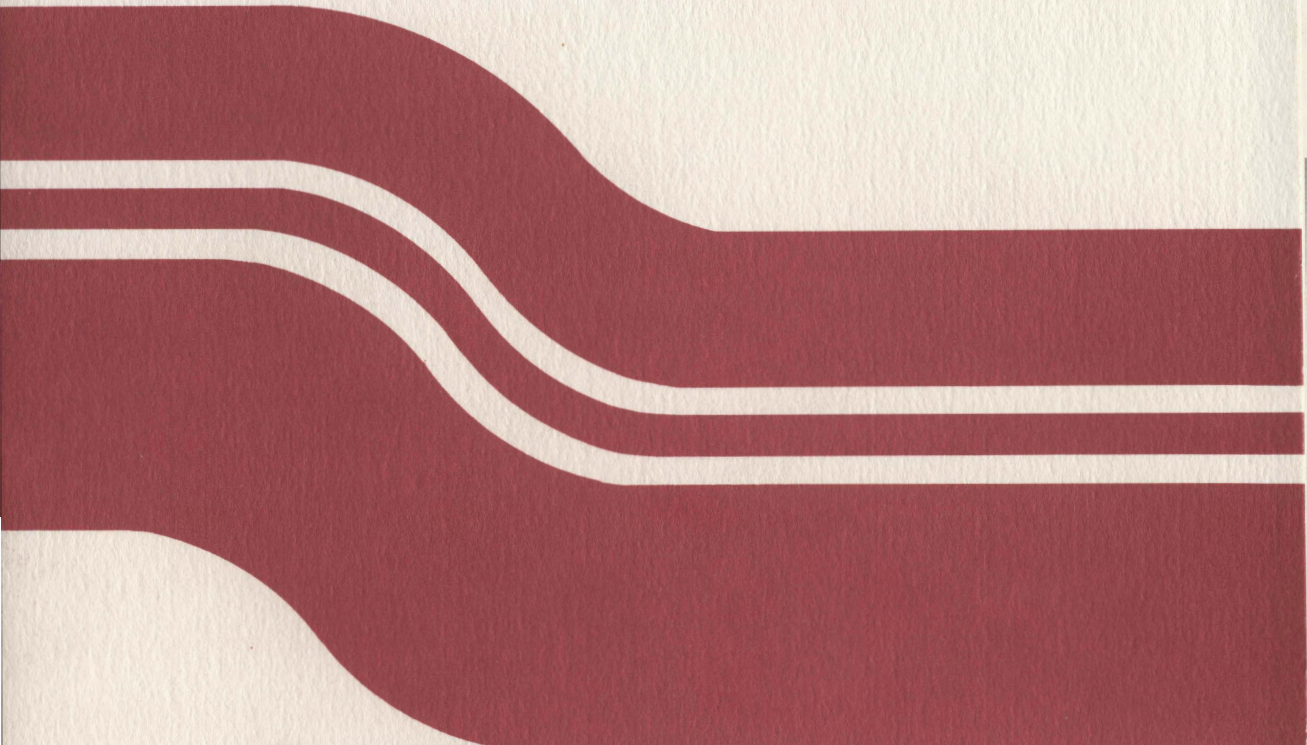


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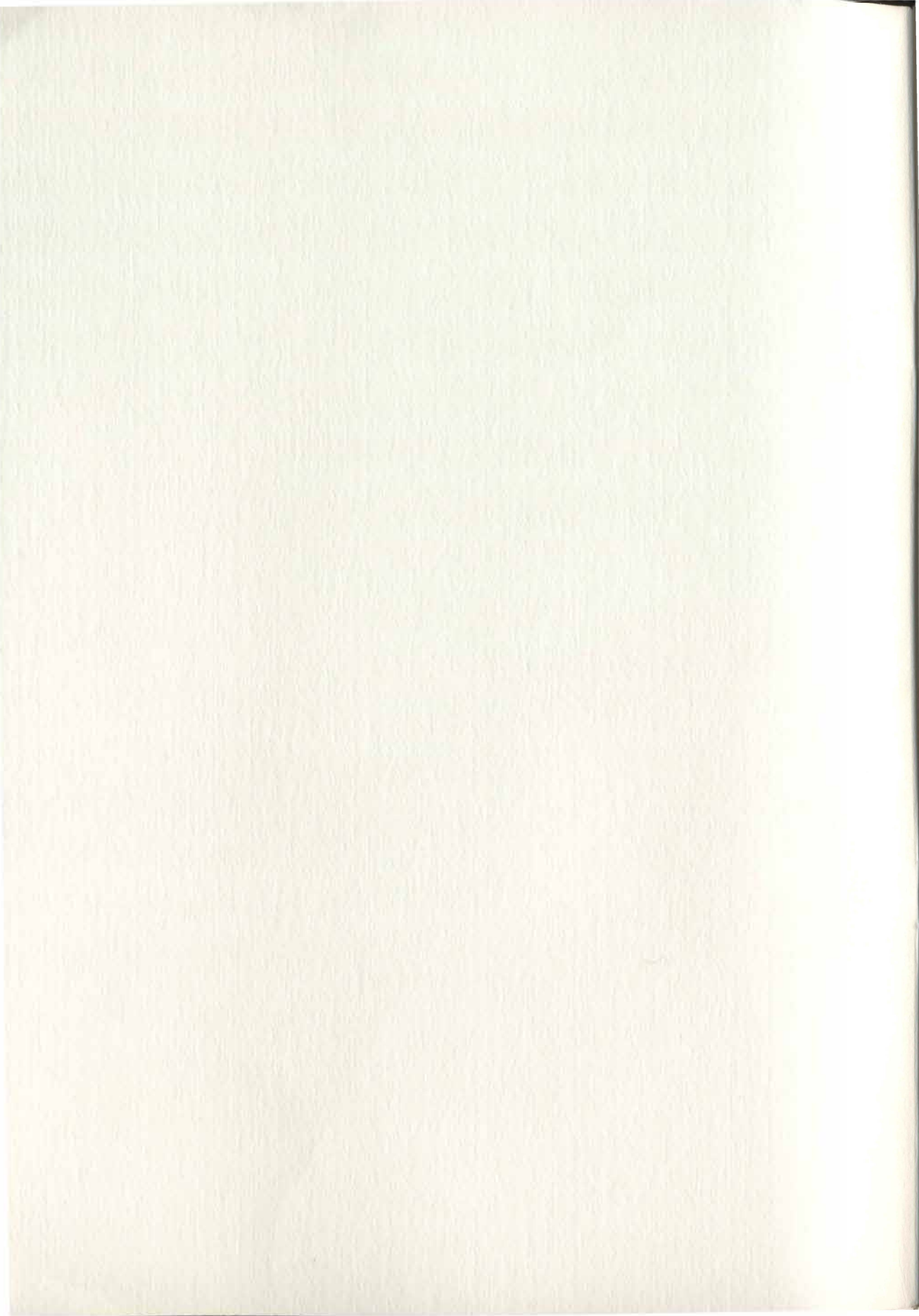
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Federalism as a Safety-Valve: The Yugoslav Case

Robert F Miller



Centre for Research on Federal Financial Relations
The Australian National University



The Centre for Research on Federal Financial Relations

FEDERALISM AS A SAFETY VALVE: THE YUGOSLAV CASE

Robert F. Miller

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The Secretary

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PREFACE

An earlier version of this paper, *Yugoslav Federalism 1945-1977*, was presented by Dr Robert F. Miller at a session on federalism in the World Congress on Philosophy of Law and Social Philosophy in Canberra in August 1977. The following expanded and updated version was presented in October 1980 as a contribution to a seminar series on federalism organized by the Department of Political Science in the Australian National University's Research School of Social Sciences.

Dr Miller is currently Senior Fellow in Political Science in that Department. After graduating in history at the University of Michigan (Ann Arbor) in 1957, he completed his M.A. degree in Soviet Union regional studies at Harvard University in 1959 and his Ph.D. degree in political science, also at Harvard, in 1965. Before coming to Australia he held academic appointments in political science at Washington University (St Louis), the State University of New York (Stony Brook) and the University of Illinois (Urbana). He has undertaken extensive field work in the USSR and Yugoslavia in the course of pursuing his major research interests in politics and public administration in the USSR, Yugoslavia and other East European countries. His publications include:

One Hundred Thousand Tractors: The MTS and the Development of Controls in Soviet Agriculture (Cambridge, Mass.: Harvard University Press, 1970);

Socialism and Agricultural Cooperation: The Soviet and Yugoslav Cases (Canberra: Department of Political Science, RSSH, Occasional Paper No. 9, 1974);

Tito as Political Leader and External Factors in Yugoslav Political Development (Canberra: Department of Political Science, RSSH, Occasional Paper No. 14, 1977);

and numerous articles on Soviet, Yugoslav and other communist political and administrative problems in Australian, North American and European publications.

R.L. Mathews
Director

February 1981

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R.L. Mathews
Director

February 1981

AUTHOR'S PREFACE

The present work is one of the interim products of my continuing long-term interest in the development of the Yugoslav system and its efforts to find solutions to age-old social and political problems, which always seem to be more acutely manifested there than virtually anywhere else in the world. My research over the years has been greatly facilitated by the support I have received from the Department of Political Science in the Research School of Social Sciences, Australian National University, both in the provision of time and resources for field work and secretarial and research assistance. For the present work I should like to acknowledge my gratitude to my colleagues in the Department, and particularly Dr Harry Rigby, for their incisive comments at the original presentation; to Mrs Kath Bourke, for her usual kindly and efficient attention to the details of production; and to Mr Russell McCaskie for his assiduous tracking down of research materials. I should also like to thank the Yugoslav scholars who have read the manuscript at various stages or discussed related technical questions with me. Their suggested changes in fact or interpretation were always appreciated, if not always incorporated. Finally, I wish to thank Professor Mathews for his editorial comments and queries, which made me think a bit harder about issues that I had earlier been content to leave unclear. Naturally, responsibility for the final product which appears in the following pages is entirely my own.

