring (1987), “Democracy in Brazil: Origins, Problems, Prospects”, *Working Paper*, Kellogg Institute.

Heller, P. (2010), “Democratic Deepening in Brazil, India and South Africa: Towards a Comparative Framework”, being paper prepared for ‘Metropolis and Inequalities’, Sao Paulo, Brazil, 24 – 26 March.

Johari J. C. (2011), *Comparative Politics*, New Delhi: Starling Publishers Private Limited.

Lisboa, M. and Z. Abdel – Latif (2013), “Democracy and Growth in Brazil”, *Inspere Working Paper*, Insper, Instituto de Ensino e Pesquisa.

Onuoha, B. (2011), “Demoralization and Democratic Transition and Consolidation in Africa”, in Solomon Akinboye (ed.) *Perspectives on African Crises: The Challenges of Socio-political and Economic Transformation in the 21st Century*, Ibadan: Spectrum Book Ltd.

Vora, R. and S. Palshikar (2004), *Indian Democracy: Meaning and Practices*, New Delhi: Sage.