

The Provisional Constitution Of U.A.E.

1971 - 1979

An Experiment of Permissive Federalism

Abdulaziz Mohamed Al-rashed

**Thesis Submitted for the Degree of
Master of Philosophy (M. Phil) of the
Jawahar Lal Nehru University
School of Social Sciences
Centre for Political Studies**

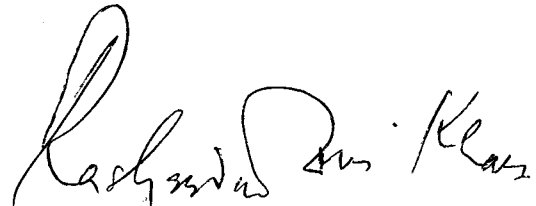
NEW DELHI

1980

Centre for Political Studies,
School of Social Sciences
Jawahar Lal Nehru University
New Delhi 110067.

CERTIFICATE

This dissertation entitled "The Provisional Constitution of U.A.E. 1971-79 : An Experiment of Permissive Federalism by Mr. Abdulasis Mahamed Al-Rashed for the degree of Master of Philosophy (M. Phil) has not been previously submitted for any other degree of this or any other University. I recommend that this thesis should be placed before the examiners for their consideration for the award of M. Phil Degree.



Rasheeduddin Khan
(Research Supervisor)
Prof. of Political Science & Chairman
Centre for Political Studies
School of Social Sciences,
Jawahar Lal Nehru University
New Delhi - 110067

TABLE OF CONTENTS

	<u>Pages</u>
PREFACE	1 - 11
 <u>CHAPTERS :</u>	
I INTRODUCTION	1 - 4
II PRELUDE TO THE PROVISIONAL CONSTITUTION	5 - 16
III REGIONS AND PEOPLE : POLITICAL PARTICI- PATION AND THE PROVISIONAL CONSTITUTION	17 - 29
IV THEORY OF FEDERALISM - SURVEY OF THE LITERATURE ON THE SUBJECT	30 - 42
V ELEMENTS AND INGREDIENTS OF FEDERALISM	43 - 57
VI MODES OF TERRITORIAL DISTRIBUTION OF POWERS	58 - 67
VII CENTRE - STATE RELATIONS	68 - 83
VIII IMPLEMENTATION OF THE FEDERAL PROVISIONAL CONSTITUTION (1971-1979)	84 - 96
APPENDIX - I	105 - 158
APPENDIX - II	159 - 182
BIBLIOGRAPHY	183 - 186

P R E F A C E

The present dissertation is based on primary and secondary source material. I became interested in the subject because U.A.E. federation offers a unique opportunity to examine contemporary efforts in federal building. Federations can be used both for building an equitable society as well as for exploitation of weaker members of the polity.

Till this day no study dealing exclusively with U.A.E. federation has been done. In my view this study not only provides an insight into the working of U.A.E. federation but also throws light on the wider question of nation building.

I have collected material from various sources both in India and U.A.E. I had the chance of interview various important leaders closely connected with the task of federal building in U.A.E.

Many people have helped me in various ways in my research work. I want to put it on record my deep sense of gratitude to my supervisor Prof. Rasheeduddin Khan, Chairman, Centre for Political Studies, School of Social Sciences, Jawahar Lal Nehru University, who had been a constant source of inspiration and encouragement in the completion of this work.

I am grateful to the Government of India for providing me scholarship between 1975-80 to study at the Jawahar Lal Nehru University. I am equally thankful to the Government of Bahrain for its help to me. Thanks are also due to the Government of

U.A.E. for providing me generous help particularly in collection of data for this study.

I consulted various libraries for the completion of my work. I wish to thank the librarians of Indian Council of World Affairs Library, Jawahar Lal Nehru University Library, Jawahar Lal Nehru Memorial Library who rendered immense help to me.

November 23, 1980
New Delhi



(Abdulaziz Mohamed Al-Rashed)

Chapter I

INTRODUCTION

Federalism by definition involves division of powers or allocation of competence between the existing units desiring federation, on the one hand, and the new federal Government that is sought to be created for uniting states on the other hand. Each level of Government, the local and the Central, are conceived as independent in its own sphere of competence and coordinate with each other. The upholding or relaxation of the above two federal variables, namely independence and co-ordination, bring into being at least three kinds of federalism: dual, co-operative, or permissive.