Canberra,
February 1981

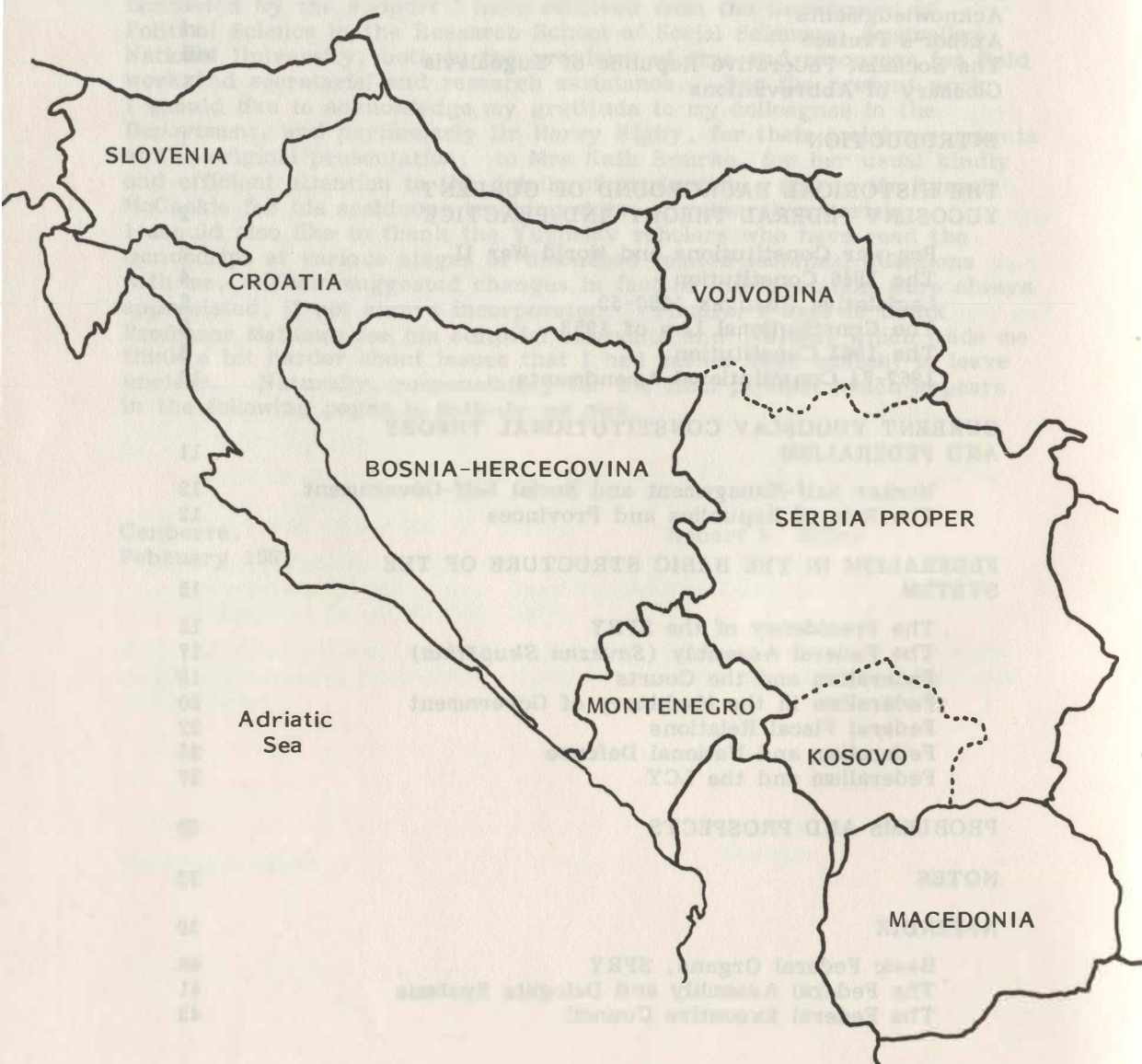
Robert F. Miller

FEDERALISM AS A SAFETY VALVE: THE YUGOSLAV CASE

CONTENTS

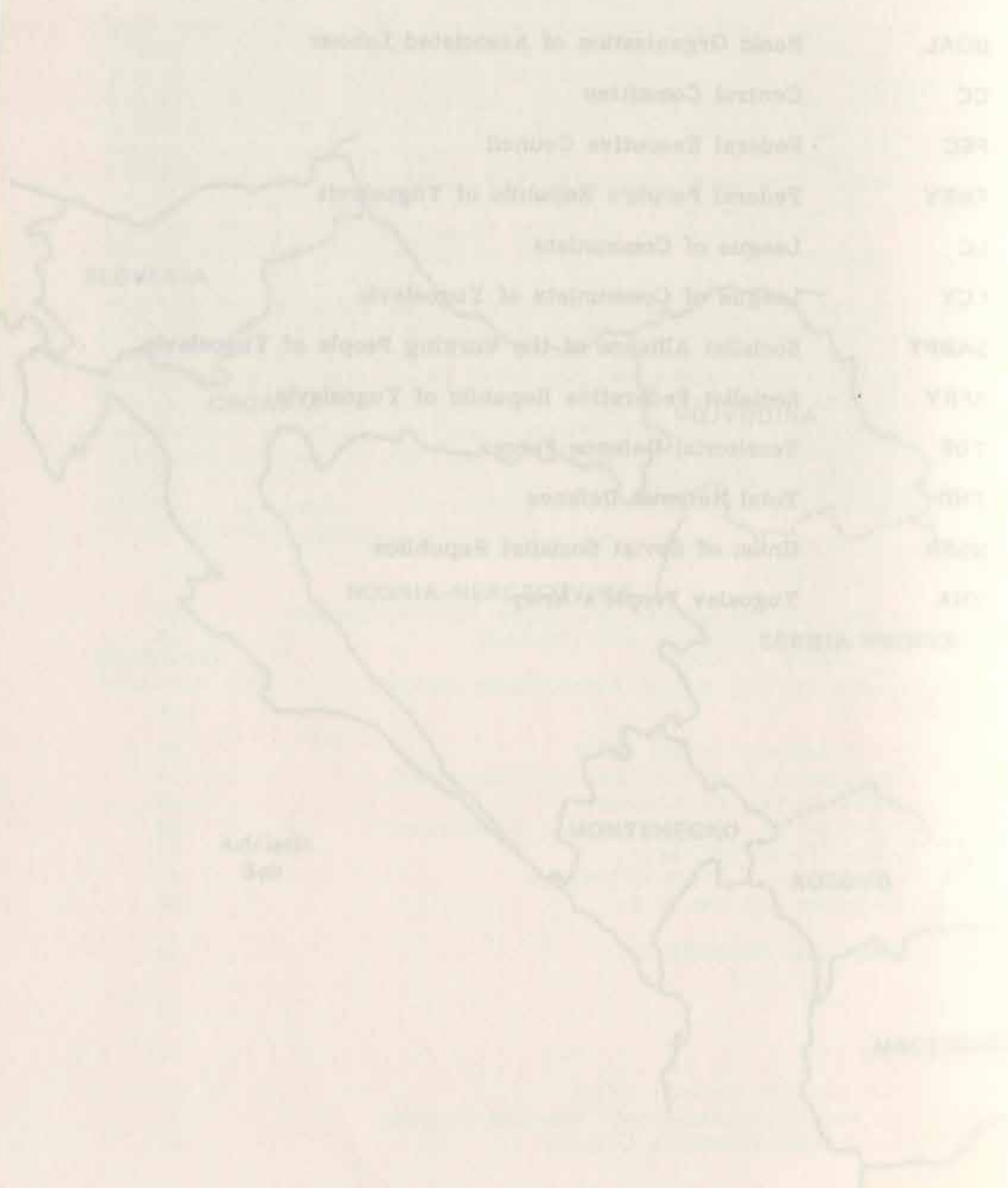
Foreword	iii
Preface	iv
Acknowledgments	v
Author's Preface	vi
The Socialist Federative Republic of Yugoslavia	viii
Glossary of Abbreviations	ix
 INTRODUCTION	 1
 THE HISTORICAL BACKGROUND OF CURRENT YUGOSLAV FEDERAL THEORY AND PRACTICE	 2
Pre-war Constitutions and World War II	2
The 1946 Constitution	4
Legislative Changes 1950-52	6
The Constitutional Law of 1953	6
The 1963 Constitution	8
1967-71 Constitutional Amendments	10
 CURRENT YUGOSLAV CONSTITUTIONAL THEORY AND FEDERALISM	 11
Worker Self-Management and Social Self-Government	12
The Role of Republics and Provinces	12
 FEDERALISM IN THE BASIC STRUCTURE OF THE SYSTEM	 15
The Presidency of the SFRY	15
The Federal Assembly (<i>Savezna Skupština</i>)	17
Federalism and the Courts	19
Federalism in the Machinery of Government	20
Federal Fiscal Relations	22
Federalism and National Defence	25
Federalism and the LCY	27
 PROBLEMS AND PROSPECTS	 30
 NOTES	 33
 APPENDIX	 39
Basic Federal Organs, SFRY	40
The Federal Assembly and Delegate Systems	41
The Federal Executive Council	42

THE SOCIALIST FEDERATIVE REPUBLIC OF YUGOSLAVIA



GLOSSARY OF ABBREVIATIONS

BOAL	Basic Organization of Associated Labour
CC	Central Committee
FEC	Federal Executive Council
FNRY	Federal People's Republic of Yugoslavia
LC	League of Communists
LCY	League of Communists of Yugoslavia
SAWPY	Socialist Alliance of the Working People of Yugoslavia
SFRY	Socialist Federative Republic of Yugoslavia
TDF	Territorial Defence Forces
TND	Total National Defence
USSR	Union of Soviet Socialist Republics
YNA	Yugoslav People's Army



- 1. Federal Executive Council
- 2. Federal People's Republic of Yugoslavia
- 3. League of Communists
- 4. League of Communists of Yugoslavia
- 5. Federal Alliance of the Working People of Yugoslavia
- 6. Federal Executive Republic of Yugoslavia
- 7. Federal People's Republic of Yugoslavia
- 8. Total National Defense
- 9. Union of Soviet Socialist Republics
- 10. Yugoslav People's Army
- 11. Yugoslav Air Force

Scale
km

INTRODUCTION

The constitutional and political history of the USSR and, subsequently, of the Czechoslovak Socialist Republic as well, have raised the question whether a communist-party-ruled state can ever be considered genuinely federalist in the commonly accepted sense of the term: namely, as K.C. Wheare proposes, where the powers of the central and regional governments are so divided that 'each [is] within its sphere, co-ordinate and independent'.¹ The Yugoslav case suggests the difficulty in applying such a criterion. Yugoslavia is certainly a communist-party-ruled state, with most of the unitary biases which that fact connotes. Yet the multi-national composition of the Socialist Federative Republic of Yugoslavia (SFRY) and its recent history of inter-ethnic antipathies have rendered essential the incorporation of a variety of genuinely federalist elements into its structural and procedural foundations if resort to inordinate and ultimately self-defeating repression by the central authorities is to be avoided. Yugoslavia's geopolitical vulnerability and underdeveloped economic capacity have also necessitated some form of accommodation of the particularistic aspirations of its various peoples. Finally, the ideological commitment of the regime to participatory socialist democracy and a humanistic brand of socialism, whatever that may mean in practice, has generated certain federalizing, 'non-centralizing'² impulses which are the functional equivalent of the motives behind the original Western liberal-democratic espousal of federalism. This essay is directed at an investigation of the similarities and differences in motivation, conceptualization, and structural apparatus between the Yugoslav and other, perhaps better known, versions of federalism.

In treating the motives for federation, theories of federalism commonly intermix pragmatic and idealistic or ideological considerations. Frequently mentioned among the former are common defence against mutually feared external powers; the advantages of a common internal market and joint economic activities; and the desire for consolidated representation in international affairs. The federal option is chosen in order to preserve certain elements of historical ethnic, cultural, or some other forms of particularity or autonomy while maintaining the benefits of mutual action in pursuit of the above objectives.³ Among the ideological considerations commonly mentioned are the preservation of the liberty and initiative of individual citizens; the maintenance of particular social and political institutions (usually democratic), which might be jeopardized by unitary government; and the fostering of intermediate institutional loyalties and buffers to protect the citizen from the stifling impingement of direct centralized authority.⁴ Christian Bay conveys the spirit of the contemporary libertarian version of the Western federalist argument in the following passage:

'A huge population makes it seem more urgent to reduce the diversity of views and behaviors; there are limits to how many variables political leaders and bureaucrats can handle in their own minds. We all require some simplicity in our categories, and these people are no exceptions. But it must be added that federalism and decentralization can offset this particular incentive toward encouraging authoritarian instead of humanistic loyalties.'⁵

Many authors contend that the genuinely federal plant is a delicate one; that, especially in the modern era, there is a tendency for fully fledged co-ordinate federalism to degenerate into mere 'co-operative' and thence into what Sawyer calls 'organic' federalism, where minor elements of shared authority are delegated at its own discretion by an increasingly powerful central government to subordinate units essentially bereft of effective bargaining power.⁶ The reason for this tendency, it has been claimed from de Tocqueville's time to our own, is the crisis-ridden ambience of external political and domestic economic affairs in which 'modern' nation-states are constrained to operate. Crises, it is argued, are not good for federal systems,⁷ which are, thus, implicitly regarded as an artificial construct, motivated by worthy sentiments and desirable under felicitous circumstances, but nonetheless an anomaly in a basically Hobbesian world.⁸ In short, the strengths of federalism and its practical utility, not to say inevitability under certain conditions, are given short shrift in much of the Western literature.⁹

The Yugoslav case, however, illustrates the practical utility of federalist mechanisms as a safety valve for separatist pressures in a multi-ethnic community. But it also demonstrates the validity of some of the theoretical caveats on the dangers to viable federalism from external and internal crises and inconsistencies in the domestic social and political order.

THE HISTORICAL BACKGROUND OF CURRENT YUGOSLAV FEDERAL THEORY AND PRACTICE

Yugoslavia has been characterized as 'one country with two alphabets, three religions, four languages, five nations, and six federal states called republics'.¹⁰ With this tremendous diversity, Yugoslavia's problems of national integration are probably more comparable to the difficulties of the early Swiss Confederation than to those of the fledgling American republic of the Articles of Confederation. Yet the Yugoslav case is intrinsically more complex than either of these because of the extreme ethnic, linguistic, cultural, and economic differences of the constituent regions and the memories of frequently violent conflict among them in the interwar and wartime periods.

Pre-war Constitutions and World War II

The so-called 'Vidovdan' Constitution of the Kingdom of Serbs, Croats and Slovenes of 1921 was anything but the broadly federal arrangement which Croat and Slovene leaders had had in mind in initially pursuing the formation of a South Slav union. In the opinion of one eminent historian it represented in fact an extension of the 'Greater Serbia' idea entertained by certain leading Serbian politicians since the end of the 19th Century.¹¹ The central government in Belgrade had far reaching and frequently invoked police powers over the press, speech and assembly. But even though there was considerable Serbian democratic opposition to the 1921 Constitution and the policies adopted in its name, the head of the main Croatian opposition party, Stjepan Radić, refused to co-operate with it and pressed instead for Croatian independence. Radić's assassination in the Federal Parliament in June 1928 ultimately led King Alexander Karadjordjević to dissolve the Constitution and declare a royal dictatorship in January 1929.

In October of the same year the name of the state was officially changed to Yugoslavia, as the King attempted to break the traditional territorial-ethnic nexus by creating nine new provinces (*banovinas*) which cut across the historic national boundaries. The new Constitution promulgated by the King in 1931 was blatantly rigged to preserve unitary royalist control by, among other things, giving any party obtaining a plurality in national elections an automatic two-thirds of the seats in the Parliament; and by undermining the independence of the judiciary, one of the better features of the old Serbian political heritage.¹²

The assassination of King Alexander in Marseilles in October 1934 by a Macedonian terrorist, linked to emigré Croatian Ustashe leaders operating in Italy and Hungary, did little to improve the tenor of Yugoslav ethnic politics, although some concessions to Croatian autonomy were eventually made under the Regency of Prince Paul on the eve of World War II. By then it was too late, however, and the state rapidly disintegrated before the combined Axis attacks in April 1941. The army swiftly decomposed along ethnic lines, and, with minor local exceptions, all but the Serbian troops simply refused to fight. Within twelve days Royalist Yugoslavia had ceased to exist, as the various Axis partners rushed to annex or occupy their respective allocations of Yugoslav territory. The Croatian Ustashe were rewarded with their own puppet 'Independent State of Croatia', which loyally followed German and Italian directives throughout the war and displayed considerable initiative in carrying out Hitler's racial policies.

The sordid tale of inter-ethnic wartime brutalities has been told by many authors¹³ and need not be rehearsed here. It is arguable that the ferocious struggle between Tito's Communist Partisans and the Royalist Serbian Chetniks of Draža Mihailović for postwar control of the country was more intense than the intermittent warfare of either against the Axis occupiers. However, the Partisans, it is worth emphasizing, were the only force actually fighting in Yugoslavia dedicated to a truly national program of development and the reconciliation of ethnic grievances, albeit under firm Communist Party dominance. In view of the tragedies which ethnic antipathies had brought to all the various peoples of the country before and during the war, this commitment was bound to lend special legitimacy and popularity to the communists, even among those segments of the population who were ideologically indifferent or hostile to communism as such. Indeed, during the war, the Party was careful to play down the specifically communist aspects of their program. In short, the overwhelming majority of the population was evidently willing to give Tito and his slogan of '*Bratstvo i Jedinstvo*' ('Brotherhood and Unity') a reasonable chance.

Nevertheless, the wartime excesses and the legacy of unresolved ethnic issues remained to be confronted by the new rulers. In addition to the well known Croatian, and perhaps less well publicized Slovenian, demands for autonomy, the Albanians of Kosovo and the Moslems of Bosnia-Herzegovina also had serious grievances against the Serbs - grievances which had been expressed during the war by particularly egregious massacres and counter-massacres.

As for the Serbs themselves, who had supplied the bulk of the Partisan troops fighting to rid the country of the Axis occupiers (and had made up

the overwhelming majority of the Chetniks as well) - many nurtured deep resentments against the other nationalities for abandoning Yugoslavia in its time of greatest trial. Unlike the Prussians of the old German Empire, the Serbs had never enjoyed the clear numerical, economic or political preponderance to make their hegemonic aspirations realizable. But this fact, which in itself paradoxically might have been a positive factor for a federalist solution according to conventional federalist theory,¹⁴ seems only to have deepened the resentment of the other ethnic communities over Serbian pretensions.

Compounding the postwar integration problem was the fact that the respective traditional regions are themselves far from ethnically homogeneous. Croatia has a 15 percent Serbian minority compactly settled in certain historic localities. Bosnia-Herzegovina contains large Serbian and Croatian populations whose combined numbers far surpass the Moslem plurality of the inhabitants. The Kosovo Autonomous Province of Serbia had an Albanian 'minority' of 74 percent (under the 1971 census and it is certainly larger now) in a territory that is considered one of the historic origins of the Serbian people. And the Vojvodina Autonomous Province of Serbia has a very large Hungarian population (22 percent in the 1971 census). Macedonia contains substantial minorities of Albanian and Turkish Moslems. Thus, a neat federal arrangement based on compact, ethnically homogeneous regions is a practical impossibility, although in the absence of the memories of communal hatreds, that in itself would not normally be considered an insuperable barrier to effective federalism.

Clearly the new regime had its work cut out for it in pursuing its dual goal of welding together a unified territorial state and constructing a socialist society. From the beginning the dedication to Brotherhood and Unity implied a commitment to some form of federalism, if only to guarantee the constituent nationalities against a reversion to prewar inequalities. Not surprisingly, in view of Tito's ideological and political affinities, the model of federalism chosen for the 1946 Constitution of the FNRJ* was the USSR Constitution of 1936, with the same 'organic' federalist distribution of formal powers between the centre and the republics. Indeed, there was a period just after the war when Yugoslav leaders anticipated the early incorporation of Yugoslavia into the USSR.¹⁵

The 1946 Constitution

Thus, it is no wonder that the character of Yugoslav federalism under the 1946 Constitution was no more genuine than its USSR model; in fact, the Yugoslav copy did not go even as far as the latter in specifying the formal right of the constituent republics to secede.

The republican constitutions were a direct copy of the Federal Constitution and were in most respects directly subordinate to it. One of Yugoslavia's foremost constitutional theorists, Professor Jovan Djordjević, has described the prevailing relationships and the reasoning behind them in the following terms:

* Before 1963 the SFRY was called the Federal People's Republic of Yugoslavia (FNRJ).

