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From Statism To Federalism: A Paradigm Shift

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Since the end of World War II and most particularly since the late 1970s, the world has been in the midst of a paradigm shift from a world of states modeled after the idea of the nation-state developed in the seventeenth century to a world of diminished state sovereignty and increasingly constitutionalized interstate linkages of a federal character. This paradigm shift has been noted by students of federalism and international relations both. It has been most strongly manifested in the economic sphere. Worldwide and regional economic arrangements have become essential to the peace and prosperity of the world and, while formally voluntary, no state can remain outside of the increasingly more demanding economic networks. Thus, those networks have acquired an increasingly confederal dimension. Foremost among them is that of Western Europe which, since the Maastricht Treaty, has been transformed into a confederation in fact if not in name. Other arrangements approach the European Union in varying degrees. In this new paradigm, existing states will not disappear; rather, they will be overlaid by a variety of federal arrangements of a confederal character that will tie them ever closer to each other.

Over the past several years, an increasing number of scholars and statesmen have taken note of the fact that the world as a whole is in the midst of a paradigm shift from a world of states, modeled after the ideal of the nation-state developed at the beginning of the modern epoch in the seventeenth century, to a world of diminished state sovereignty and increased interstate linkages of a constitutionalized federal character.¹ This has been noted by students of both federalism and international relations, each group from its own perspective, bringing about a convergence of interests from different perspectives.

This paradigm shift actually began after World War II. It may yet turn out that the United Nations—founded in San Francisco in May 1945 as no more than a league of politically sovereign states with the elevated goal of maintaining world peace, which had been driven together by the struggle between the two great powers that led to the Cold War—was the first step toward this paradigm shift. Or it may have begun a year before that when the wartime U.N. Allies gathered in Bretton Woods, New Hampshire, to establish a new world monetary system.

Despite the developments in Western Europe, which have led to the radical

¹I use the term “federal” here in its larger historical sense, not simply to describe modern federation but all the various federal arrangements including federations, confederations and other confederal arrangements, federacies, associated states, special joint authorities with constitutional standing, and others. See Daniel J. Elazar, *Exploring Federalism* (Tuscaloosa: University of Alabama Press, 1987) and Daniel J. Elazar, *Federal Systems of the World: A Handbook* (2nd ed.; London, England: Longman, 1994).

diminution of the political sovereignty of the member states of the European Union, similar developments in other parts of the world, particularly Southeast Asia (e.g., the Association of Southeast Asian Nations [ASEAN]) and the Caribbean, it was not until the collapse of first the Soviet empire and then the Soviet Union itself between 1989 and 1993, that the extensive and decisive character of this paradigm shift became evident to most people, even (or, perhaps, especially) to those who closely follow public affairs. Most of the latter were, and still may be, wedded to the earlier paradigm that the building blocks of world organization are politically sovereign states, most or all of which strive to be nation-states and maximize their independence of action and decision. Although there are a few who have been aware of this paradigm shift as it has been taking place and some who have advocated it as a major political goal, for most observers, it has seemed to have crept up unawares.

THE OLD PARADIGM SHIFTS

Ambassador Max Kampelman, who has taken account of the shift, had referred to it in the following manner:

The interdependence of the world and the globalization of its economy does not imply or suggest the disappearance of the nation-state, which is showing resilience as an important focus of national pride and ethnic preservation. . . . Abba Eban, in a recent analysis of the prospects for confederation between Israel, the West Bank, and Jordan, commented on the apparent contradiction of a politically fragmented world existing alongside an economically integrated one. He suggests that regional confederations may harmonize the contradiction.

For hundreds of years, international society has been organized on the basis of separate sovereign states whose territorial integrity and political independence were protected and guaranteed by an evolving international law. The United Nations Charter, in embodying and reflecting the values of the state system, reaffirmed the principle of non-use of force across international boundaries and the companion principle of non-intervention in internal affairs.