Dual federalism, known as "layer cake" federalism, scrupulously upholds that the two levels of government should be co-ordinate and independent.

Co-operative federalism maintains only the co-ordination status between the two levels of Government and introduces a modification in the second variable, that is independence, and substitutes "inter-dependence" between Governments, instead of "independence" of each, thereby changing the "layer cake" into what may be called a "marble cake" federation.

Permissive federalism on the other hand is the antithesis of both the dual and the co-operative forms of federalism, in the sense that permissive federalism negates the existence of "co-ordination and independence" between the two levels of Government and raises the importance of Central Government over and above the creating units, thus making it

supreme in all spheres. This means that this third type of federalism refutes the basic concept and principle of federalism.

Whereas the Federal Constitution (1787) of the United States of America innovated dual federalism and maintained it as such for the last two centuries, and the Indian Constitution (1950) launched the co-operative federalism, the UAE federal constitution (1971) has initiated for the first time, a clear pattern of permissive federalism. Constitutional experts in this respect share the views of Professor Reagan regarding the UAE model, who coined the terminology of permissive federalism. Professor Reagan, contrary to the usual interpretation of Article VI, section 2 of the American Federal Constitution, which maintains that superiority of the US Constitution as applicable to both the levels, assigns such a superiority in the case of UAE constitution only to the domain of the central government over and above the local level of governments. The UAE provisional constitution categorically stipulates the superiority of the federal Government over and above the emirates local Governments (see Chapter II).

Such an interpretation suits the hegemonistic drive pursued by the premier Emirate of Abu Dhabi. Thus we observe that the dissolution or merger of Abu Dhabi's local ministerial cabinet in the federal level is an unfederal precedent. The pressure exercised by Abu Dhabi, over the other emirates, under the pretext of consolidating the UAE federation, makes the federal arrangement in UAE even worse than permissive

federalism. Had it not been for the resistance of the other Emirates that constitute the local units against encroachment on local sovereignty, the UAE would have ceased to be a federation.

Federalism said Dicey, in his classic formulation is "union and not unity". If the word unity has to be used in federalism, it has to be used jointly with diversity. Thus federalism is perceived as "unity in diversity". The federal literature in UAE erroneously uses the word "unity" without mentioning its other concomittant concept of "diversity". While the mechanism of the unitary system rests only on "unity", but that of a federalism presumes both "unity" and "diversity" because of the existence of two levels of Government. Professor Rasheeduddin Khan sees in federalism two or more levels of Government co-existing with each other and coordinated in a coherence of authority, and that such duality or dichotomy of levels reflect the necessity of the division or diffusion of authority in federalism. This course, however, is not exactly pursued in UAE, because it seeks only one level of Government, the all-powerful central authority.

Our main concern in this study of the UAE federal experiment is to underline the fact of the prevailing unitary trend in UAE, entailing the domination of Abu Dhabi over the other six federal partners. This process obviously reveals the reactionary, regressive, and unfederal characteristic of the UAE experiment, giving it a stamp of a closed circuit federation, which would preclude the inclusion of Bahrain, Qatar and even the Sultanate of Oman in its existing framework

of unconcealed unitary trend and thereby keep them isolated from playing their constructive role in such an association of states.

Had the UAE experiment been more accomodative of diversities, it could have become an ideal federal experiment for the Arab States to follow. Permissible federalism in UAE with its stark unitary attributes will be repulsive to the Arab states, resulting among other things in giving vent to negative motivation to Arab nationalism, and to the creation of a feeling that such an experiment is hegemonistic and empire-building rather than nation-building. In order to avoid such a negative response , the unitary trend prevailing today in UAE has to be checked. Both the UAE elites and its masses, should be aware of this and adhere to the federal principles of co-existence of diversity within unity, and should not force unity to wipe out diversity.

Chapter II

PRELUDE TO THE PROVISIONAL CONSTITUTION

The federation created by the establishment of the United Arab Emirates (UAE) is the third attempt at federal building of the Lower Gulf Sheikhdoms, in the period covering early 1968 and late 1971, after the announcement of the withdrawal of the British military presence in this area in January 1968. The first and an abortive attempt, was the federation of Abu Dhabi and Dubai Sheikhdoms, declared on 13 February 1968. This federation lasted for just few days and was superseded by the wider federation of all the nine Lower Gulf Sheikhdoms, comprising the present seven Emirates that constitute the UAE federation, plus Bahrain and Qatar. This wider federation, the second in the series, lasted barely three years of prolonged negotiations extending between 27 February 1968 upto 14 August 1971, when Bahrain unilaterally declared its independence on 14 August 1971, followed by Qatar which seceded from the federation in September of the same year.