'... The first republican constitutions of 1946-1947 were at the same time an imitation of the federal constitution and thus derivative and dependent, supplementary or subordinate constitutions, although in structure and content they represented a replication of the federal constitution, which is conceived not only as "senior" and basic law, but also as a constitutional source document.

All this proceeds also from the fact that the first federal constitution proclaimed not only the unified socio-economic system and organization of the federation, but also defined the position and functions of the republics and, by its authority, *directly* prescribed its organization, defining the character, composition, competence and relations of all republic organs. This corresponded not only to the historically conditioned and accepted constitutional-legal unitarism (from the first completely federal socialist constitution - the USSR Constitution of 1936) but also to the existing economic and political centralism which came out of the Revolution and the war.¹⁶

Perhaps the best indication of the limited nature of 'federalism' under the 1946 Constitution was the list of jurisdictional areas reserved for the Federation. They included international relations, foreign trade, defence, posts and communications, the implementation of federal constitutional provisions and the ensuring of conformity of republican constitutions to them, settlement of boundary and other inter-republican disputes, civil and criminal legislation, questions of immigration and citizenship, amnesty, repatriation and the care of disabled veterans, banking and currency, budgetary and incomes policy, 'and all other fiscal and financial matters'.¹⁷

Obviously, such a division of competences was more in keeping with a unitary than a federal system. It was evidently a concomitant of the drive for rapid integration and mobilization for accelerated industrialization and social transformation in the prevailing contemporary atmosphere of deteriorating East-West relations, where Yugoslavia was distinguishing herself as the most vociferous East European supporter of Stalin's foreign policy. On the other hand, the maintenance of the formal structures of federalism, to the extent that they were more than a mere replication of Soviet patterns, did offer the non-Serb peoples some guarantee that a socialist Yugoslavia would not be another vehicle for Serbian domination. Indeed, there is evidence that some Serbs viewed the 1946 constitutional arrangements as precisely a device to deprive Serbia of her rightful pride of place.¹⁸

Whatever the validity of these allegations, the 1946 Constitution was rapidly overtaken by events. The ouster of Yugoslavia from the Cominform by Stalin in June 1948 and the ensuing development of a specific Yugoslav critique of Soviet social theory and practice, which culminated in the formulation of the worker self-management idea in 1949-50 and the subsequent decision to abandon centralized control over the economy, made the 1946 Constitution a dead letter within five years of its adoption. The best evidence of this is the fact - remarkable in Yugoslav constitutional history - that it was never amended.¹⁹ All of the important changes in

governmental structure and administrative process during the crucial 1950-52 period were introduced via the legislative route.

Legislative Changes 1950-52

The large-scale formal, if still practically limited, application of worker self-management in Yugoslav industry following the enactment of legislation in June 1950 was accompanied by the promotion of the commune as the basic unit of local self-government. Many previously centrally controlled enterprises were transferred to republican jurisdiction and smaller enterprises to local control. In the opinion of Dušan Bilandžić, a prominent Yugoslav social historian and political activist, the republican governments had, by 1951, in fact become the fulcrum of economic administration in Yugoslavia.²⁰ Equally important was the decision later that year to discontinue Soviet-style central command planning in favour of looser indicative planning, whereby only major inter-sectoral development proportions were set, leaving enterprises to plan their product assortments in response to market demand.

One of the main turning points of this dynamic period was the Sixth Party Congress in November 1952, sometimes called the 'Djilas Congress', because of the association of many of the measures introduced with his personal advocacy and inspiration. At the Congress the name of the Party was officially changed to the League of Communists of Yugoslavia (LCY) to symbolize a fundamental alteration in its role and character. The Party was ordered to abandon its previous direct involvement in economic and social management and to strive to become the ideological and political conscience of Yugoslav society, guiding socialist construction through the personal efforts and examples of individual members in their various posts and occupations.²¹

The Constitutional Law of 1953

The momentum for these radical transformations was destined, for a complex of foreign and domestic reasons, to be short lived, but the ultimate impact was substantially more far reaching.²² A new Constitutional Law of January 1953 was enacted to replace the 1946 Constitution by codifying the various changes which had rendered the latter obsolete. In formal federalist terms the transfer of powers from the centre to the regions was not particularly extensive - this was not the primary thrust of the new constitutional provisions - although some minor co-ordinate elements were introduced. Thus, exclusive federal jurisdiction was retained over a wide range of matters, which were now designated as subjects of 'exclusive legislation'. But two other forms of legislation were now introduced: 'fundamental' and 'general' legislation, where the republic assemblies were entitled to pass supplementary or concurrent legislation. Areas not covered by these three categories were left to republican jurisdiction.²³

The 1953 Constitutional Law introduced two new executive institutions to complete the break with Soviet patterns: a President of the Republic and a Federal Executive Council (FEC). The former post, tailor-made for Tito, conferred the status of Chief of State and Supreme Commander of the Armed Forces. The President of the Republic was also *ex officio* President

of the FEC, a body which was formally neither a government in the Western parliamentary sense nor a Soviet-type Presidium of the Supreme Soviet, but rather an inner working group of the Federal Assembly, responsible for policy formulation, implementation of federal legislation, and direction of the organs of federal administration.²⁴

Symbolic of the basic orientation of the new constitutional system were alterations in the structure and procedures of the Federal People's Assembly, which, unlike the Supreme Soviet and its 1946 Yugoslav copy, was to function in extended session and thus operate as a real deliberative and legislative body. The Federal Assembly remained bicameral, but the composition of the houses was changed. The Council of Nationalities was replaced by a Council of Producers, reflecting the new emphasis on worker self-management as the basis of Yugoslav socialism. Deputies to this Council were elected by workers in various branches of the socialist economy (thus excluding, for example, the private peasants). Similar councils were elected at the republic and communal levels. The altered Federal Council contained deputies elected on the basis of population from electoral districts in the republics plus an additional ten deputies from each republic, six from the Vojvodina, and four from Kosovo - all delegated by the respective territorial assemblies. This *de facto* subordinate Council of Nationalities within the Federal Council was to be convoked for separate deliberation on specified questions of national-territorial interest.

Thus, on balance, the primary thrust of the 1953 Constitutional Law was not toward expanded federal power sharing, but rather in the entirely different direction of grass-roots economic and political democracy within an implicitly unitary context. Dennison Rusinow attributes this orientation to the LCY leaders'

'euphoric belief that the national question really had been solved and that a "Yugoslav socialist consciousness" was taking firm roots, as well as a realistic tendency to ignore a republican autonomy which had been little more than a legal fiction.'²⁵

The commune, not the republic, was accordingly being treated as the basic unit of the political system, perhaps more an a-national Proudhonian, than a federalist, tendency (although Yugoslav Marxist politicians would vehemently have rejected the suggestion).

With the death of Stalin in March 1953, the impulse toward experimentation with grass-roots liberalization, which had been reflected in the Constitutional Law of 1953, seemed to dissipate almost overnight, threatening the new charter with the same sort of instant obsolescence as had befallen its predecessor. The passing of the Soviet military threat and the increasing prospects of Tito's re-acceptance within Bloc councils, more or less on his own terms, drastically changed the atmosphere of Yugoslav politics and emboldened LCY conservatives, like Aleksandar Ranković, Tito's chief secret police and party organizational lieutenant, to resist and repress recent liberalizing tendencies which they had never more than grudgingly accepted.²⁶ The ouster of Milovan Djilas from all his party and state posts in early 1954 signalled the ascendancy of the conservative viewpoint, and for the next three years, until well after the Soviet suppression of the Hungarian rebellion, all further

progress toward self-management, economic reform, and cultural liberalization was suspended if not actually reversed. National self-expression, traditionally the main impetus toward genuine federalism, was held firmly in check, as the system reverted to *de facto* unitarism.

The sudden downturn in Yugoslav-Soviet relations in 1957 and the resumption of Bloc sanctions against Belgrade prompted a renewal of efforts by LCY leaders to develop the distinctive features of the Yugoslav road to socialism as an explicit indictment of the Soviet-type systems. A milestone on this path was the promulgation in April 1958 of a new LCY Program, which further elaborated the ideas of worker self-management and reinforced the commitment to a more liberal, 'humanistic' brand of socialism.²⁷

Particularly important in reviving an active interest in federalism and greater regional economic autonomy were new initiatives for economic reform in the early 1960s. The renewed turn to the West for financial and political assistance was accompanied by a major decision for the restructuring of the economic system to prepare Yugoslavia for inclusion in the world capitalist market. It was hoped that the opening of the economy to world market competition would impose greater rationality and higher productivity upon the developing Yugoslav industrial and commercial enterprises. The anticipated costs in terms of political liberalization and greater openness to Western ideas were thought to be containable, and indeed desirable, by at least some of the LCY leaders. The expected payoff was to be a gratifying demonstration of the vitality of the Yugoslav variant of socialism, especially for the Third World countries with whom Tito was increasingly identifying in his efforts to construct a world-wide non-aligned movement. Accordingly, work began toward the end of 1960 on yet another Federal Constitution to register the contemplated changes in the system.

Unfortunately, an economic downturn and a revival of conservative pressures soon put a damper on radical experimentation, and during 1961 and 1962 the drafting of the new Constitution became the occasion for acute political struggle. The result was that the 1963 SFRY Constitution was an unsatisfactory compromise which failed to address effectively the problems of decentralization and democratization which it was originally intended to solve.²⁸

The 1963 Constitution

Perhaps the most noteworthy feature of the 1963 Constitution was its provision of a multi-chambered Federal Assembly. As originally constituted, the Assembly contained, in addition to a Federal Council, an Economic Council, an Educational and Cultural Council, a Social Welfare and Health Council, and an Organizational-Political Council. These so-called 'worker community' Councils were composed of representatives of the interests and groups involved in the respective spheres, chosen by communal assemblies. (The Organizational-Political Council was a unique assemblage of representatives of what might be called the 'bureaucratic interest' - officials from the economic and administrative bureaucracies.)

As under the 1953 Constitutional Law, the Federal Council again combined directly elected representatives from the communes with delegates chosen by the republican, provincial and communal assemblies. For questions

of special interest to the regions the republican and provincial delegates were required to constitute themselves as a separate Council of Nationalities with the power to delay for up to one year any legislation considered a threat to the equal treatment of national-territorial interests.²⁹

The elaborateness of the new assembly system attracted a good deal of attention abroad, but the practical impact of the 1963 Constitution was on the whole minimal. Economic and financial power was still concentrated in the hands of the federal bureaucracy and other central agencies; and the resurgence of political conservatism and secret police repression in the context of suddenly improved Yugoslav-Soviet relations created an atmosphere that was decidedly uncongenial to the realization of even the limited elements of devolution and democracy contained in the new Constitution.³⁰ It was not until Tito's personal endorsement of the imperative need for fundamental economic reform in 1964 and his final ouster of Ranković and subsequent curbing of the secret police establishment in the middle of 1966 that the proper conditions for constitutional change and viable federalism were brought into existence.

The expulsion of Ranković and the limitation of secret police powers drew back the curtain of fear which had for so long concealed and muffled the expression of ethnic identity and aspirations. In the atmosphere of the radical 1965 economic reforms the result was an unleashing of long pent-up demands for a more equitable share of the country's financial resources, most vociferously in the more heavily industrialized northern republics of Slovenia and Croatia, whose standard complaint was that they had been systematically exploited by Belgrade to finance the development of the more backward southern regions. They now demanded in particular that they be allowed to retain a larger share of the foreign currency earned from the exports and tourist receipts of their more efficient regional economies. There was an element of special pleading and downright selfishness in some of their demands but, in the general climate of liberality and tolerance prevailing after the Ranković affair, there was widespread recognition that their complaints were largely justified.

The example of the Czechoslovak 'Spring' in 1968 undoubtedly also exerted a liberalizing influence on Yugoslav domestic policy. The brutal Soviet repression of Czechoslovakia in August of that year and the threat it implied to Yugoslavia herself seem once again to have reinforced Tito's determination to accelerate the process of liberalization and decentralization in order to rebuff Moscow and demonstrate to the world that socialism was not doomed forever to replicate the repressive, monochromatic uniformity of the Soviet model.

One of the most portentous developments of this period was the apparent federalization of the LCY itself. The Ninth Congress of the LCY in March 1969 proved to be a high point in the long campaign, begun in 1952 but never consummated, to liberalize the Party and transform it from an orthodox Soviet-type power machine into a kind of 'league of the just'. From the standpoint of the evolution of Yugoslav federalism it is significant that at precisely this time there had come to prominence in the republics a group of extremely able younger communist leaders, most notably in Slovenia, Croatia, Serbia, and Macedonia. They seemed destined to become the core of the country's future

leadership and were obviously being groomed for such a role by some of the older leaders. All of them were relatively liberal and intellectually progressive by international communist standards, and they appeared to enjoy a good deal of genuine popularity in their respective republics. They had undoubtedly been helped in this regard by the partial transfer of responsibilities for cadre appointments to the republican party organizations in the aftermath of the Ranković affair.³¹ In many respects the top LCY decision-making bodies had become, by the end of 1968, assemblages of delegates from the republican centres of power. In contrast to the older generation of leaders (with the possible exception of Ranković)³² the new republican leaders tended to identify more closely with their respective home bases than with Belgrade, some of them going so far as to decline transfer to the national capital and the presumed opportunities for nationwide influence.³³

1967-71 Constitutional Amendments

This developing gravitation of political power to the republics was undoubtedly a major factor in the burst of efforts to inject a spirit of genuine federalism - or even confederalism - into the Yugoslav system through a series of 41 (!) constitutional amendments, introduced in three instalments over the 1967-71 period, which totally transformed the 1963 Constitution. These amendments were subsequently incorporated into the 1974 Constitution and will not be discussed in detail here. Among the most notable changes were a significant strengthening and final separation of the Council of Nationalities (Amendment VIII), which now enjoyed an effective veto over all federal legislation and functioned essentially like the Senate in the U.S. and Australian federal systems; the creation in 1971 of a collective Presidency of the SFRY (Amendments XXXVI and XXXVII) with Tito as President and equal representation of the republics and provinces; finally, a major limitation on the powers of the Federation over financial and fiscal matters, leaving within the federal budget only a single central fund for the accelerated development of the less developed regions (Amendment XXXIV) out of the previously numerous central agencies for financial and fiscal management.

On the whole, economic questions tended to occupy the centre of the stage in the struggle between Belgrade and the republics throughout the period of the Amendments. In the relatively open atmosphere of the late sixties the debates became increasingly acrimonious, particularly those initiated by the Croatian leaders who could usually count on their Macedonian and Slovenian counterparts for support against Belgrade. Ultimately, they found themselves enveloped by coteries of local nationalists, whose strident demands for economic and cultural autonomy, not to say independence, proved increasingly disturbing to Tito and his more conservative integrationist colleagues in the central and republican party leadership.

By 1971 the outpouring of nationalist rhetoric had begun to raise fears of a revival of the ethnic turmoil of the interwar years. There was also evidence of foreign involvement with certain of the nationalist groups - enough to give the conservative opponents of liberalization an excuse for demanding a crack-down. Tito, whose personal authority was beginning to suffer in the apparent breakdown of order, was easily won over to this position, if he did not indeed inspire it, in the spring of 1971, but he bided his time until the end of the year.³⁴

Tito's removal of the radical party and government leaders in Croatia, Slovenia, Macedonia, Serbia, and the Vojvodina in late 1971 and during 1972 and the ensuing purge of their local supporters ended the wave of extreme nationalist self-assertion, but it also dealt a blow to what had promised to become a vigorous type of federalism. Writing in 1973, before the political implications of the 1971-72 events were entirely clear, Bilandžić expressed the opinion that:

'The new constitutional definition of the Federation according to the XXth Amendment, and especially the actual political relations make the Yugoslav federation a special type in comparison with other federal systems. The Yugoslav federation is difficult to place among the classical types of federation and confederation, although it is nevertheless closer to a confederation.'³⁵

For ethnic party realists like Bilandžić, a Serb from Croatia, such a system was the ideal solution for the problems of national cohesion. The question was whether the crack-downs and the return to greater Party-centred orthodoxy during the seventies made this kind of federalism possible any longer.