Into this principle, Woodrow Wilson . . . introduced in the early twentieth century a new principle, that of self-determination of peoples, intended as a blow against colonialism. Its effect, however, introduced mischievous consequences in many parts of the world. Increasingly, violence associated with ethnic conflicts has been justified with assertions of the right of self-determination. What has been misunderstood is the fact that the right of self-determination of peoples certainly does not include the right to secede from established and internationally legitimized nation-state borders.

The world is very much smaller. There is no escaping the fact that the sound of a whisper or a whimper in one part of the world can immediately be heard in all parts of the world—and consequences follow.

But the world body politic has not kept pace with those scientific and technological achievements. Just as the individual human body makes a natural effort to keep the growth of its components in balance, and we consider the body disfigured if the growth of one arm or leg is significantly less than the other, so is the world body politic disfigured if its knowledge component opens up broad new vistas for development while its political and social components remain in the Dark Ages.²

²Max Kampelman, "Negotiating Toward a New World: The Art of Conflict Resolution Through Diplomacy," Speech to B'nai Brith, Jerusalem, 13 October 1993.

Let us understand the nature of this paradigm shift. It is not that states are disappearing; it is that the state system is acquiring a new dimension, one that began as a supplement and is now coming to overlay (and, at least in some respects, to supersede) the system that prevailed throughout the modern epoch. This overlay is a network of agreements that is not only militarily and economically binding for *de facto* reasons but is also becoming constitutionally binding, *de jure*. This overlay increasingly restricts what was called state sovereignty and forces states into various combinations of self-rule and shared rule to enable them to survive at all. That means federalism, understood in the broadest political sense as a genus involving combinations of self-rule and shared rule rather than as the one species of federalism accepted in modern times, namely, federation.

This has been further exacerbated by the postmodern legitimation of ethnic identity. Every group successful in presenting its claim to separate ethnic identity is able, thereby, to claim recognition as legitimate and entitled to some measures of self-preservation and political self-expression if it seeks them. Not every potential ethnic group does, nor do all groups seek the same forms of political self-expression, but more than ever before, the possibility of such self-determined groups gaining legitimacy has become great.

The implications of this paradigm shift are enormous. Whereas before, every state strove for self-sufficiency, homogeneity, and, with a few exceptions, concentration of authority and power in a single center, under the new paradigm, all states have to recognize as well their interdependence, heterogeneity, and the fact that their centers, if they ever existed, are no longer single centers but parts of a multi-centered network that is increasingly noncentralized, and that all of this is necessary in order to survive in the new world.

The suggestion that we are witnessing a major paradigm shift does not mean that the outcome will be perfect or even work in every case. Humans are still humans, and their conflicts are very real. Almost of necessity, in a world that recognizes so many ethnic groups, some of those groups will come into conflict with the states in which they are located or with each other. Hence, ethnic conflict has become a major world problem and has attracted increasing attention as such, in no little measure because of the horrendous consequences of the more visible ethnic conflicts in our time.

Federalism probably has received most attention as a suggested means to solve ethnic conflicts in a world that has rediscovered the harsh realities of ethnicity and has lost its confidence that modernization will bring about their desuetude. However, sober students of federalism have long since recognized that ethnic demands are among the most exclusivist in the world, and the same ethnic consciousness that makes federalism in some form necessary, makes it all the more difficult and less likely to succeed. Honesty demands that this sad paradox be recognized and its realities be confronted both by the partisans of ethnic self-determination and by the partisans of federalism.

Perhaps the solution lies in the extent of the federal bonds as much as in their depth. For most of the modern epoch, at least since the establishment of the American federation through the U.S. Constitution of 1787, most of the world

has looked upon federalism as federation pure and simple. Other forms of federalism, especially confederation and confederal arrangements, which had been considered federal until 1787, not only ceased to be functional but ceased to be regarded as reasonable federal options for government organization.

THE RISE AND TRANSFORMATION OF THE MODERN STATE SYSTEM

The old state system was the product of the modern epoch. Given practical form by the new nation-states of Western Europe, such as France in the late Middle Ages or Prussia in the nineteenth century, these states rested on the idea that by concentrating power in a single head or center, the state itself could be sufficiently controlled and its environment sufficiently managed to achieve self-sufficiency or at least a maximum of self-sufficiency in a world that would inevitably be hostile or at best neutral toward each state's interests and in which alliances would reflect temporary coalitions of interests and should not be expected to last beyond that convergence. The old maxim: "No state has friends, only interests," typified that situation.