The federal constitution under study comprises of seven Emirates of the erstwhile Trucial Coast of Oman. These Emirates are namely: Abu Dhabi, Dubai (the two major and rival Emirates of Bani Yas ruling tribes) and the Lesser five Emirates of Sharjah, Ras al-Khaymah (of Qawasim ruling tribe) together with Ajman, Fujayrah, and Umm al-Qaywayn.

The provisional constitution promulgated on 2 December 1971 was initially provided to run for a period of five years

ending on 2 December 1976, and then to be replaced by a permanent one. But things however did not work out as expected, and it was decided by the Supreme Council of the Union, composed of the Seven Ruling Sheikhs (Amirs) to extend the life of the provisional Constitution for another five years ending in 1982 pending the replacement by a permanent constitution.

The Provisional Constitution created a central government having a wide range of authority, which is far in excess of any existing federal arrangement in the world. The centre's sphere of authority is enumerated in Articles 120 and 121 of this Constitution. Article 120 contains nation-building powers. The residual powers are left to the individual Emirates which constitute the Regional governments together with certain powers as stipulated in the Constitution (particularly articles 3, 10, 23, 104, 123, 124 and 142).

These articles, within certain restrictions and directives, relate to the rights of the individual Emirates' sovereignty over their territories and territorial waters; retention of their own flags; the union's guarantee to respect their independence and sovereignty; regional control of natural resources and wealth; local justice; conclusions of limited agreements with neighbouring countries; membership in OPEC and OAPEC; consultation with the Emirates concerned before the Central Government could conclude a treaty which might touch upon their status, and the individual Emirates right to retain their own armed security forces.

Although the provisional constitution stipulates federal arrangement, yet there are many ultra-constitutional factors that might sway this constitution toward unitarian characteristics and thereby weaken the capacity to work out a federal polity in the UAE. The skewing of wealth, territory, population, leadership, the absence of developed bureaucratic structure in the individual Emirates and the location of the provisional federal capital including the location of the President of the Union have all gravitated in favour of one Emirate, namely, Abu Dhabi. This distortion in the very structuring of the UAE federation, not only reveals the lack of comprehension of the basic concept and principles of federalism and its operationalization, but it would also lead towards a unitary system, that would undermine the very ethos of federation.

Sheikh Zayed, the ruler of Abu Dhabi, which is the wealthiest and the most populous Emirate, is at present the President of UAE. He had once said that his conception of the Union is derived through the method of trial and error as the area has had no previous federal experience. The fact is that there is no neighbouring federal state which had evolved out of previously independent units to provide either an inspiration or an example. He added that 90 per cent of the UAE citizens do not know the meaning of federalism, nor are

1 D.J. Elazar, M. Grodzins, eds., The American System (Rand McNally & Co., Chicago, 1966), p. 376.

"The Political Potency of local organization has a very important effect on national Policy. In atleast one sense it makes a counterweight against the tendency to centralize power in Washington".

2

they aware as to how it has come into being.

The expatriate constitutional and legal advisers recruited by the Central Government to fill this vacuum, do no better in their comprehension of federal requisites. Indeed, the Sheikhs, at least possess both desires required to establish a federation - that is, the desire to unite for particular purposes and at the same time the desire to remain diverse and autonomous (independent). They are also aware of the necessity and the extent of this "mix" between unity and diversity.

The antecedents of the various Sheikhs of the Emirate, as rulers, and that of the various expatriates called upon to work out the federal constitution, is in effect adverse to the smooth running of the UAE Union. The rulers more prone to run unitary politics rather than federal ones. The President of the

ندري، قال: دعم الكتيبة الإماراتي قضية شعب دولة الإمارات الإسلامية والسياسة، الإمارات العربية
2 المبنية (مراجع) قد تكون من شاذلة مع "الديار" اللبنانية حيث قال الشيخ زاييس: "الموقف
الذي تقسمنا له لتقييم الموارد الذي وضعه فخور لم يسبق لنا تجارب اتحادية ولم يكن لنا خبر انه اتفقنا
لنا قد يكون حتى نستفيد من تجربكم ونفكرتم... من انا اولئك لك انه 90% من الامارات
الامارات من هو شرط لم يولد في ارض دولة التي الحقيقي عبر الاتحاد، ولكن ذلك لنا الاتحاد
وتسمر..."