CURRENT YUGOSLAV CONSTITUTIONAL THEORY AND FEDERALISM

From an inspection of the elaborate federal structures and procedures of the 1974 SFRY Constitution and the theoretical formulations advanced to reconcile federalism with the facts of continued central party dominance, one could reasonably conclude that even after the nationalist scare of the early 1970s the LCY leaders had invested too much time and effort in developing the federalist solution and were too well aware of the justice of the basic claims for ethnic-regional autonomy, to abandon federalism altogether. Thus, they have retained the federal form and much of the federal spirit of the Amendments in the new Constitution, but combined them with a strengthening of party discipline and the maintenance of closer party control over the loyalty and the ideological and political orthodoxy (the 'moral-political suitability') of the holders of all positions of authority and political influence in society. The post-Tito leadership has emphasized its continuing commitment to this strategy.³⁶

In view of the basically orthodox Marxist-Leninist heritage of the LCY, it is not surprising that many of its theoretical conceptions and diagnoses of the national question are similar to Soviet ones. Nationalism is viewed as essentially a bourgeois phenomenon, a product of the capitalist social formation. Its elimination lies in the final overcoming of capitalist social relations. But here the Yugoslavs, with their recent experience of ethnic tensions, have gone considerably further than the Soviets in arguing that nationalist elements are capable of flourishing well after a socialist revolution if they succeed in allying themselves with local bureaucratic and technocratic forces seeking to consolidate their power and privilege.³⁷ In any case, the transcendence of nationalism will require a long process of social,

economic and psychological transformation - not only within the limits of a given nation-state, but on an international scale. In the Yugoslav view the result will not be the development of a synthetic 'Yugoslav' national consciousness, in contrast to the Soviet theory of the immanence of a future 'Soviet nationhood', but the blending of the various national cultures into a higher socialist world culture.³⁸ Meanwhile, local nationalism can be contained, and the preconditions for its eventual transcendence fostered, only if each nation in a multi-ethnic community like the SFRY is allowed to realize its own material and cultural potential to the full. As long as conflicting nationalisms still exist, this is their 'inalienable right'.³⁹

Worker Self-Management and Social Self-Government

As Marxists, Yugoslav theorists naturally place special emphasis on economic factors in their analyses of nationalism and its containment. The central concept of worker self-management, for example, was designed as a frontal assault on the problem of the alienation of labour under socialism, a problem which Bolshevik-style revolutions and the subsequent nationalization and bureaucratic manipulation of the means of production had clearly failed to solve. In Yugoslavia the initial naive belief had been that increasing material prosperity and direct involvement in decision making on wages, conditions and investment policy would so enhance the satisfaction of the working class that specifically national problems would become irrelevant. This was one of the basic assumptions behind the non-federal orientation of the 1953 Constitutional Law and the multi-chambered parliamentary gimmickry of the 1963 Constitution. The outburst of ethnic assertiveness in the late 1960s, however, soon disabused LCY leaders of their hope of thus circumventing nationality issues. Henceforth, the working class would have to be treated as an amalgam of republican and provincial cohorts in the exercise of self-management rights, particularly on matters of federal resource allocation. The delegate system introduced by the 1974 Constitution was designed to facilitate direct worker and citizen participation in legislative affairs where their economic interests were affected by eliminating professional representatives as an intermediate barrier and by requiring a continuous interchange between legislator-delegates and their electors. But the delegates to both houses of the Federal Parliament were now organized essentially along republican and provincial lines.

The Role of Republics and Provinces

Thus, if worker self-management and social self-government are the basic operative principles of the Yugoslav system, the republics and provinces have become the main arenas where these principles are formally effectuated. The sometimes confusing complexity of the shifting centre of structural and procedural gravity under the new Yugoslav federalism is evident in Professor Djordjević's 'dialectical' characterization:

'On the basis of this Constitution, federalism, while remaining essentially multi-national, also contains some significant characteristics which justify marking it as a new phase of federalism. These new characteristics are the following:

- a) federalism which confirms the Leninist principles of the right of nations to self-determination and proceeds from it as its political basis;
- b) communitarian federalism of interests and actions;
- c) participatory federalism which is institutionalized from below and with the participation of the republics (the constituent units) in the performance of federal or joint affairs;
- d) polyvalent federalism which reconciles relative federalism and confederalism, de-centralism and autonomy and centralism, such that the national communities or republics are the basic element of federalism.⁴⁰

Therefore, while the various elements and processes of self-management are being developed as the universal mode of decision making in Yugoslav society, the republics and provinces will continue to be regarded for the foreseeable future as the basic natural communities within which self-management processes take place. In time, it is hoped, writes Dr Balša Špadijer, '... the further development of our federalism will enable the self-management component of our federation to express itself to a greater extent than in the past'.⁴¹ Under the 1974 Constitution citizens are considered to possess both particular 'sovereign' rights and interests as members of a given republican or provincial community and 'common' or 'joint' rights and interests as members of the Yugoslav federal community.

'The new position of the federation is expressed in the Basic Principles of the SFRY Constitution proceeding from the proposition that the working people, nations, and national minorities realize their sovereign rights in the socialist republics and in the socialist autonomous provinces, in conformity with their constitutional rights, and in the Socialist Federative Republic of Yugoslavia, when this is in the common interest as established by the Constitution of the SFRY'.⁴²

Špadijer offers a catalogue of the 'common interests' which all 'workers, nationalities, and minorities' share and realize as citizens of the Federation:

- '1. Sovereignty, equal rights, and national freedom, independence, territorial integrity, security and social self-defense;
- 2. the defense of the country and the international position and relations of the country with other states and international organizations;
- 3. the system of socialist self-management socio-economic relations;

4. the unified basis of the political system;
5. the foundations of democratic freedom and the rights of the individual and the citizen;
6. solidarity and social security of working people and citizens;
7. a unified market;
8. the joint coordination of economic and social development and other common interests.¹⁴³

This broad catalogue of declared common interests obviously leaves ample scope for unitary activity, even if constitutional procedures allow the republics a substantial, often formally decisive, say in the formation and implementation of national policies. Furthermore, certain integrative institutions, foremost among them the LCY, possess extensive responsibility in theory and practice for guaranteeing that particularistic impulses do not stray beyond accepted socialist limits, as they may be defined from time to time. The 'General Principles' of the LCY Statute clearly state this commitment:

'The League of Communists of Yugoslavia is a revolutionary and unified organization and the leading ideological-political force of the working class and of all working people in their struggle for socialism founded on self-management. The communists of Yugoslavia and their Leagues in the socialist republics and the socialist autonomous provinces are united in the League of Communists of Yugoslavia on a common programme of struggle for the realization of the historic and immediate interests and the leading social role of the working class and of the freedom-loving and socialist aspirations of the nations and nationalities of Yugoslavia.

The establishment of a classless communist society is the historic task and the ultimate goal of the League of Communists of Yugoslavia.¹⁴⁴

Professor Najdan Pašić, current President of the Constitutional Court of Serbia and a leading political theorist and activist concludes:

'Thanks to the leading ideological and political role of the League of Communists, the building of the new political system has had from the beginning and has preserved to the present day the character of a consciously directed process, marked by a constant insistence on creating the greatest possible latitude for free, democratic activity, initiative, and action of all socialistically committed social forces and on securing such a system of relations in which the long-term interests of associated labor based on socialized means of production will be the decisive determinant of general social movement.¹⁴⁵

At least in theory, then, the scope for independent action by the federal constituent units is rather narrowly restricted, by Western federal standards, to approved social and political goals and activities. Other integrative institutions, such as the Yugoslav National Army (YNA), the Socialist Alliance (SAWPY) and the Trade Union Federation, were additional guarantees against centrifugal tendencies as long as Tito was present to give them and the LCY united direction. Whether federalism can continue to be limited to a safety-valve role in the future is one of the main questions underlying the analysis of the present institutions of Yugoslav federalism which follows.

FEDERALISM IN THE BASIC STRUCTURE OF THE SYSTEM

Figures A, B and C in the Appendix describe the basic federal organs of the SFRY, the federal assembly and delegate system, and the federal executive council respectively.

The Presidency of the SFRY

One of the most interesting features of the 1974 Constitution is the collective Presidency of the SFRY, which functions as the collective head of state. It is nominally composed of nine persons, eight selected for a five-year term by the Assemblies of the six republics and two autonomous provinces, thus epitomizing the universal principle of 'parity' representation of the constituent republics and 'appropriate' representation of the two autonomous provinces (the so-called 'nationality key'). The Presidency also includes *ex officio* the President of the LCY Presidium. While Tito was alive, he occupied, as President of the Republic and President of the LCY, the dual position of head of state and head of the party. Since the last incumbent of the post of President of the LCY Presidium, Stevan Doronjski (before the LCY Central Committee session in June 1980 his title has been Presiding Officer - *Predsedavajući* of the Presidency of the LCY)⁴⁶ was already the representative of the Vojvodina on the SFRY Presidency, the total number of its members was temporarily reduced to eight. At the regular annual rotation of the President of the LCY Presidium in October, where Lazar Mojsov of Macedonia was elected as President, the membership of the SFRY Presidency again rose to nine, as it was during Tito's incumbency.

It is important to note that the SFRY Presidency is not a creation of the Federal Parliament and is not specifically responsible to it (unlike, for example, the Presidium of the USSR Supreme Soviet, or, for that matter, the Presidencies of the Yugoslav republics and provinces, with the exception of Slovenia, where the members are elected by the communal assemblies). Like the LCY Presidium, its President is rotated annually, in May, according to an established sequence of republics and provinces: Macedonia, Bosnia-Hercegovina (whence comes the present incumbent, Cvijetin Mijatović), Slovenia, Serbia, Croatia, Montenegro, Vojvodina, and Kosovo.⁴⁷

The SFRY Presidency is not formally an executive body and does not directly control the federal administrative machinery. According to Dr Milan Matić:

'In view of the fact that the basic function of the Presidency of the SFRY, in relation to the Assembly and the executive organs of the Federation, amounts to matters of coordination and initiative, and also, in exceptional cases, to measures of intervention (on a temporary basis), the Presidency has a very restricted circle of original, decisive, and final authority. Thus, it does not appear in relation to the SFRY Assembly, in a political and practical sense, as some sort of "second" or countervailing center of power and authority.'⁴⁸

This statement certainly understates the actual power and authority of the Presidency, however. When Matic himself discusses its various specific functions, they appear to be quite 'decisive' indeed. Under its *initiative function*, for example, the Presidency has broad powers in the areas of foreign policy and state security to review current conditions and propose measures to co-ordinate the activities of administrative organs charged with carrying out policy in these areas. It can, in fact, at its own discretion review the current status of business in any area of foreign or domestic policy and request an investigation by the Federal Assembly, proposing specific recommendations for appropriate policy decisions. Conversely, the Assembly may, in turn, request that the Presidium examine certain questions and offer policy recommendations.

The Presidency also has wide powers of initiative in the implementation of laws and other acts of the Federal Assembly and the Federal Executive Council. It can convoke sessions of the latter and place certain questions on its agenda; it can also raise the question of confidence in the FEC and suspend the operation of FEC decrees pending the judgment of the Assembly on their legality or conformity with established policy.⁴⁹

With respect to its *co-ordinating function*, the Presidency has special responsibilities for seeing that the interests of the republics and provinces are effectively protected and harmonized. This function is particularly emphasized in connection with the implementation of the Total National Defence program, where the Presidency, as the 'supreme organ of leadership and command of the armed forces of the SFRY in war and peace',⁵⁰ has the task of ratifying basic plans, military preparations, and mobilization policies. It is empowered to transfer operational command over these matters to the Federal Secretary for Defence, but the latter remains responsible to it for their execution.

The co-ordinating function is one of the Presidency's most important practical roles, especially now that Tito is no longer present to make summary decisions in cases of disagreement. Now, more than ever before, the Presidency functions as an arena for the confrontation and reconciliation of regional and other interests. Nominally it operates on the majority principle, but consensus decision making is in fact the rule, which puts a premium on the corporate and party solidarity of its members, as opposed to their ethnic and regional loyalties. Speculation to the contrary notwithstanding, this solidarity seems to be holding at present and will probably continue to exert a strong influence on most issues for the current generation of Tito's direct heirs.⁵¹ It will presumably be reinforced by the common fear of Presidency members that one of them, or perhaps some figure outside the

Presidency in the LCY leadership, will try to gain personal ascendancy. In the longer run, however, the elevation of some *primus inter pares* is probably inevitable. Indeed, the system may well require it.

Among its other functions, the Presidency has the right to issue legally binding interim orders in wartime and suspend constitutional rights and administrative acts upon its declaration of a state of martial law. Of particular interest is its *nominating function*, under which, in addition to naming ambassadors and military officers, it has the power to propose candidates for the chairmanship of the FEC, the President and justices of the Constitutional Court of Yugoslavia, and members of a largely honorary board of elder statesmen called the Council of the Federation.

Finally, as collective Head of State, the Presidency represents the SFRY in dealings with foreign powers: for example, in the receipt of accreditation of foreign diplomats and proclamation of the ratification of international agreements.

Thus, the SFRY Presidency is an extremely powerful policy-making and tutelary body. As long as highly prestigious, currently active political figures are appointed to it, it will presumably remain so.

The Federal Assembly (*Savezna Skupština*)

For a communist party-ruled state Yugoslavia places remarkably broad genuine law-making powers in the Federal Assembly. A symbol of this prominence is the substantial duration of parliamentary sessions (in contrast to the USSR Supreme Soviet, for example, which sits for a total of usually less than ten days a year). One authority notes, furthermore, that under the 1974 Constitution a significantly higher proportion of normative acts must take the form of laws, which can only be passed by the Assembly, than of decrees and administrative acts, relative to previous constitutions.⁵²

In form, and to some extent in practice as well, the delegate system gives a rather unusual coloration to Yugoslav assembly procedures.

*'In an assembly the delegate is the bearer of constitutionally defined obligations, and not the possessor of rights to decide independently at his own discretion according to the principle of classical representation, an agent in the Marxist meaning of the word, and not an isolated representative.'*⁵³ [emphasis in original]

Nevertheless, the delegate is not a mere transmission-belt for the interests of the bodies which have elected him. He has an implicit mandate to work for consensus in the common interest. The following passage from an interpretation of the delegate system has a decidedly Rousseauvian ring:

*'Thus, the delegate system makes it possible and guarantees that in the assemblies of socio-political communities the authentic interests, needs, opinions, proposals, and commitments of working people from every basic self-managing organization and community are expressed, but in a manner which makes possible the harmonization and discovery of common interests and common opinions, and not in a manner which favors partial interests exclusively, which leads society to harmful individualism.'*⁵⁴ [emphasis in original]

It scarcely needs pointing out that the party and other integrative mechanisms labour constantly, if not always efficaciously in the short run, to ensure that delegates act according to these norms.