Indeed, the first powerful nation-states were monarchies, advocates of the divine right of kings to protect central authority and power. After a series of modern revolutions, first in thought led by people like Thomas Hobbes, Baruch Spinoza, and John Locke, and then in practice, kings were stripped of their exclusive powers, even in principle, and new power centers were formed, presumably based on popular citizenship and consent but in fact with the same centralized powers, only vested in boards and managers, ostensibly representative assemblies, and executive officers speaking in the name of the state. In only a few cases had earlier dispersions of power been constitutionalized and needed to be taken into consideration. This led to the establishment of federations, forms of federalism with clear lines of national supremacy and, at least for purposes of foreign relations and usually defense, extensive national powers. While these may have been mitigated *de facto*, *de jure* they were always there to be used by national authorities.³

The second defining element of the nation-state was its striving for homogeneity. Every state was to be convergent with its nation and every nation with its state. Where people did not fit easily into that procrustean bed, efforts were made to force them into it. This was done either through internal pressure (as in France where the French government, in the name of the state, warred against Bretons, Occetanians, Provençals, and Languedocians, among others, even denying them the right to choose names for their children that did not appear on the official Francophone list), or through external pressure (as in the Balkans where small

³John Kincaid, "Constituent Diplomacy in Federal Politics and the Nation-State: Conflict and Co-Operation," *Federalism and International Relations: The Role of Subnational Units*, eds. Hans J. Michelmann and Panayotis Soldatos (Clarendon, England: Oxford University Press, 1990), pp. 54-75.

national states with minorities outside of their state boundaries regularly warred with one another in an effort to conquer the territories where their fellow nationals lived and either exterminate or expel those not defined as being of the same nationality, as in Bosnia today). As a result, modern wars were basically of two kinds, either imperialistic wars designed to enable more powerful states to become even more self-sufficient by seizing control of populations, territories, and resources that could be used in that direction, or nationalist wars designed to reunite parts of the nation with the national state.

In the end, none of these three goals could be achieved. In many cases, they were not achieved at all; in others, they were achieved temporarily until those disadvantaged by them succeeded in revolting. In still others, they proved to be unachievable by any sustainable means. Usually a combination of all three factors prevented their attainment.

As the late Ivo Duchacek, himself a Czech and thus exposed to the futility of those efforts in Middle Europe between World Wars I and II, pointed out twenty years ago, of the then-existing states in the world, 90 percent contained minorities of 15 percent or more of the total population within their boundaries. Of the remaining 10 percent, almost all had large national minorities living outside of their state boundaries.⁴ Since he documented that fact, matters have gotten more complex, as we see by the great resurgence of ethnic conflict in one form or another throughout the world, a factor that has become one catalyst for the new paradigm in its search for ways to overcome those conflicts.

Self-sufficiency, in reality, was never achievable. It is well to recall that modern economic liberalism, which was essentially based on the principle of free trade, emerged shortly after the emergence of modern statism to challenge the economic basis of statism, expressed through mercantilism, which sought self-sufficiency. In part, economic liberalism emerged because of the problematics of mercantilism, which were brought to the fore, *inter alia*, by the American revolution against Great Britain. When that policy failed, imperialism replaced it as the means for these modern nation-states to gain the end of self-sufficiency. Imperialism failed by the middle of the twentieth century, not only because subjugated peoples rejected it, but also because a democratic moral sensibility came to affect the subjugators.