Jamal Badawi, Consolidation of the Federation: Question of people and state (Ministry of Information & Tourism, U.A.E.), p. 41.

Citing an interview conducted by the Lebanese paper Al-Diyar with Sheikh Zayad who said: "in fact our evaluation of the federation is the evaluation of a practitioner. We have no previous federal experiments, and have no neighbours who had united after separation to draw from their experiment and knowledge.... I want to assure you that 90% of the emirates and our citizens do not know the real thing about federalism and how it comes about, but we entered into the federation and continued...."

Union for instance, tends to follow the same old modes and patterns of running his Sheikdom, forgetting the limited nature of the central government, over which he now presides. As a Sheikh having enjoyed absolute power he might be impatient and frustrated with the slowness and weakness that characterises the functioning of a federal government.³ Similarly the constitutional advisers, who have been charged with the task of drawing and implementing the Union constitution come from unitary political systems, like Egypt and Sudan, which probably makes them unaware of the intricacies of running federal politics. Similarly, the judges of the UAE Supreme Court⁴ even in their educational background lack qualities that are conducive to the operation and interpretation of a federal constitution. They earned their degrees from Universities in unitary states, like Britain or France and have been nationals of unitary polities themselves.

The Chief Justice in the UAE is not clear about the concept of the supremacy of the constitution. He takes it to mean the supremacy of the Central Government over the individual Emirates' (i.e. Regional Governments).⁴ This is contrary to the well-

3 D.E. Long, The Persian Gulf (West View Press, Colorado, 1978), p. 36.

4 د. محمد بن راشد آل مكتوم، رئيس المحكمة الاتحادية في الامارات، الشكل الدستوري لدولة الامارات العربية المتحدة، وزارة التعليم العالي، الامارات المتحدة، ص ٥٢
 "على انه لا حظ ان هذا الاستفتاء الذي تم طروقه في سنة ١٩٧١ في نظام الحكم الدستوري الاتحادي، فانها كانت مجرد شرح في حقها من سلطات الهيئات الاماراتية التي كانت في ذلك الوقت في المجلد البطلان للبرامج التي كانت في سنة ١٩٥١ من الدستور، و قد وردت في قانون الترتيب الاتحادي الذي تم تبنيه في الامارات في سنة ١٩٥١
 دا - عقدها اذ اقبل ..."

established principle of federalism, as for instance rightly pointed out by Professor K.C. Wheare, that the federal constitution is supreme both over the central government as well as the Regional Governments.⁵ This is because the central and the regional governments are equally independent of and co-ordinate with each other in their own sphere of competence as specified

By: A'adil Yunis, Chief Justice, UAE Federal Supreme Court. UAE Constitutional Format (Ministry of Information & Tourish, UAEs, p. 53.

Translation:

We notice that this internal independence is not absolute, but restricted within the provisions of the Federal constitution and its laws, in case of inconsistencies of the local legislation issued by one of the Emirates' authorities with a federal law, local legislation shall be null in accordance to the text of article 151/2 of the constitution and due to this it is correct to maintain that the federation is superior to the Emirates' sovereignty and its internal independence...."

- 5 K.C. Wheare, Modern Constitutions (Oxford University Press, 1975), p. 22, and Federalist Papers (A MENTOR Book, New York, 1966), p. 245.

"Among a people consolidated into one nation, this supremacy is completely vested in the national legislature. Among communities united for particular purposes, it is vested partly in the general and partly in the municipal legislatures. In the latter, the local or municipal authorities form distinct and independent portions of supremacy, no more subject, within, their respective spheres".

And R.C. Ghosh, Treaties and Federal Constitution (The World Press (Pvt.) Ltd., Calcutta, 1961), p. V.