The Federal Assembly is now once again a bicameral body, with a Federal Council, comprising thirty delegates from each republic and twenty from each of the two autonomous provinces, in both cases elected by communal assemblies in the respective regions, for a total of 220 delegates; and a Council of Republics and Provinces, with twelve delegates elected by each republican assembly and eight by each provincial assembly, for a total of 88 delegates. Thus, as noted earlier, both houses are effectively 'state houses' in the composition of their membership, if not in their modes of operation.

The 1974 Constitution follows Amendment XXX to the 1963 Constitution in substituting, for the multiple classification of kinds of laws which the Federal Assembly can pass under exclusive jurisdiction or with subsidiary enabling or supplementary legislation by the republican assemblies, a simple, expanded list of specific areas for which the Federation and its organs have exclusive or joint jurisdiction.⁵⁵ A notably confederal type of provision in the new Constitution is the specification under Article 286 of a list of questions requiring the assent of both the Council of Republics and Provinces and the respective republican and provincial assemblies from which its members are delegated. The list of matters subject to this *de facto* regional veto includes the national Social Plan, the foreign exchange system, foreign trade and credit transactions, the allocation of foreign currency reserves, tariff protection, price controls on goods and services, policy on financing the development of underdeveloped regions, the fixing of sales tax levels for the financing of local government operations, and determination of the overall size of the federal budget. By any standard this is a formidable spectrum of issues requiring regional consent. Moreover, this power is actively utilized by the individual regions - to block, or at least to delay for bargaining purposes, the passage of legislation considered inconsistent with their perceived interests.⁵⁶ The Council of Republics and Provinces is clearly intended as a primary safety valve for potentially fissiparous ethnic-regional pressures. It is a unique forum for airing and reconciling inter-regional differences at the federal level. The fact that the various fall-back provisions to circumvent the veto on an emergency basis have rarely had to be used suggests that it is fulfilling the safety-valve function reasonably well, despite the impatience and skepticism of both domestic and foreign critics.

The broad opportunities for regional participation and consensus are not significantly diluted by the constitutional grant to the Federation and its administrative organs of a wide range of regulatory competences under Article 281. In some areas specific rights of participation are accorded to republican and provincial organs; in others, regional agreement must be sought. Formally, and to a considerable extent practically as well, the Yugoslav system affords as much co-ordinate power between the centre and the regions as do any of the genuinely federalist Western systems. The major differences from the latter concern the implicit semi-constitutional power of integrative mechanisms such as the LCY, SAWPY, the Trade Union Federation and the YNA high command to ensure compliance, by one means or another, with centrally determined general policy. But under normal conditions this coercive power has usually been constrained not only by federally oriented structural and procedural norms, but by the high premium which experience has placed on the achievement of consensus.

Federalism and the Courts

Although the Yugoslav court system is federally organized and is formally independent in its decisions, and although it plays in fact a more self-consciously independent role than is the case in other socialist states, it shares with the latter a basic subordination to a political system committed to the building of socialism, as defined and directed by central authorities. Professor Djordjević makes the ambiguous nature of these relationships quite apparent in his interpretation of the Yugoslav courts as an intrinsically unified system:

'The unity of the court system is in a certain sense organic. The courts are not divided by socio-political communities, they are direct organs neither of the Federation, nor the republics, nor the communes or other socio-political communities. The courts are organs of the social community, society. This unity demands neither organizational nor regulative centralism; the new Constitution renounces that more than all earlier Yugoslav constitutions ...

No other organ of power has, not only any hierarchical or command authority, but also any rights of control over the conduct of the judiciary. But although the courts are independent organs of the *social community and the state*, they are within it and not outside or above it. The court performs a socio-political function, i.e., applies the laws and fulfills other tasks and responsibilities or defends the values and movements of a concrete social community. The independence of the court system is a political-organizational, and not a sociological, category. Any other conception of independence would be unrealistic and would turn in practice into arbitrariness.¹⁵⁷ [emphasis in original]

However much against their will and sense of constitutional integrity, Yugoslav judges have occasionally shown themselves vulnerable to direct political pressure in certain sensitive cases, particularly where political dissidence or subversion is alleged.

Given this fact and the theoretical unitarism of the court function, as Djordjević interprets it, there would not appear to be much scope for genuine federalism in the Yugoslav judiciary. Nevertheless, its structure is undeniably federal; the republics and provinces have their own legislation, which is often significantly different in detail; and they have separate court systems to apply it. Within this formal framework the role of the federal courts is a rather conventional one of settling disputes between the regions and determining the constitutionality of regional and federal legislation.

Under the 1974 Constitution there are two such High Courts: a Federal Court and a Constitutional Court. Both follow the familiar Yugoslav federalist staffing principle of the election of justices according to 'parity' and 'appropriate' representation of the republics and provinces, respectively. The Constitutional Court consists of a President and thirteen justices - two from each republic and one from each province - nominated by the SFRY

Presidency and elected by the Federal Assembly for an eight-year, non-renewable term (Article 381). The Federal Court, similarly constituted,⁵⁸ is a final court of appeal on capital sentences and other matters which have passed through the regular civilian and military courts. It also has original jurisdiction on matters affecting the unified market system, the legality of certain administrative acts of federal organs, property disputes between individual republics and provinces, and jurisdictional disputes among the courts of two or more republics or provinces (Article 369). The Constitutional Court is concerned with more general issues of judicial review of legislation and the conformity of republican legislation with federal legislation and the Federal Constitution. According to Professor Leon Geršković, an eminent Zagreb authority on political and constitutional matters, however:

'Consistent with the new relations in the Federation the functions of the Constitutional Court of Yugoslavia have also changed. It has become in essence the defender of constitutional relations in the Federation, and not, as it was up to present, an intervener in all problems of the agreement of acts with Federal laws. Except for special cases, the constitutional courts of the republics and provinces have this latter function.'⁵⁹

In Yugoslav legal theory the role of the regular courts is expected to decline as the various procedures of direct self-management decision making take the place of formal legislation in economic and social spheres. A system of special self-management courts and 'public defenders of self-management' has emerged to service these extra-legislative procedures, but since they are not materially affected by the principles of federalism with which this monograph is concerned they will not be discussed here. It seems evident in any case that as long as the federal system survives in Yugoslavia the Constitutional and Federal Courts will continue to play an important role in facilitating the effective operation of the federalist safety valve.

Federalism in the Machinery of Government

In Yugoslav constitutional theory the so-called 'political-executive' function is commonly divided into three basic functional categories: co-ordination, executive leadership, and administration.⁶⁰ The three functions are in principle allocated to separate constitutional organs. As previously noted, the SFRY Presidency is the primary co-ordinating body, with overriding authority to aggregate and reconcile interests and to exercise initiative both in proposing basic decisions and promoting their effective execution. The Federal Executive Council is regarded as the main federal institution of executive leadership - 'the executive organ of the Assembly of the SFRY' (Article 346). The 'Federal Organs of Administration' are responsible for the direct conduct of government business in the established spheres of federal administrative competence (Article 363). This neat separation of responsibilities is not fully maintained in practice, however. As we have seen, the SFRY Presidency has considerable executive authority in its own right, although it lacks the staff to involve itself in detailed, ongoing executive activity. The FEC, which does have an elaborate staff for its tasks of co-ordinating administrative activities and providing detailed analysis of national problems, consequently enjoys significant *de facto* leverage for initiating policy proposals and otherwise manipulating the decision-making processes that are nominally reserved for the Presidency and the Federal Assembly. Finally, the heads of the main administrative organs, in addition

to possessing the usual power which bureaucratic office implicitly confers, regularly participate, as *ex officio* members of the FEC, in the executive deliberations of that body. In short, the organizational complexity and the nature of the business of the FEC and the federal administrative organs appear to contain most of the ingredients for a high concentration of centralized bureaucratic power.

Given the anti-bureaucratic origins of the worker self-management idea and the commitment to avoid the 'bureaucratic-centralist' and '*étatist*' distortions of the Soviet model, however, it is not surprising that Yugoslav constitutional architects, like Jovan Djordjević and the late Edvard Kardelj, have been particularly sensitive to the dangers of a strong central bureaucracy and have gone to considerable lengths to reduce them. Federalism and administrative decentralization have been among the main instruments for this Sisyphean task.

Federalism is built into the executive-administrative machinery at both the structural and procedural levels. The President of the FEC (nominated by the SFRY Presidency and sometimes referred to as the Prime Minister) at the beginning of a new parliament proposes to the Federal Assembly a complete slate of FEC members selected according to the familiar regional representational pattern. His term is four years with the possibility of one re-election. The heads of the federal administrative organs (currently eight federal secretaries and six federal committee presidents) are *ex officio* members of the FEC and are separately appointed by the Federal Assembly. Although this is not formally specified, they are also apparently selected according to the 'nationality key': the fourteen incumbents of these offices as of August 1979 included two Serbs, three Croats, three Montenegrins, two Slovenes, two Macedonians, and two Albanians.⁶¹ The President of the FEC, Veselin Djuranović, is a Montenegrin, and among the five Vice-Presidents are two Serbs, a Croat, a Slovene, and a Macedonian.

It is interesting to note that Article 362 of the 1974 Constitution expressly prohibits members of the FEC from accepting guidance or instructions from their regional constituencies in the conduct of their executive and administrative functions. Upon election they cease being members of the Assembly. Thus, unlike the delegates to the parliamentary Council of Republics and Provinces, FEC members are expected to give their operational allegiance exclusively to the Federation. Nevertheless, there are strong federalist elements in the procedural rules for FEC activities. Under Article 355, for example, the FEC is required to obtain the agreement of republican and provincial executive organs in drafting and administering enabling legislation for specified classes of laws subject to enactment by the Council of Republics and Provinces. In other cases it is required to enlist regional participation in executive decisions by forming inter-republican committees consisting of delegates from the relevant organs of republican and provincial governments and chaired by a member of the FEC (Article 357). In still others, where disagreements arise between the FEC and parliament, joint executive-legislative commissions are established to work out an agreed solution.⁶² If it is a matter involving the Council of Republics and Provinces, regional representational principles are presumably followed in the selection of the parliamentary delegates to the commission.

In the sphere of administration *per se*, Professor Djordjević argues that a definite trend exists toward the progressive limitation of direct administrative power through federalization, decentralization, and a transformation of the nature of the administrative process itself:

'Thus the federal administration is tending to modernize itself; simultaneously to open itself up and transcend itself, so that beside the assembly there exists a series of organizations and services which makes it possible for laws and public decisions to be prepared and composed on a broad socio-political, and not only a state-administrative basis. This could be viewed at once as a genuine form of de-etatization and as one of the ways to modernize and transcend the classical administrative-police structure of administration and to make it become a means of transforming the Federation from a state into a socio-political community - from a centralized into a cooperative and direct federalism.'⁶³

The federal administrative committees are regarded as a prime example of this process, where administrative activities in a given sphere, for example agriculture, are managed by a collective body, under a presiding officer, bringing together scientific expertise and various regional and functional interests. The readiness to experiment with such bodies at various levels suggests that the Yugoslav system has indeed tried to go beyond most other federations in applying co-ordinate federal principles and decentralization to traditionally hide-bound bureaucratic processes of administration. However, evidence of their actual operation to date indicates that the realities are still all too rarely commensurate with the aspirations and tendencies alleged by Professor Djordjević.

Federal Fiscal Relations

Current Yugoslav fiscal arrangements are similar to those in other federal systems in providing for the sharing of revenues by source and type among the federal, republican and local levels of government. Under the 1974 SFRY Constitution (Article 265) the republics and provinces are required to co-operate with the federal government in the formulation of national taxation policy. Furthermore, all federal income and expenditure must be set forth in an annual federal budget, in which the total volume of expenditure is subject to the agreement of the republican and provincial assemblies (Article 279). However, because of its special constitutional responsibilities for overall economic development and the maintenance of a unified market system, as well as for the customary matters of national defence, internal security and foreign relations, the federal government has a basic standing claim on supplementary revenues under the overriding constitutional principle of 'the obligations of the republics for the financing of federal functions'. In effect, then, the republics and provinces can only modify, not deny, federal requests for funds.

The federal government has an exclusive claim on customs duties, so-called 'federal administrative taxes' (roughly equivalent to stamp duties), a federal retail sales tax and such other revenues and republican contributions

as may be determined by federal law - hence subject to the usual provisions for republican and provincial agreement. By way of illustration, the federal budget for 1980 was to be financed in the following manner:⁶⁴

	%
Sales tax	38.1
Customs duties and other import levies	23.7
Administrative taxes	0.1
Loans and bank credits	7.2
Income of federal organs and agencies	2.1
Contributions by republics and provinces	28.8
	100.0

As mentioned above (p. 10), the federal government now retains only one permanent centralized fund, the fund for the accelerated development of underdeveloped regions. This limitation is in sharp contrast to the earlier situation where the federal authorities directly managed the large-scale transfer of resources for developmental and other political and economic objectives. Under Article 258, the federal government is empowered to raise compulsory loans, apportioned among the republics, for the capital requirements of this fund. Otherwise, the federal government may initiate legislation for the creation of temporary special-purpose funds, such as for disaster relief and other emergency needs. But here republican agreement on the scale and precise objectives of contributions is required.⁶⁵

Nevertheless, the main orientation of fiscal relations, as in other areas of governmental activity, has been toward decentralization. Along with their greater general participation in federal decision making, the republics and provinces have assumed a number of administrative and co-ordinating functions from the federal government, particularly in the areas of economic policy and social services. However, to the extent that the fostering of unimpeded interstate commerce (the 'unified market system') is a major component of national fiscal policy, as most commentators contend that it is, the role of the republics is not entirely clear. A team of researchers investigating the operations of the Yugoslav economic system in the early 1970s concluded that

'in the area of fiscal policy the function of the republic could not be significant, although this does not apply to all forms of taxes. [The authors] especially emphasize the need for coordination among republics in the sphere of fiscal policy for the maintenance of the unified Yugoslav market and the necessity that that policy, in addition to a fiscal character, also acquire to a greater degree the character of a stimulus to development.'⁶⁶

In effect, the 1974 Constitution follows this line of reasoning by giving the Federal Assembly the right to determine what kinds of goods and services are subject to taxation and in limiting the level of income taxation which the republics, provinces and communes can impose on enterprises and the level of sales taxes on goods and services, as well as the regional and local disposal of budgetary surpluses (Article 267).

Within these limits the republics and provinces have broad powers over the allocation of revenues by source and type between themselves and their constituent communes. (See, for example, Article 81 of the Constitution of the Socialist Republic of Croatia.) They may avail themselves of a variety of revenue sources, including personal and enterprise income taxes, sales taxes and certain kinds of administrative fees (in particular, a so-called 'court tax'). The income side of the 1979 budget of the Socialist Autonomous Province of Kosovo showed the following percentage distribution among sources:⁶⁷

	%
Tax on enterprise income	8.2
Personal income taxes	4.4
Sales tax on goods and services	80.9
Court tax (fee)	0.9
Income from economic investments, administrative agencies, etc.	5.6
	100.0

Kosovo is, to be sure, the poorest region of Yugoslavia and is not typical, but the proportions are suggestive. Incidentally, the province's income from the above sources is large enough to cover only 23 percent of its budgeted expenditures. Over 90 percent of the shortfall is covered by federal allocations, the rest coming from the Republic of Serbia and the province of Vojvodina under provisions of the federal and republic funds for accelerated development.