Nor was free trade, in the nineteenth-century liberal sense, the answer because it was an extension of the nineteenth-century conception of the "automatic society," that is, the conception that government could be eliminated or all but replaced by "the market" or "the march of history," or the unshackling of humans' original goodness, and suffered from the same defects of those conceptions when they were applied in the real world. At the beginning of the modern epoch, those who conceptualized and brought about the revolutions of modernity understood that all society was framed by government and that it was the institutions of government that gave each society its identity and character. In an effort to

⁴Ivo Duchacek, "External and Internal Challenges to the Federal Bargain," *Publius: The Journal of Federalism* 5 (Spring 1975): 41-76.

establish more space for private social life and for individualism, they developed the idea of “civil society” which preserved that understanding of the role of government in society, which dated back to the beginnings of civilization, but which established three separate or separable spheres: governmental, public but nongovernmental (voluntary associations), and private, each of which they saw as absolutely essential for civil society to realize itself along the lines envisioned. In time, however, their theories were submerged into a kind of mechanical understanding of “society” as superseding civil society and existing in and of itself, with or without government.

The ideologies of the nineteenth century, however widely separated they were in how they conceptualized humanity and what they wanted to do to achieve the ideal society they envisioned, shared this in common. They all believed that their goals could be achieved by releasing automatic social mechanisms that would “naturally” move things in the right direction. This is true whether we speak of *laissez faire* which saw the market as the appropriate automatic mechanism, anarchism which saw the goodness of humanity once released from the shackles of civilization as bringing about the desired result, or marxism which saw historical processes as doing that, or whatever.

By the mid-twentieth century, after attempts to achieve *laissez faire* capitalism led to social and economic injustice and the Great Depression and the other attempts led to one or another form of totalitarianism and the *götterdämmerung* of World War II, most of the world was disabused of that idea. Free trade, too, ran afoul not only of illegitimate interests of different peoples and polities but of their legitimate interests, and, while its value was increasingly recognized, so too was the need to harness it within some kind of framework that provided for those regulations and encouragements necessary for free trade to be most advantageous and beneficial to all.

Moreover, the World War II *götterdämmerung* had itself clarified several points: one, that states potentially powerful militarily had to be somehow harnessed to one another to prevent further all-out catastrophes, and, two, that peoples would not submit to rule by others whom they did not see as linked to them in some meaningful way.

THE NEW PARADIGM EMERGES

All of this was topped off by the introduction of nuclear energy into the equation. The atomic bomb and its successors made it clear to all but the world’s crazies that absolute sovereignty was no longer possible, that even the strongest power in the world was limited in what it could do to make its power felt without generating a catastrophic reaction that would be self-destructive. The “balance of terror” of the Cold War years generated by Soviet imperialism, but restrained by their nuclear realism, was an effort to harness the old state system to new realities.

Obviously, a balance of terror could only be a temporary device. As both great powers and many lesser ones feared, others less interested in maintaining a balance would acquire the same weapons of terror in due course with unforeseen

but not very hopeful consequences. So within the balance of terror, especially outside of the very oppressive Communist bloc, which tried to use new versions of old imperialist techniques to preserve the power of its leading state and ruling class, efforts began to be made to go beyond the old system to find new ways to gain control of the situation to everyone's mutual satisfaction.

Thus was born the European Community (EC), now the European Union, initially a network of treaties establishing functional linkages between the various states of Western Europe. It dates back to 1949, the very beginning of the postmodern epoch, although the first treaty, the European Coal and Steel Community, formally was signed in 1958. At first, the functional links were anchored in the effort to bring the two great continental European rival states, France and Germany, together on a peaceful basis so as to prevent future wars between them. In due course, the European Community evolved from consultative agreements to joint functional authorities established by international treaty, to confederal arrangements, to, with the adoption of the European Union (EU) Treaty of Maastricht, confederation. Soon similar efforts were under way in other parts of the world, in part influenced by the EC/EU experience, stimulated by the recognition of similar needs.

Simultaneously, the two great Cold War power blocs, under the leadership of the superpower dominant in each, tried to build ostensibly looser but equally binding links in the realms of economics and defense. Those fostered by the Soviet Union were old-fashioned imperial ties in a new ideological guise. Hence, it was not surprising that they collapsed with the collapse of the Soviet empire in the late 1980s and early 1990s.