And also A.V. Dicey, Introduction to the Study of the Law of the Constitution (MacMillan & Co. Ltd., 1959), pp. 158-9.

in the constitution. Further the constitution exercises its supremacy over all levels of government, by stipulating respective jurisdictions of each of the government (Central or Regional), and by statutorily precluding them from encroaching or trespassing over the competence of the other.

In federalism, or in federal governments, the words, "superior" and "subordinate" do not arise in the definition and relationship between the two levels/tiers/sets of governments. In the definition of federalism or federation we encounter the words "independent", "co-ordinate" and "interdependence" which describe the roles of both central and regional governments.⁶

The choice of a charismatic and populist leader such as Sheikh Zayed bin Sultan, Ruler of Abu Dhabi, as the President of the Union, exercises his sheikhdom by surpassing all the other Emirates in wealth, population, and prestige thus increasing unitary tendencies, and encouraging confusion even in an eminent person such as that of the Chief Justice of the Supreme Court, mentioned above.

Another aspect that points to the unitary tendency is that of the choice of the provisional union capital in Abu Dhabi Emirate, and the reluctance of Abu Dhabians to move the federal capital to the neutral site between Abu Dhabi and Dubai Emirates, as provided by Article 9 of the provisional

6 R.L. Watts, New Federations (Oxford, at the Clarendon Press, 1966), p. 10.

"The fundamental and distinguishing characteristic of a federal system is that neither the Central nor the regional governments are subordinated to each other but are instead co-ordinate."

constitution, thus indicating a concrete manifestation, conscious or unconscious of this unitary stance.

The spread of intellectual unitary atmosphere and legitimization are provided by the above mentioned experts. The constitutional adviser to the appointed union legislative council of UAE, envious of the regional governments powers as such are alien to his unitary background, maintains that the individual Emirates are still enjoying abundance of independence vis-a-vis the central government. And he maintains this idea in spite of his knowledge, footnoted in his book of the resolution of 12 May 1975 which amassed drastic unitary measures of powers previously given to the units in the federation. This resolution places in the hands of the central government complete control of foreign affairs, defence, police force and co-ordination of the petroleum affairs with the union Ministries concerned.

الدكتور السيد محمد إبراهيم، أسس التنظيم السياسي لدراسة الامارات العربية المتحدة. مركز الدراسات والبحوث
الوطني 1475 ص 66
"في عهدنا تقدم جمعية تطمح الى التفرقة في الامارة الممثلة، ويطبقها كما في الدستور المؤقت
نما، على ان تستعد الامارات في كافة المجالات التنفيذية والادارية
والقضائية، نظراً لوجود الوحدة في الاتحاد الامارات العربية".

Al-Sayyid Mohamed Ibrahim, Basis of UAE Political and Constitutional Structure (Documentation and Studies Centre, Abu Dhabi, 1975), p. 66.

Translation:

"In the light of all the proceedings we can maintain, at the present stage, and in accordance to the provisions of the provisional constitution, that the independence of the individual Emirates prevail in all aspects - executive, legislative and judicial over that of unity in UAE."

The UAE General-Attorney, in a book entitled Imperatives for Amending the Provisional Constitution of UAE, advocates the establishment of Abu Dhabi city to be a permanent federal capital and less pronouncement if not total ignorance of the guarantee of independence and sovereignty of individual emirates mentioned in the constitution. According to him with the creation of the federation all sovereignty resides in the

8
 السيد عبد الوهاب، النائب العام لدولة الإمارات العربية المتحدة، في كتابه «دراسة الإمارات
 والسياسة» دولة الإمارات العربية المتحدة، ص 36
 «والذي أراد الواقف المحلي لوقفها لاسباب متعددة...
 انه يتخذ من (مدينة أبوظبي) للقر المؤقت عامعة دائمة...»

Abdulwahab, Al-Azraq, General Attorney, UAE,
Imperative for Amending the Provisional Constitution
 of UAE (Ministry of Information & Tourism UAE), p. 36.

Translation :

"What is dictated by the scientific reality is the obligation for several reasons ... to have (Abu Dhabi city) the provisional seat of the federal government as a permanent capita."

9
 السيد عبد الوهاب، النائب العام لدولة الإمارات العربية المتحدة، في كتابه «دراسة الإمارات والسياسة» ص 36
 «... لا يرى التوبة، و...
 أهدافه التي، إلى احترام استقلاله، وسياسة كل إمارة من الإمارات الاتحادية»

Ibid., p. 38.