It is at the communal level, however, where the source of many of the problems of the Yugoslav fiscal system are concentrated. The basic principle of worker self-management is, of course, that the workers of BOALs* and enterprises directly decide on the disposition of the fruits of their labour. The production enterprise has thus become the primary source of finances for the operation of the entire economic, social and political system. It pays the wages which are subject to income tax and makes 'contributions' to local government and to the various 'self-managing interest communities' for health care, social welfare, employment agencies, superannuation benefits, communal services and public utilities. These taxes and contributions are paid to the local commune and 'interest communities' and are duly recorded under the appropriate headings of the local budget. In addition, the commune is empowered, within the limits prescribed by federal and republican legislation, to levy specific fees as well as taxes on the incomes of private businessmen, farmers and professionals. Shortfalls in communal expenditures are required to be made up by the republics, especially where mandatory public and social services are involved. In 1979 Kosovo, for example, transferred over 37 percent of its internal revenues to the communes. And the republics may legislate for the imposition of additional taxes to fund activities of public interest. Usually, the consent of a majority of the communal assemblies is required in such cases. (For example, the Constitution of the Socialist Republic of Croatia, Article 79.)

* BOAL Basic Organization of Associated Labour

The main problem with this method of taxation is the fiscal over-burdening of the production enterprises. One of the basic strategies of recent legislation to strengthen workers' decision making on the disposition of collective income has been to 'unburden' the enterprise from the numerous central and local governmental claims on its resources. This is the rationale for the establishment of the self-managing interest communities. However, the steady expansion of virtually mandatory contributions to the various interest communities, 'solidarity funds' and other local and national projects has markedly increased the effective tax burden on the enterprise in recent years. Thus, what had started out as an effort to reduce direct government involvement - and hence taxes - in the running of the economy and public services has ended by producing some interesting administrative and fiscal distortions. A recent editorial in *Borba*, the main party daily, has complained that over the past two decades the size of the bureaucratic apparatus to run these self-managing interest communities has risen from a quarter of a million to 800,000; and concludes that 'this not even an incomparably wealthier economy could bear'.⁶⁸

In short, attempts to avoid a high level of federal and republican taxation by returning a major share of the responsibility for allocation of public funds to the workers and citizens at the grass roots have proven largely abortive. To describe as 'contributions' supposedly voluntary personal and enterprise assessments may be psychologically rewarding, but it is taxation nonetheless and is generally perceived as such. Local authorities appear to be particularly insatiable in this regard, engaging in a good deal of old-fashioned 'pork-barrel' politicking to obtain funds for the construction of prestige projects in their bailiwicks. Naturally, the local enterprises and citizens are the ones who must foot the bill.⁶⁹ Some communal governments are particularly severe in their taxation of the private peasant economy, which still accounts for about 85 percent of total agricultural land in the country. Even though this policy runs directly counter to current federal efforts to modernize private agriculture and increase farm production, the federal government seems just as loath to invoke its constitutional powers to limit the fiscal depredations of the local authorities here as it is in the case of the draining away of enterprise income. Evidently such excesses are considered expedient and perhaps inevitable.

Federalism and National Defence

In the West it has become conventional wisdom to look upon the army as the only truly national, integrative force in Yugoslav society.⁷⁰ In this connection foreign observers frequently harken back to Tito's famous declaration of the readiness of the Yugoslav People's Army (YNA) to restore central authority during the 1971 crisis of nationalism.⁷¹ The implication is that in the event of an analogous crisis in the future the army will intervene as an independent actor to enforce a centralist solution. This scenario would appear to be unlikely, however, and it betrays a misunderstanding of the role and the potential for independence of the army in a communist party-ruled system.

It is true that the YNA has often been regarded as a force for unitarism in the postwar period. But in the peculiar multi-ethnic ambit of Yugoslav politics this was probably as much a reflection of the fact that approximately two-thirds of the YNA officer corps were Serbs or Montenegrins -

peoples for whom a military career has traditionally been especially attractive and who have naturally tended to support Belgrade's claims to dominance over the non-Serbian regions - as it was a particular characteristic of the YNA as an institution. The same thing could probably have been said of the secret police establishment as well, before the ouster of the Ranković faction, for it, too, had an overwhelming preponderance of Serbs and Montenegrins.

Thus, it is not surprising to find that one of the most insistent demands of the Croatian nationalists in the late 1960s was for an autonomous Croatian territorial army and for the stationing of Croatian YNA recruits exclusively within their republic.⁷² To some extent these demands were eventually granted, although not quite in the form originally requested.

As recently as the 1963 Constitution the maintenance and direction of the YNA were considered exclusively a federal responsibility, although civil defence and certain paramilitary and support obligations were shared with republican and local authorities (1963 Constitution, Article 252). The Soviet invasion of Czechoslovakia in August 1968 provided the ultimate impetus for action upon a general review of military organization and preparedness which had earlier been set in motion by the regional demands for greater autonomy. The result was the enactment in early 1969 of a Law on National Defence, which introduced the radical new concept of Total National Defence (*Opštenarodna odbrana* - TND). TND is said to represent in effect the federalization and socialization of the defence function in line with Marx's classical notion of the 'armed people'.

One of the undertakings adopted within the TND framework was an effort to redress the ethnic imbalance in the YNA officer corps. Over the long haul this goal was to be achieved by appropriate recruitment policies for active and reserve officer training schools. More immediately it was to be met by constitutionally specified requirements, first, that the officer corps as a whole and promotion policies to high command and staff positions in particular be made to follow '... the most proportionate possible representation of the republics and autonomous provinces' (1974 Constitution, Article 242); and, secondly, that the greatest possible effort be made to accommodate the language preferences of the various nationalities in the army (Article 243).

More significantly, perhaps, the TND concept established a bipolar military force structure in which numerically far larger territorial defence forces (TDF), based on republican and provincial formations, are formally co-equal with the regular units of the YNA. Regional and local authorities are responsible for financing and equipping their own TDF contingents. This responsibility extends down to the industrial enterprise, where worker self-management decisional rules apply - hence the notion of the 'socialization of defence' under TND. In general operational matters and the setting of equipment and performance standards the YNA high command exercises overall control, but in all other matters, including command over TDF units, the defence function is subject to a remarkable degree of co-ordinate federalist power sharing.⁷³

Dr Mensur Ibrahimpašić describes the general orientation of the ethnic policies underpinning TND and the TDF components in the following terms:

'The officer and enlisted personnel composition of the units, establishments, and staffs of the territorial defense reflects the national structure of the region in which it is formed. The military disposition of the reserve complement of the YNA is also generally such that military units are filled out with reserve officers and men from the territory on which it is formed.'⁷⁴

Ibrahimpasić also stresses the integrative role of TND in inculcating an appreciation for the national identities of the peoples who comprise the SFRY. He regards TND as '... one of the most significant factors for the preservation and further deepening of brotherhood and unity ...'⁷⁵

One other development in the evolution of the YNA as a component of the Yugoslav political system, usually interpreted as enhancing its role as an integrative political factor, was the establishment at the Ninth Congress of the LCY in 1969 of a separate LCY Organization in the YNA with a status equal to that of a republican or provincial party organization.⁷⁶ My own interpretation of this important decision is that it had in fact a dual purpose: to raise the involvement of the military in central political forums, but also at the same time to strengthen party control over the military at all levels and thus ensure conformity with LCY defence policy on a nationwide basis.

Federalism and the LCY

Much of the speculation on Yugoslavia's problems of national integration after Tito has centred on the alleged federalism of the LCY. Rather than acting in their designated role as the prime integrative force in society, it is argued, the main leadership organs of the LCY are themselves so internally divided along regional lines as to preclude their acting in a unified manner, now that Tito is no longer present to compel united action.⁷⁷ Before considering these arguments let us glance briefly at the regional distribution of LCY membership.

REGIONAL DISTRIBUTION OF LCY MEMBERSHIP (at the end of 1978)

Region	Total LCY Membership	Regional % of Total Population	Regional % of LCY Membership
Bosnia-Hercegovina	292,731	18.8	17.6
Montenegro	64,274	2.6	3.9
Croatia	304,567	20.9	18.3
Macedonia	119,094	8.4	7.2
Slovenia	110,120	8.2	6.6
Serbia proper	501,999	25.1	30.2
Kosovo	79,352	6.9	4.8
Vojvodina	191,597	9.1	11.5
SFRY (1,774,624)*	1,663,734	100.0	100.1

* Includes LCY members in the YNA and in federal organs and organizations.

Source: *Statistički godišnjak Jugoslavije 1979*, pp. 403, 409.

The data show clearly that in three of the regions the percentage of LCY members is greater than the corresponding regions' share of the total population: Montenegro, Serbia proper, and the Vojvodina - all three regions populated predominantly by Serbs or their Montenegrin kin. These are, however, merely general regional population figures and do not entirely accurately reflect the ethnic composition of either the population or the LCY membership. Data on the actual ethnic identification of party members for 1977, in fact, illustrate even more emphatically their Serbian-Montenegrin over-representation. Thus, over 24 percent of LCY members in Croatia are Serbs or Montenegrins, as are almost half of the members in Bosnia-Herzegovina and fully three-fourths of the members in the Vojvodina. In that year 54.5 percent of the total LCY members (including members in the YNA and federal organs) were either Serbs or Montenegrins,⁷⁸ more than ten percent above their combined share of the population according to the last (1971) census. If the admittedly simplistic generalization that Serbs (and Montenegrins) represent a unitary factor in Yugoslav politics has any validity, the disproportionate weight of these peoples in the LCY membership would in itself tend to give the party an integrative bias. This argument should obviously not be pressed very far, however.

Indeed, the federalist orientation of the rules and procedures for forming the leading bodies of the LCY are designed specifically to overcome these disproportions. The Central Committee elected at the quadrennial LCY congresses to conduct party business between congresses strictly follows the 'parity' and 'appropriate' representation principle. For the 1974 and 1978 Central Committees each republican LC organization elected a 20-person delegation and each provincial and the YNA party organization elected a 15-person delegation, making up the overall total of 165. Once again, however, the ethnic makeup was somewhat different from what the rules suggest. On the 1978 Central Committee, for example, there were 49 Serbs, 22 Croats, 22 Slovenes, 18 Macedonians, 20 Montenegrins, and 14 Albanians (plus 20 representatives of other nationalities).⁷⁹

The 23-person Presidium of the LCY Central Committee (with Tito it was 24) is elected by the latter body from among its members at the quadrennial congress for a four-year term. The federalist basis of selection is reflected in the prescription of a three-person delegation from each republic (of whom one must be the President of the republican LC Central Committee), a two-person delegation from each province (of whom one must be the President of the provincial CC), and one delegate from the Committee of the YNA organization of the LCY. From their membership the members of the Presidium annually elect, in October, a President of the Presidium (who serves *ex officio* as the LCY representative on the SFRY Presidency) and a Secretary of the Presidium for a two-year term. In addition, the Central Committee elects at the congress a board of nine Executive Secretaries with specific functional responsibilities - one from each republic and province and one from the YNA.

Tito's demise has left a number of procedural problems for the staffing of these bodies. As President of the LCY, he had the statutory power to nominate all candidates for the above posts, Central Committee election being a mere formality. At the Eleventh Session of the Central Committee in June 1980, after his death, it was announced that until the Twelfth LCY Congress, scheduled for 1982, when formal statutory changes are to be made, the

nominating function would be resumed by the Central Committee itself, or rather a special commission of the CC comprising the President and Secretary of the Presidium and representatives of the republican and provincial LC Central Committees and the YNA Committee of the LCY.⁸⁰ The amendments to the LCY Statute to be introduced at the Twelfth Congress should provide important clues as to how genuinely federalist the party will be under the longer-term structural arrangements.

Another important current provision which indirectly affects federalism in the LCY is the so-called 'Tito initiative', a proposal first broached by Tito at a Trade Union Federation Congress in November 1978. Under the rubric of 'collective leadership', the initiative is aimed at preventing the consolidation of personal power by restricting the chairmanship of elective (and eventually also most administrative) bodies to a one-year, non-renewable term.⁸¹ Needless to say, this proposal is causing numerous structural, procedural and political problems. But since Tito was its author, and since it obviously panders to the fears of at least some members of the party leadership, work is being allowed to continue on its widespread implementation. Its impact on federalism in the LCY Presidium derives from the status of the *ex officio* members - the Presidents of the republican and provincial LC Central Committees. Under the annual rotation principle, eight of the 23 members of the Presidium would need to be replaced each year, contradicting the statutory provision for four-year terms and seriously disrupting the continuity of the party leadership collective.

A further element of federalism in the LCY is the procedural rule adopted on the eve of the Ninth LCY Congress that republican congresses and provincial conferences take place *before* the LCY congress. This rule gives the regional party leadership time not only to select a slate of delegates, but also to take an agreed regional position on issues to be discussed at the national congress.

All of these provisions for federalism and decentralization of the leading bodies of the LCY constitute possible evidence for the argument that the LCY is now incapable of unified and coherent action. Without Tito, it undoubtedly will be more difficult to hold local interests in check and harness the various federalized structures to a common policy line. Nevertheless, the argument tends to ignore the essential nature and behavioural characteristics of communist parties and the socializing effects that long-term membership in such parties has on leadership cadres. The standard party principles of democratic centralism in decision making and the careful vetting of candidates for all responsible positions in government, society and the party itself remain central features of the Yugoslav communist party system as in others. Those who have resisted the obligatory force of these principles in the past have paid the price of exclusion from political life. Presumably those who have remained and are now in leadership positions have been well schooled in the acceptance of these rules and recognize in them a bulwark of their own power and privilege in the system. To argue that the real base of power has shifted to the regional party organizations is not only unhistorical and formalistic, but it also overlooks the power of the federal Central Committee machine in Belgrade and the careful supervision of party organizational matters by figures in the central leadership specifically charged with that responsibility, most notably in the Presidium by Vladimir Bakarić, the most authoritative of Tito's remaining

heirs. Since Bakarić's apparently serious illness these tasks are probably being shared by two prominent hard-line figures of known centralist preferences, Secretary Dušan Dragosavac and former Presiding Officer Branko Mikulić.⁸²

Thus, while it is true that the LCY leadership is more formally federal and collegial than any other ruling communist party, one should not ignore the centralist features inherent in its ideological and political lineage and the formative impact they are likely to have had on persons who have made successful careers within it. And since the LCY remains so central to the operation of the political system, we are confronted once again with the basic question whether federalism has been and will continue to be an effective technique for governing Yugoslavia, and whether it can ever develop into anything more than a safety valve as long as the party, however nominally federalist itself, retains its dominance of the political system.

PROBLEMS AND PROSPECTS

The safety-valve functions which Yugoslav federalism is designed to perform have as their purpose the granting of sufficient scope for the various nationalities and ethnic minorities of Yugoslavia to secure their respective economic, political and cultural interests, without undermining the essential unity of the country faced with continuing external and internal challenges to its very survival as a nation-state. Up to now it has evidently performed these functions reasonably well. Whether the existing federal arrangements will provide sufficient scope to satisfy the persistent and possibly increasing demands for regional autonomy remains an open question. The answer will depend on a number of factors - from the changing definition of what constitutes 'sufficiency' at any given time to the nature and extent of foreign and domestic threats to national integrity. In the end it will depend most of all on the tolerance and open-mindedness of the top federal party and state leaders in accommodating the often infuriating demands of regional and other sectional interest groups.