Those developed for the free world were developed under the leadership of the United States, which had the generous view that it was in its interest to rebuild Europe and make its components into partners, even though that might bring with it moments of heartburn for the United States, because in the long run that would be better. So, after World War II, the United States rebuilt both its allies and its former foes in Europe and the Far East as well, generously providing from its own resources in order to do so.

In a sense, the postwar world backed into the new paradigm but did not seek it per se. The first task after World War II was to resurrect the old state system with a minimum of modifications. That is to say, world leaders undertook reconstruction of the former Axis powers on a rehabilitated basis so that they could be readmitted to the family of nations, reconstruction of the war-torn Allies so that they would be able to function again as equal members of the world community of states, and various collective security arrangements (e.g., the United Nations) to try to ensure world peace. As a result of the beginning of the Cold War, the United Nations became more symbolic than effective, although it was fortuitous that the USSR and its satellites had walked out of the United Nations before the outbreak of the Korean War, which left that organization free to take a one-time stand on an issue of that magnitude and to throw its support and cover behind the U.S.-led defense of South Korea.

Even before that, a new monetary system had been established in the world

through the Bretton Woods Agreement, recorded at the United Nations Monetary and Financial Conference held at that site in New Hampshire in 1944. It resulted in the establishment of the International Monetary Fund and the International Bank for Reconstruction and Development. Although little attention was paid to their political implications at the time, their subsequent development and the establishment of an embryonic world economic order in time has had very real political consequences.

In the meantime, the North Atlantic Treaty Organization (NATO) had been set up as a Western collective security pact. In retrospect, we can see NATO as a major step toward the new paradigm. While it was far from establishing a confederal arrangement, it did establish what Karl Deutsch felicitously referred to as a "security community" under the aegis of the United States, then clearly the only Western superpower.⁵

On the other hand, while efforts to establish federations or decentralized states in West Germany, Japan, and Italy successfully served as part of the rebuilding process, and a small number of federations succeeded in surviving decolonization in countries such as India, Pakistan (more on paper than in practice, but still surviving), Malaya-Malaysia, and Nigeria, efforts to federalize aggregations of preexisting states as federations, such as the abortive United States of Europe, did not succeed at all. In the 1950s, however, the Western European countries did begin to pursue what they called functional rather than federal solutions to their problems of union on a more limited basis. These slowly evolved into confederal arrangements to take the lead in bringing about the paradigm shift.

So too were similar efforts initiated in the Caribbean. At first, Britain tried to establish a full-blown West Indies Federation. It failed, but confederal arrangements uniting most of those same islands emerged out of the wreckage. Islands are, by definition, insular; hence, federation was too much for them but, although they sought independence, they also perceived that they needed to share certain functions (e.g., currency, higher education, and a supreme court).

Similarly, Spain, in an effort to preserve the older statist model but within the context of its economically stronger peripheral regions' drive for autonomy, made some wise decisions to introduce regional decentralization throughout the country. Thus, its leaders launched it on the road to federalization at the same time controlling the secessionist impulse of the Basques, Catalans, and others. In the 1970s, Italy effectuated the regional system that the Allies had required it to introduce into its immediately postwar constitution. Belgium, confronted with intensifying ethnic problems between Flemings and Walloons, adopted federation in the 1980s, in an effort to resolve its problem. Thus, without in any conscious way abandoning the state system, the federal paradigm in essence sneaked up on an increasingly substantial and significant segment of the world.

In the other direction is The Netherlands, which had become, according to its constitution, a "unitary decentralized state" after the Napoleonic Wars, abandon-

⁵Karl Deutsch and Sidney Burrell, *Political Community and the North Atlantic Area* (Princeton, N.J.: Princeton University Press, 1957).

ing confederation but not moving to federation when it withdrew from its empire. Its Caribbean colonies were transformed into federacies, i.e., states that were internally independent but were linked to The Netherlands itself in an asymmetrical federal relationship similar to that of a federation, formally designated the Kingdom of The Netherlands with its own charter, but with its major collective governing institutions those of The Netherlands proper.

Table 1 lists all the various species of federation functioning at present.