Translation :

Concerning article (10) of the Provisional Constitution, he said "... I do not perceive mentioning due respect of independence and sovereignty of each member Emirate, in an article concerned about the purposes of the federation."

10 federal government. He also advocates that all the 11 legislative powers should remain with the central government,

10

المصدر السابق (الجزء) .

«نصت المادة الثالثة من الدستور المؤقت على ما يلي :-
(تمارس الإمارات الأعضاء على أراضيها ومياهها الإقليمية في جميع الشؤون التي لا يختص بها الاتحاد، بمقتضى هذا الدستور)
والذي أراد تمحيص هذه المادة تمحيصاً أدق، لادم الملتصق به في الصفة الدستورية، انه البنية
تزداد مجرد دستور اقليمي، الدستور وتوكل الى الدولة الاتحادية التي تشمل جميع الإمارات
لأنه البنية كذا انه سيادة الإمارات الضعيفة في سبابة واحدة هي الاتحاد
سواء في الشؤون الخارجية والداخلية»

Ibid., p. 30.

Translation:

"the text of article 3 of the provisional constitution reads:-

(the member Emirates shall exercise sovereignty over their own territories and territorial waters in all matters which are not within the jurisdiction of the Union as assigned in this constitution.)

"what I perceive, is that this article should be examined too carefully, because the constitutional jurisprudence, agreed upon, maintains that sovereignty disappears with the creation of constitutional federation, as sovereignty resorts in its entirety to the federal state, which comprises all the Emirates sovereignty, presupposes, that all sovereignties of the Emirates had been dissolved in one sovereignty crucible, that of the federal state, whether it is external or internal."

11

المصدر السابق (الجزء) ص ١٢٧-١٢٨

«نصت المادة ١١٨ من الفقرة الأولى من الدستور المؤقت على ما يلي :-
«١٤٧» «وإلى غير ما على تنظيم الامتداد انه يملأه المجلس الاعلى و مجلس الوزراء الاتحادي
و المجلس الوطني للاتحاد التي الخطات التي تشمل تحقيقه هذه التسهيلات التشريعية وتوجيهه وبتشالي
لأننا نؤكد من الاعطاف هذه التشريعات لكل ايامه من ايام استتمار بصورته متقلبة»
١٣٨ «وإداره هفت الى الموضوع الجزاء في التراث التاريخي لهذا البلد... تقصينا لوجه
لله التشريعات التي تنظمها هذه الاتحاد...»

removing thereby the distribution of power and legislation. He thinks that the emirates should confine themselves and be contented with the implementation of such centrally legislated laws¹² and even wanted the intangible elements that pertain to the identity of the Emirates such as their local flags not to be retained.¹³

Ibid., pp. 137 and 138.

Translation :

p. 137. In connection with article 118, first paragraph, he said on this page "Being keen to consolidate the federation, I see that the Supreme Council, the Federal Cabinet and the Federal Legislature should be given the sole authority to facilitate legislative co-ordination and unification, as I see no use in giving each Emirate the right to legislate independently."

p. 138. "Upon review of the geographical position and historical heritage of this country ... the need arises for consolidating legislation in one organ in order to consolidate the federation...."

12

المصدر له (الأزرق) ص ١٢٩
 "وهي الإمارات في الدولة الاتحادية أن تظل بالأسرار على تصرفها
 الاتحادية ..."

Ibid., p. 139.

"It is sufficient for the individual Emirates to be concerned with the supervision and the implementation of such legislations..."

13

نفس المصدر له (الأزرق) ص ١٣٥
 "ويعتقد أنه اجتنافاً من أن لا يعلم بما هي لانتخاباتها لعلها لا يربح ... وأنه
 تتناهي مع مبدأ الاتحاد ..."

Translation : p. 35.

"I see no reason for each Emirate to retain its flag, to be used in its territory ... and this is repugnant to the federal principle."