President Josip Broz Tito, for all his faults, possessed such tolerance and open-mindedness to a remarkable degree, as well as the personal authority to combine concessions with unity of purpose and action on important issues of state. His successors are currently struggling with the classical problem of attempting to routinize Tito's charismatic leadership, to forge institutional substitutes for his personal authority. For the structural legacy which Tito has left them is patently incomplete and ambiguous in a number of important areas.

Paradoxically, the existing structural arrangements suffer from both an excess and an insufficiency of federalism and decentralization. Too much time must often be spent in reconciling regional differences on important decisions of resource allocation where speed may be essential.⁸³ Federal authorities periodically find it necessary to strengthen central control by the YNA over the regional command structures of the Territorial Defence Forces. And in the present climate of economic stringency there are disturbing signs of a re-emergence of regional selfishness in the disposal of scarce hard currency holdings and in commercial competition for overseas markets.⁸⁴

The insufficiencies of Yugoslav federalism are possibly even more insidious and dangerous for the long-term viability of the system. The delegate system is proving extremely difficult to operate. The idealized non-professional delegates are finding the quantity of documentation supplied to them for deliberation on issues before the Federal Assembly (and the republican and local assemblies as well) simply overwhelming. Thus, just as is the case with their counterparts on the workers' councils of basic production units and enterprises, they are often prey to the purveyors of specialized information, the bureaucrats and technocrats nominally responsible to them.

In the Federal Assembly this invidious role is played by the officials and experts of the Federal Executive Council. Research by Steven L. Burg has shown that the power of the FEC *vis-à-vis* parliament has been increasing. Its 'near monopoly over the scientific, technical, and bureaucratic resources of the state and over the agenda of federal decision-making ...' has allowed it to control the materials on which decisions are made and powerfully influence the ultimate policy outcomes. The FEC is also able to block parliamentary amendments to its proposals by its strategic position in the various inter-regional and legislative-executive bodies, which are supposedly intended to reinforce federalism.⁸⁵ Thus, from a formally subordinate instrument of the Federal Parliament and the SFRY Presidency the FEC is threatening to become a major centre of political power in its own right. The delegate system and self-management decision making have proven to be a poor match for the Hydra of central bureaucratic power.

That the top party leaders are concerned with this and other defects of the Titoist structural legacy is confirmed by the fact that a proposal for a series of constitutional amendments has already been debated at a session of the LCY Central Committee in June 1980. The common thrust of the seven amendments currently under discussion are the strengthening of collegiality, or collectivity, of leadership bodies and the limitation of the terms of office of most elective and appointive officers throughout the system. Except for the President of the FEC and the President and Justices of the Constitutional Court of Yugoslavia, there is to be a standard one-year term. Significantly, the one amendment which has provoked serious disagreements is the fifth, concerning the term and electoral procedures for the FEC President. Under one version he would be nominated by the Socialist Alliance, rather than the SFRY Presidency as at present, and he would serve for a single four-year term. Under a second version all members of the FEC would be nominated by the SFRY Presidency and they would, in turn, elect a President from amongst themselves for a single two-year term.⁸⁶ In either case, the objective is clearly to limit the tenure of the Prime Minister (the President of the FEC). The question at issue is whether he should be a strong figure during his term and how long that term should be. Professor Pašić has argued that Yugoslav conditions require a strong prime minister with a longer, rather than a shorter term:

'It is difficult to come to a consensus and to plumb real Yugoslav attitudes. This is why it is essential for us to have an agency which could carry out an agreed policy in a sufficiently independent way, more efficiently and with full responsibility.'⁸⁷

This opinion is evidently far from universally shared, however, and some further restriction of the power of the FEC and its President is probably to be expected at the conclusion of the process of nationwide deliberation on the amendments.

If the philosophy behind the amendments is any criterion, the future of some form of federalism in Yugoslavia is indefinitely assured. At a more basic level, however, the quality of that federalism is unlikely to be much improved. For one thing, the structure and *modus operandi* of the leading LCY organs are likely to be tightened up, presumably by the institutionalization of a more powerful President of the Presidium at the forthcoming Twelfth Congress in 1982. However, competition for the office among a group of jealous near-equals is apt to place serious limits on the personal power of any one individual. The system evidently requires a strong party; and the party a strong leader or a small inner group of top leaders.

For another thing, and more fundamentally, Yugoslav federalism is based on the conferral of power by the centre to the regions. Beyond severely restricted limits there is no conception that the regions *ought* to be autonomous or that individual and group liberties are values in and of themselves. Powers are granted to the regions to facilitate common efforts for the building of a prescribed socialist order, and no locally generated alternatives are to be tolerated. As long as the LCY, the institutional motive force behind this commitment, retains its monopoly of political power in the system, federalism will remain merely an expedient, a safety valve for regional pressures and an instrument for the least coercive possible administration of socialist development.

NOTES

- ¹ K.C. Wheare, *Federal Government*, 4th edn, (London: Oxford University Press, 1963), p. 10.
- ² Daniel J. Elazar makes the useful distinction between 'de-centralization', as conferred by a central authority, and 'non-centralization', which is based on the acceptance of natural coexistence of central and regional authorities, sharing governmental power. Only the latter is appropriate for a truly federal system. See his article 'The Shaping of Inter-Governmental Relations in the Twentieth Century', in D.J. Elazar, ed., *The Politics of American Federalism*, (Lexington, Mass., D.C.: Heath and Co., 1969), p. 21. I am indebted to Colin Hughes for bringing Elazar's writings to my attention. Yugoslav federalism lies somewhere between de-centralization and non-centralization, but probably closer to the former, since the now substantial co-ordinate powers were most assuredly granted by the centre. Nevertheless, they do reflect a growing consensus among intellectuals on the quasi-natural rights of the regional-ethnic communities to decide many classes of issues on their own.
- ³ See, for example, Wheare, *op. cit.*, p. 44; and G.F. Sawyer's summary of conditions for federalism: *Modern Federalism*, (London: C.A. Watts and Co. Ltd, 1969), pp. 131-32.
- ⁴ See, for example, the 46th Federalist Paper, by Madison, in Alexander Hamilton, James Madison, and John Jay, *The Federalist Papers*, (New York: Mentor Books, 1961), pp. 298-99.
- ⁵ Christian Bay, *The Structure of Freedom*, (New York: Atheneum, 1965), p. 342.
- ⁶ Sawyer, *op. cit.*, p. 125.
- ⁷ Wheare, *op. cit.*, p. 239; also - Alexis de Tocqueville, *Democracy in America*, Vol. 1, (New York: Vintage Books, 1960), p. 175.
- ⁸ This is, of course, the position taken by de Tocqueville in virtually all of his comments on American federalism.
- ⁹ Elazar is a major exception to this position. Even Sawyer sees a tendency toward less vigorous forms of federalism.
- ¹⁰ Branko Horvat, 'Yugoslav Economic Policy in the Post War Period: Problems, Ideas, Institutional Developments', *The American Economic Review*, Vol. LXI, No. 3 (June 1971), Part 2, Supplement, p. 71.
- ¹¹ Robert Lee Wolff, *The Balkans in Our Time*, (New York: W.W. Norton and Company Inc., 1967), pp. 120-21.

- 12 *Ibid.*, p. 122.
- 13 See, for example, Milovan Djilas, *Wartime*, translated by Michael B. Petrovich, (New York: Harcourt Brace Jovanovich, 1977); and Walter Roberts, *Tito, Mihailovic and the Allies*, (New Brunswick, N.J.: Rutgers University Press, 1973).
- 14 John Stuart Mill argues that no one unit or combination of two can be overwhelmingly predominant if a federal system is to flourish. J.S. Mill, *Utilitarianism, Liberty and Representative Government*, (London: J.M. Dent and Sons Ltd - Everyman's Library edition, 1951), p. 496.
- 15 Report by the Soviet Ambassador in Belgrade on an interview with Edvard Kardelj on 5 June 1945, excerpted as Document 112 in Stephen Clissold, ed., *Yugoslavia and the Soviet Union, 1939-1973: A Documentary Survey*, (London: Oxford University Press, 1975), pp. 166-67.
- 16 Jovan Djordjević, *Ustavno pravo*, (Belgrade: 'Savremena administracija', 1975), pp. 600-01.
- 17 Cited in Charles Zalar, *Yugoslav Communism, A Critical Analysis*, (Washington, D.C.: U.S. Internal Security Subcommittee, U.S. Government Printing Office, 1961), p. 130, n. 53.
- 18 See, for example, Branko Lazić, *Titov pokret i režim u Jugoslaviji (1941-1946)*, (no publisher given, 1946), pp. 123-24.
- 19 This fact is noted by Djordjević, *op. cit.*, p. 96.
- 20 Dušan Bilandžić, *Ideje i praksa društvenog razvoja Jugoslavije: 1945-1973*, (Belgrade: Komunist, 1973), p. 120.
- 21 *Šesti kongres Komunističke partije Jugoslavije (Saveza Komunista Jugoslavije) 2-7 novembra 1952: stenografske beleške*, (Belgrade: Kultura, 1952).
- 22 Djilas's strident criticism toward the end of 1953 was motivated by his realization that the incipient *rapprochement* with Moscow was speedily terminating the progress toward liberalization which he had sponsored. For his pains he was expelled from the LCY Central Committee and Presidency of the Federal Assembly in early 1954.
- 23 See Articles 15 and 16 of the 1953 Constitutional Law in *The Constitution of the Federal People's Republic of Yugoslavia*, translated by Borivoje P. Ljotić, (Belgrade: Union of Jurists' Associations of Yugoslavia, 1960), pp. 47-49.
- 24 *Ibid.*, pp. 33-34 (introductory summary).
- 25 Dennison Rusinow, *The Yugoslav Experiment: 1948-1974*, (London: C. Hurst & Company, 1977), p. 71.

- ²⁶ For an extended treatment of the relationship between the Yugoslav international situation and domestic politics see Robert F. Miller, *Tito as Political Leader and External Factors in Yugoslav Political Development*, (Canberra: Department of Political Science, Research School of Social Sciences, Australian National University, Occasional Paper No. 14, 1977), Part I.
- ²⁷ *Yugoslavia's Way: The Program of the League of Communists of Yugoslavia*, translated by Stoyan Pribechevich, (New York: All Nations Press, 1958), see especially p. 137.
- ²⁸ Bilandžić, *op. cit.*, pp. 225-26, stated even more forcefully in a personal interview with the author in October 1976.
- ²⁹ See Articles 165 and 191 of the 1963 Constitution of the SFRY.
- ³⁰ This assessment agrees with Djordjević's, *op. cit.*, p. 105.
- ³¹ Bilandžić, *op. cit.*, pp. 270-71.
- ³² Although usually accused of 'unitarism' Ranković always had the reputation, deserved or undeserved, of a champion above all of 'Greater Serbian' interests.
- ³³ Stane Kavčič, the leader of the Slovenian Government, is the most notable case, but even Tito's close colleague, Vladimir Bakarić, of Croatia, evidently had to be pressured to accept a party leadership post in Belgrade. For an interesting interpretation see Rusinow, *op. cit.*, pp. 259-60.
- ³⁴ *Ibid.*, pp. 283, 297-307, *passim*.
- ³⁵ Bilandžić, *op. cit.*, p. 281.
- ³⁶ See, for example, the address by LCY Presidium Secretary, Dušan Dragosavac, at the 11th Session of the Central Committee in June 1980. *Politika*, 13 June 1980, pp. 1-3.
- ³⁷ Štipe Šušar, 'Nacije i medjunacionalni odnosi', in Najdan Pašić, Balša Špadijer, and Jovan Djordjević, eds, *Društveno-politički sistem SFRJ*, third enlarged edition (Belgrade: Radnička štampa, 1979), hereinafter referred to as *DPS*, pp. 512-13.
- ³⁸ *Ibid.*, p. 509; also Edvard Kardelj, *Problemi naše socijalističke izgradnje*, Vol. 7, (Belgrade: Kultura, 1968), pp. 357-58.
- ³⁹ Šušar, *op. cit.*, p. 511; Kardelj, *op. cit.*, p. 369.
- ⁴⁰ Djordjević, *Ustavno pravo*, p. 323.
- ⁴¹ Balša Špadijer, 'Razvitak i struktura jugoslovenskog federalizma', in *DPS*, p. 540.