All of this was much enhanced by the new economic realities which led to constituent states of existing federations having to insert themselves into the international system as states for purposes of economic development. That drive has only been gaining in momentum since it began.

Transborder relations among cities, cantons, federated states, and provinces in Europe and North America had begun to develop even earlier. After World War II, the number and extent of these arrangements increased geometrically.⁶

During President John F. Kennedy's administration in the United States early in the 1960s, the American states also began to find their way into the international arena. Prior to that, the conventional constitutional wisdom—that matters of foreign affairs were the exclusive province of the federal government—had prevailed, except where there is a direct domestic state interest, usually having to do with the immigration of one group or another (e.g., the efforts on the part of California to exclude Japanese immigrants at the turn of the century) or matters of political concern to elected officeholders (e.g., the governor of Michigan's vocal support for Ukrainian and Polish independence during the Cold War years). Now, encouraged by the U.S. Department of Commerce, states began to seek markets abroad for their products, to encourage foreign investors to invest within their boundaries, and even to implement American technical assistance programs in the developing world.⁷

By the 1970s, the line between politically sovereign and federated states was beginning to be blurred. By the 1990s, there had almost come to be one "seamless" international system including both the 180-plus "politically sovereign" states and the 350-plus federated (or constituent) states.

Thus, the new paradigm began to emerge slowly, without conscious planning, and gained momentum as time passed. In the mid-1970s, even the European Community looked to many like it would not survive. Then in the 1980s, it picked up momentum along with all these other forms of federalism.

The growing weakness of the Soviet empire and the Soviet Union itself contributed to the growing transformation of worldwide international treaty arrangements such as the General Agreement on Tariffs and Trade (GATT) and

⁶Susan J. Koch, "Toward a Europe of Regions: Transnational Political Activities in Alsace," *Publius: The Journal of Federalism* 4 (Summer 1974): 25-41; James W. Scott, "Transborder Cooperation, Regional Initiatives, and Sovereignty Conflicts in Western Europe: The Case of the Upper Rhine Valley," *Publius: The Journal of Federalism* 19 (Winter 1989): 139-156.

⁷Dennis Palumbo, *American Politics* (New York: Appleton-Century-Crofts, 1973); John Kincaid, "The American Governors in International Affairs," *Publius: The Journal of Federalism* 14 (Fall 1984): 95-114.

TABLE 1
Varieties of Federal Arrangements (with Selected Examples)

Union	Federation	Confederation	Federacy	Associated statehood	Condominium	League
	Territorial					
Antigua-Barbuda	Argentina	Caribbean Community	Denmark-Faeroes	France-Monaco		ASEAN
Japan	Australia		India-Kashmir	Italy-San Marino		Benelux
Solomon Islands	Brazil		Portugal-Azores	Switzerland-Liechtenstein		NATO
Vanuatu	Comoros		Portugal-Madeira			Nordic League
	Germany		UK-Guernsey			
	Malaysia		UK-Isle of Jersey			
	Mexico		UK-Isle of Man			
	UAE					
	United States					
	Venezuela					
Italy	Austria	European Community	The Netherlands-Curacao	The Netherlands-Netherlands Antilles	Andorra-France and Spain	
Sudan	Canada		Denmark-Greenland	India-Bhutan		
Tanzania	India					
United Kingdom	Nigeria					
	Pakistan					
	Russia					
	Spain					
	Switzerland					
	Yugoslavia					
Burma	Belgium	Consociational				
China		Finland-Aland Islands		New Zealand-Cook Islands		
Columbia		US-Puerto Rico		New Zealand-Nieuw Islands		
Equatorial Guinea		US-Northern Marianas		US-Marshall Islands		
The Netherlands				US-Micronesia		
Papua New Guinea				US-Palau		
South Africa						
Lebanon						

the then newly established Council on Security and Cooperation in Europe (CSCE) into more constitutionalized leagues that, while remaining dependent upon their member states, also had greater means to bring those member states to reach enforceable multilateral agreements on specifics within the context of their mandates. Each of these cases is a story in itself, a story that needs to be told to better understand the full dimensions of the paradigm shift. Not only did GATT maintain a relatively open trading world for decades, but each round of renegotiation also expanded the agreements for open trading and made it harder for any states, including the most powerful, to resist them. After it seemed like one impasse after another would lead to the collapse of GATT, the 1993 round reached closure as the most extensive of all. This was reflected structurally and symbolically in that part of the agreement which provided that on 1 January 1995, GATT would become the World Trade Organization (WTO), no longer structured as a league but as an international organization.

CSCE became the vehicle for forcing the Soviet Union under Mikhail Gorbachev into a program of liberalization, which ultimately led to its downfall. It did so by insisting on the application of Western European human rights standards to the Eastern bloc, slowly but inexorably. Today, CSCE remains a powerful guardian of human rights for all of Europe.

THE SITUATION IN THE 1990S

As the dust settles in the 1990s, we find more federations than ever before covering more people than ever before. These can be seen as the foundation stones of the new paradigm. At present, there are twenty-one federations containing some 2,000,000,000 people (40 percent of the total world population). They are divided into over 350 constituent or federated states (as against 180-plus politically sovereign states).

Attached to or alongside of those federations are numerous federal arrangements of one kind or another, usually asymmetrical (federacies and associated states), whereby the federate power has a constitutional connection with a smaller federal state on a different basis than its normal federal-state relationships, one that preserves more autonomy for the small federated state or is based on some relationship between a Westernized federation and its aboriginal peoples. The United States, for example, has federacy arrangements with Puerto Rico (recently reaffirmed by the people of Puerto Rico in yet another referendum) and the Northern Marianas. The United States also recognizes several hundred Native American (Indian) tribes within its borders as "domestic dependent nations" with certain residual rights of sovereignty and certain powers reserved to them. Those now are gaining some real meaning, whether through responsible tribal self-government or through revenues produced for the tribes by the opening of gambling casinos on tribal lands. The Federated States of Micronesia, the Marshall Islands, and Palau, formerly Trust Territories of the United States captured from Japan in World War II, have been given their independence as associated states tied to the United States for purposes of defense and develop-

ment.

Indeed, one of the manifestations of the new paradigm is the way in which federalism has played a role in restoring democracy in various states. Spain has already been mentioned. Federalism was also reflected in the restoration of democracy in Argentina and Brazil. Indeed, in Brazil the existence of federalism even preserved a modicum of free government during the military dictatorship through the state governors who could remain in power and even have limited elections because of their strength, both political and military. It is an untold story of the Brazilian experience under the generals' rule that Brazil's states kept their state police under the governors' control. In the larger states, those forces constituted up to 40,000 trained men who were better organized and trained than the Brazilian army, which was largely composed of conscripts serving limited terms. Thus, the governors could fully counter every federal threat to use force.⁸ Federalism has been a means of trying to further extend democracy in Venezuela where the state governors, recently transformed into elected officials, played a crucial role in protecting democracy during the last attempt to oust the president, and seems to be an instrument in slowly transforming Mexico from a one-party into a multiparty polity.

Even more dramatic was the way in which federalism was used to reunify Germany after the collapse of the German Democratic Republic. The territory of the GDR first was redivided into five federated *Länder* (federated states) and then those five states joined with the eleven federated *Länder* of the German Federal Republic plus Berlin (previously an associated state) to form the expanded federal republic.

Beyond this circle of federations there have emerged the new confederations, such as the European Union, which bind federations (such as Germany), unions (such as Great Britain), and unitary states (such as France) in new-style federal arrangements. Others in this category are the Commonwealth of Independent States (CIS), the successor to the Soviet Union, and the Caribbean Community, constructed around and beyond CARICOM, the Caribbean Common Market, the heir to the failed West Indies Federation. While both of the latter are not as far along the road to confederation as the EU, both are moving in that direction, each in its own way.

Many of the states within these new confederations have developed federacy and associated state relations of their own or have decentralized internally, reflecting another dimension of the paradigm shift. Take, for example, Portugal and the Azores or Monaco and France.