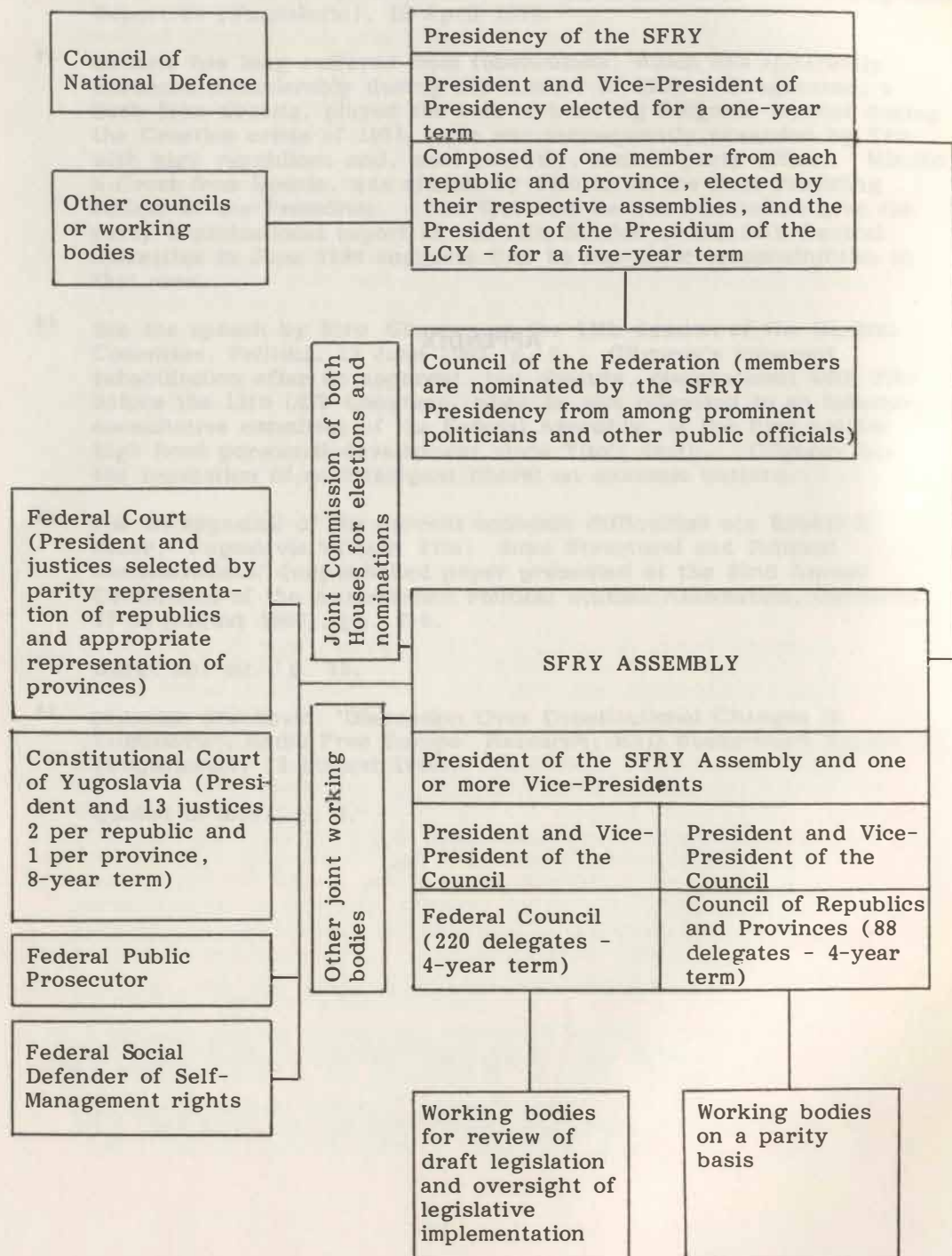
- ⁴² Ibid., p. 541.
- ⁴³ Ibid.
- ⁴⁴ *Statute of the League of Communists of Yugoslavia*, (Belgrade: Socialist Thought and Practice, 1979), p. 7.
- ⁴⁵ Najdan Pašić, 'Osnovne karakteristike i pravci razvoja društveno-političkog sistema SFRJ', in *DPS*, p. 59.
- ⁴⁶ *Politika*, 13 June 1980, p. 1.
- ⁴⁷ Mirko Djekić and Svetislav Spasojević, 'Posle Četvrtog maja', *NIN*, No. 1532, 11 May 1980, p. 48.
- ⁴⁸ Milan Matić, 'Koordinativna, izvršna i upravna funkcija u društveno-političkom sistemu SFRJ', in *DPS*, p. 413.
- ⁴⁹ Ibid., p. 414.
- ⁵⁰ Article 313, 1974 Constitution of the SFRY.
- ⁵¹ See, for example, Charles Douglas-Home, 'Why there will never be another Tito', *The Times*, 24 July 1980.
- ⁵² Pavle Nikolić, 'Skupštinski sistem', in *DPS*, p. 388.
- ⁵³ Mijat Šuković, 'Delegatski sistem', in *DPS*, p. 370.
- ⁵⁴ Ibid., p. 371.
- ⁵⁵ See Article 161 of the 1963 SFRY Constitution and Amendment XXX, which altered its provisions. See, also, the commentary by Djordjević in *Ustavno pravo*, pp. 423-27.
- ⁵⁶ For example the 'Green Plan' for the development of agriculture and related industries during the 1976-1980 period took more than two years of inter-republican bargaining before it was finally adopted. Biserka Matić, 'Potpisan dogovor o razvoju agro-industrije', *Politika*, 11 May 1977, p. 9. More recently the Slovenian Parliament has blocked agreement on a draft federal law for inter-republican financing of the total reconstruction of property damaged by an earthquake in Bosnia-Hercegovina and Croatia in April 1979. S. Žikić, 'Solidarnost ne znači nadoknadu celokupne štete', *Politika*, 29 May 1980, p. 6.
- ⁵⁷ Djordjević, *Ustavno pravo*, p. 781.
- ⁵⁸ However, unlike the Constitutional Court, the number of justices of the Federal Court is not specified in the SFRY Constitution.
- ⁵⁹ Leon Geršković, in Leon Geršković, Aleksandar Djokić, Mile Marković, et al., *Ustavi i ustavni Zakoni*, (Zagreb: 'Informator', 1974), p. 532.

- ⁶⁰ Milan Matić, in *DPS*, *op. cit.*, p. 400.
- ⁶¹ U.S. Central Intelligence Agency, 'Yugoslav Government Structure: A Reference Aid', (chart), CR 79-11244, August 1979.
- ⁶² Milan Matić, in *DPS*, *op. cit.*, p. 418.
- ⁶³ Djordjević, *Ustavo pravo*, p. 583.
- ⁶⁴ *Službeni list SFRJ*, No. 67/1979, 28 December 1979, pp. 1954-55.
- ⁶⁵ The issue involved in the temporary blockage of federal legislation for the earthquake damage fund of 1979, mentioned in n. 56 above, was the questioning by the Slovenian representatives of the fund's objective of total restoration of damaged facilities, which they considered excessive and a dangerous precedent. S. Žikić, *loc. cit.*
- ⁶⁶ *Službeni list SAP Kosovo*, No. 11/1979, 31 March 1979, pp. 300-01.
- ⁶⁷ Jadranko Bendeković, Momir Čečez, Božidar Glušćević, *et al.*, *Privredni sistem SFR Jugoslavije*, Vol. 1, (Zagreb: 'Informator', 1973), p. 237.
- ⁶⁸ Aca Petrović, '"Brzi" sporazumi', *Borba*, 6 November 1980, p. 2.
- ⁶⁹ Najdan Pašić, 'Sporazumi ili proizvodnja papira', *NIN*, 4 May 1980, pp. 22-23.
- ⁷⁰ See, for example, Charles Douglas-Home, *loc. cit.*
- ⁷¹ For example, Burg, *op. cit.*, p. 10; Rusinow, *op. cit.*, p. 389, n. 6.
- ⁷² Rusinow, *op. cit.*, p. 305.
- ⁷³ For a good brief summary of the structure of TDF under TND, see A. Ross Johnson, 'Yugoslav Total National Defense', *Survival*, Vol. XV, No. 2 (March/April 1973), especially, pp. 55-57.
- ⁷⁴ Mensur Ibrahimpašić, 'Opštenarodna odbrana', in *DPS*, p. 482.
- ⁷⁵ *Ibid.*, p. 483.
- ⁷⁶ Rusinow, *op. cit.*, p. 255.
- ⁷⁷ For example, by Douglas-Home, *loc. cit.*; Burg, *op. cit.*, p. 17.
- ⁷⁸ *Statistički podaci o Savezu Komunista Jugoslavije izmedju Desetog i Jedanaestog kongresa SKJ*, (Belgrade: 'Komunist', June 1978), p. 52.
- ⁷⁹ Robert F. Miller and E. Vance Merrill, 'Yugoslav central committee memberships: what the figures show', *Politics*, Vol. XIV, No. 1 (May 1979), p. 75, Table 6.

- ⁸⁰ Speech by Branko Mikulić, *Politika*, 13 June 1980, p. 8.
- ⁸¹ Slobodan Stanković, 'Yugoslav Central Committee Approves Idea of "Collective Leadership"', *Radio Free Europe Research*, RAD Background Report/84 (Yugoslavia), 12 April 1979.
- ⁸² Bakarić has long suffered from tuberculosis, which has apparently worsened considerably during the summer of 1980. Dragosavac, a Serb from Croatia, played the role of a strong Belgrade loyalist during the Croatian crisis of 1971. He was subsequently rewarded by Tito with high republican and, most recently, central party office. Mikulić, a Croat from Bosnia, was chosen by Tito to be the first Presiding Officer of the Presidium. The fact that he was selected to give the party organizational report at the 11th Session of the LCY Central Committee in June 1980 suggests that he has major responsibilities in that area.
- ⁸³ See the speech by Kiro Gligorov at the 11th Session of the Central Committee, *Politika*, 13 June 1980, p. 6. Gligorov's apparent rehabilitation after an apparent, but obscure, disagreement with Tito before the 11th LCY Congress, when he was relegated to an honorary consultative committee of the Federal Assembly, is the first notable high level personnel development since Tito's death. Gligorov has the reputation of an intelligent liberal on economic matters.
- ⁸⁴ For an appraisal of the current economic difficulties see Robert F. Miller, 'Yugoslavia Without Tito: Some Structural and Political Considerations' (unpublished paper presented at the 22nd Annual Conference of the Australasian Political Studies Association, Canberra, 27-29 August 1980), pp. 2-8.
- ⁸⁵ Burg, *op. cit.*, p. 15.
- ⁸⁶ Slobodan Stanković, 'Discussion Over Constitutional Changes in Yugoslavia', *Radio Free Europe Research*, RAD Background Report/202 (Yugoslavia), 13 August 1980.
- ⁸⁷ Quoted in *ibid.*, p. 4.

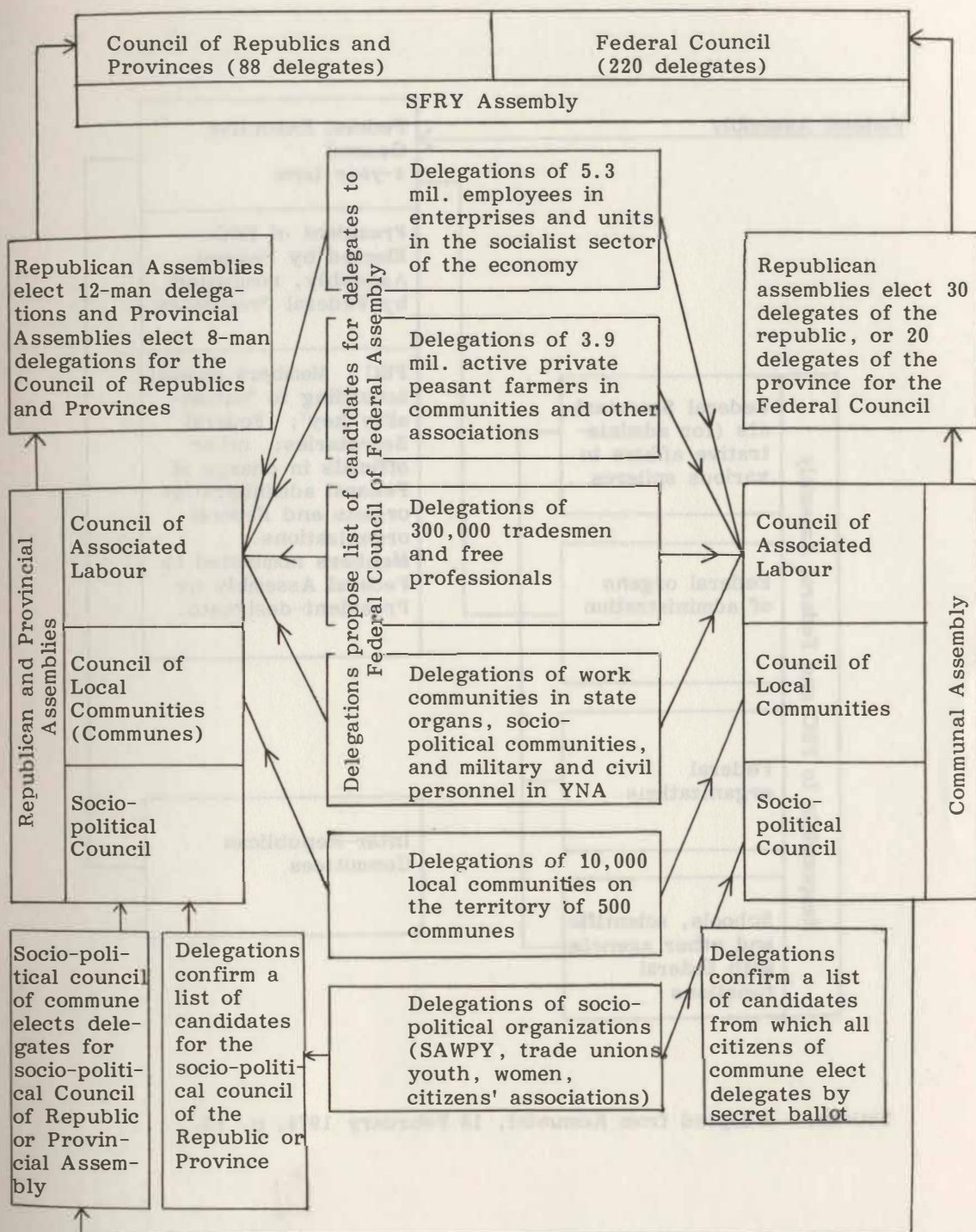
Figure A

BASIC FEDERAL ORGANS, SFRY



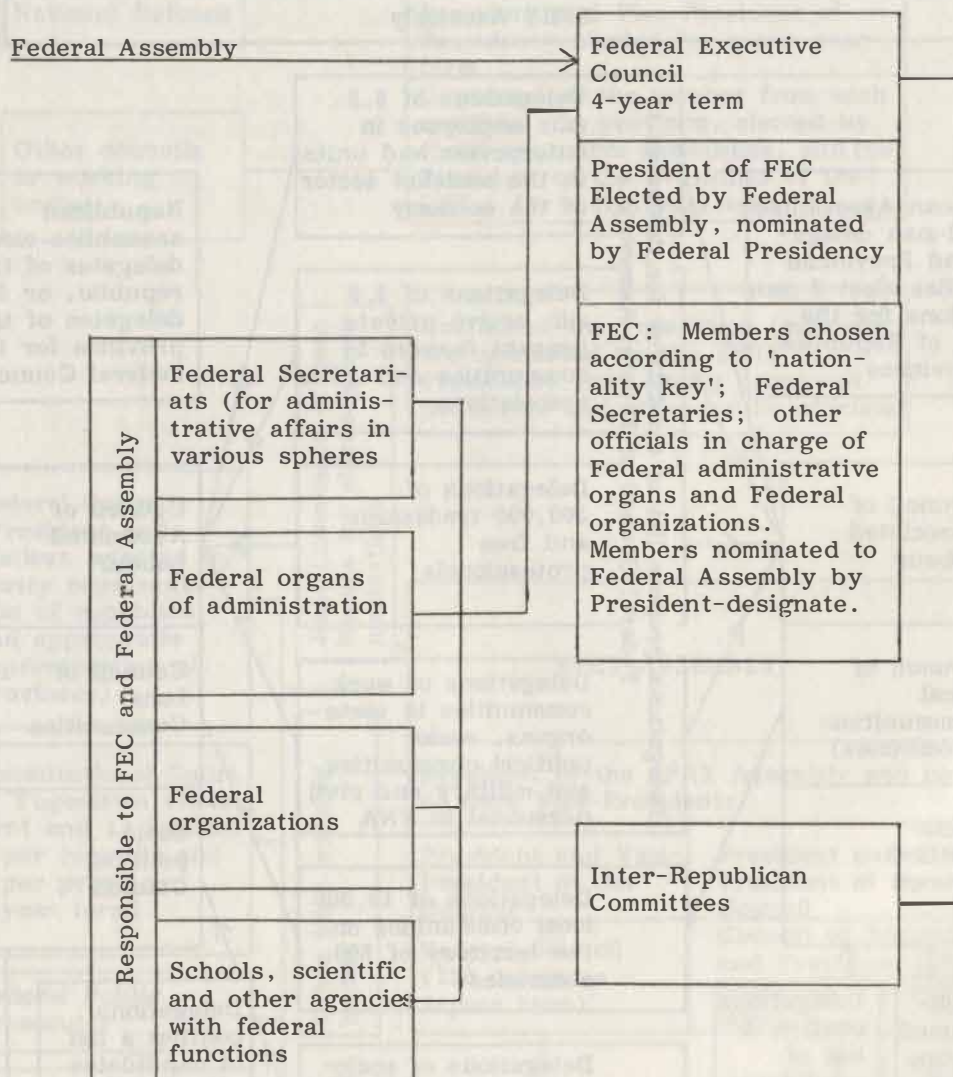
Source: Adapted from *Komunist*, 18 February 1974, p. 12.

THE FEDERAL ASSEMBLY AND DELEGATE SYSTEM



Source: Adapted from *Komunist*, 18 February 1974, p. 11, and *Statistički godišnjak SFRJ*, 1979, p. 123.

THE FEDERAL EXECUTIVE COUNCIL



Source: Adapted from *Komunist*, 18 February 1974, p. 13.

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