The looser league arrangements mentioned above, such as CSCE in Europe and NATO for the North Atlantic community, which have moved beyond their standing as groups of states linked by treaty to acquire certain limited but nonetheless real constitutional powers, represent the next circle beyond those federations and confederations.

In the 1990s, these began to be supplemented by regional free-trade areas, the

⁸Interviews in Brazil by the author, 21-30 July 1980.

oldest of which, linking Belgium, The Netherlands, and Luxembourg as the Benelux nations, essentially has been superseded by the European Union, but the newer of which, such as the North American Free Trade Area and ASEAN, offer all sorts of promise for the future of their members and for expansion. For example, the Australia-New Zealand free-trade agreement, which came into existence toward the end of World War II, has begun to integrate those two countries in economic and social fields beyond trade. Increasingly, the relationship is between New Zealand and the states of Australia, rather than simply a bilateral linkage. To make the point even sharper, the recent action of the Gulf Cooperation Council in rescinding the Arab League's secondary and tertiary boycott of Israel was something that those six states, among them a very cautious Saudi Arabia, could only do collectively. As individuals, they would not have been able to take such a step in the absence of prior Arab League action.

Last, but hardly least, are the similar arrangements on a worldwide basis. As we have seen with the latest round of GATT negotiations, these, too, are becoming more than treaties. Despite the fact of its formerly being merely a treaty, the world's leading industrial nations have discovered that they could not live without it, so they had to resolve the serious difficulties among them, whether they liked it or not, and move onward.

Finally, there are those international organizations whose standing is such that otherwise politically independent states are virtually compelled to participate in them and to accept those organizations' policies as their own, beginning with the International Postal Union, established in the nineteenth century to regularize world communications. There has been a steady, if uneven, growth in such organizations.

Thus, the threshold of the third millennium of the Christian era and in the second generation of the postmodern epoch, the paradigm shift seems to be well advanced and moving right along. Indeed, even the most troubled spots of the first generation of the postmodern epoch seemed to be choosing federal paradigms as ways to resolve their presumably "insoluble" conflicts: (1) the Commonwealth of Independent States in the former Soviet Union; (2) the new near-federal constitution in South Africa; (3) the Israeli-Palestinian Declaration of Principles and Cairo Agreement and the Israel-Jordan peace treaty, which rest upon the ability of the two sides plus Jordan to establish a network of joint authorities as well as to further develop their separate entities either as states or in the manner of states; and (4) most recently, the British-Irish declaration on Northern Ireland and subsequent local cease-fire declarations, which open the door to peace negotiations for that troubled area, also along lines that will combine self-rule and shared rule, although still very vague ones.

What is equally interesting is that international law already has undergone

⁹Moshe Hirsch et al., *Yerushalayim le'An?* (Whither Jerusalem?) (Jerusalem: Makhon Institute for Israel Studies, 1994); Ruth Lapidot, *Yerushalayim-Heibetim Medini'im u'Mishpati'im* (Jerusalem in Political Legal Perspective) (Jerusalem: Institute for Israel Studies, 1994); Enrico Molinaro, "Gerusalemme e i Luoghi Santi," (Jerusalem and the Holy Places) *La Comunità Internazionale 2* (1994).

considerable change to accommodate the new turn.⁹ Because international law in its present form developed out of the Westphalian state system, it had become one of the major barriers to the shift away from statism. Most of those engaged in international relations on a professional basis had studied international law and its concepts and had become wedded to the Westphalian view of state sovereignty, a view that they were influential in helping to continue to dominate conventional thinking about international and interstate arrangements. As political scientists have been saying, while in periods of calm the law may shape reality, in periods of change, the law will in the end follow reality and find ways to accommodate and justify it.

Much remains to happen before this new paradigm becomes as rooted as the old one. Included among what has to be done is for scholars and public figures to recognize the new paradigm for what it is, to seek to understand it, and to promote it, each group in its own way. For what can be said about this new paradigm is that while the old state paradigm was a recipe for war more often than not, the new federal paradigm is equally a recipe for peace, if it works.