The organs of the federal government are no less helpless in articulating the Emirates individual autonomy. At the top, the Supreme Council of the Union is handicapped by the veto powers, enjoyed by Abu Dhabi which should concur in substantive matters and only in procedural matters we see that all the emirates are co-ordinated. The Supreme Council, further, is not in permanent session, it meets once in every two months for a yearly session of 8 months. Therefore, their contacts are very limited, and the President might legislate or take action by himself with the collaboration of the cabinet and then inform the other Supreme Council members or also fails to do so.¹⁴

What is more, is the fact that the federal budget is subsidised upto 90 per cent from Abu Dhabi Sheikhdom's budget.¹⁵

14 J.D. Anthony, Arab States of the Lower Gulf (The Middle East Institute, Washington, 1975), p. 102.

15 Ibid., pp. 143-4.

Chapter III

REGIONS AND PEOPLE : POLITICAL PARTICIPATION AND THE PROVISIONAL CONSTITUTION

The formation of a federation entails either explicit consent of the people of all the federating units, expressed by means of a referendum as was done in Australia, or the implied consent of those voters who elect the delegates to the constitution-drafting convention which shapes that federation, as was the case in U.S.A.

Therefore it would not be romantic idea to advocate democracy and people's participation in running the political affairs in the Union of UAE. Underlying this proposal lies the notion that "democracy and federalism go hand in hand; as federalism can exist only in nations with a democratic form of government"¹. To Greaves, federalism is fundamentally or "essentially (a) democratic phenomena"². K.C. Wheare, an authority on the study of federalism puts a basic minimum condition as an essential requirement for a federal government namely "... free election and a party system"³.

The need for democracy in a federal government unlike that in an unitary government, serves a double purpose. First, it helps to sustain the autonomy and equality of the constituent units in the federal polity; and secondly helps

1 G. Sewer, Modern Federalism (C.A. Watts, Co. Ltd., 1969), p. 138.

2 R.D. Dikshit, The Political Geography of Federalism (Macmillan Co. of India Ltd., 1975), cited p. 23.

3 K.C. Wheare, Federal Government (Oxford University Press, 1968), p. 47.

the federal government for better articulation of constituent units' individuality, diversity, and leads, therefore, to ineffaceable personality of the constituent units.⁴

The importance of democracy for the units lies in that it is the only safeguard against the disappearance of their existence by hegemonistic design of the more populous, rich state and ambitious leadership of such a state.⁵ Democracy, thus, pertains more to the smaller and less fortunate constituent units, against "piece-meal encroachment"⁶ of the federal government and/or larger unit(s) which are usually concentric. This necessitates equal representation of such smaller units in the council of states, the upper house, such as the U.S. senate; the UAE Supreme Council etc. This device is only one of the many democratic variables of implanting equality and parity of small vis-a-vis large units, in a federal polity. The other variables are the separation of power among the executive, legislative, judiciary, equitable share for the units in the federal executive, and distribution of powers between the two levels/tiers/sets of governments, centre vis-a-vis regional. This means that the Central Government should have a clearly defined powers of competence,

4 Dikshit, n. 2, p. 23.

5 "Publius", Journal of Federalism (Pennsylvania), vol. 5, no. 2, p. 44.

"Democracy and federalism are indeed twin brothers, but one of them is more dependent on his kin than the other. Democracy can prosper without federalism, but federalism in the sense of True territorial self - rule cannot exist without democratic pluralism that's poly centrism."

6 A.W. MacMahon, Federalism: Mature and Emergent (Doubleday, New York, 1955), p. 520, "The federating process may appear as a species of peaceful penetration and expansion on the part of the stronger member or members".

and not less equally the units should also have their own explicit powers.

How much power the Central Government should command is a matter of controversy.⁷ Those who believe in the autonomy of the constituent units plead that limited powers should be assigned, delegated, or enumerated to the Central Government and substantial power should remain in the hands of the units. They also advocate that residual powers should be in the domain of the units. But there is no dogmatism about this notion, as the division of powers depends to a large extent on the given needs of a particular federalism.⁸ At the time of division of powers between the Centre and the units many facts like the genuineness of the external threat facing the federation, the ideology of the political system, the era or epoch of such a federation ushers in heterogeneity or homogeneity, geographical isolation among the federating units are taken into consideration. The feed back of other federal experiments have also a bearing in the minds of the federal constitution-makers.

The other group advocates more liberal attitude toward the Centre. They would like to assign enormous powers to the centre. But they are also constrained by the aforesaid given factors. The national leaders who negotiate the federal bargain, exercise no negligible influence in creating a weak or a strong federal government.

7 Venkatrangaiya, Competitive and Cooperative Trends in Federalism, p. 3.

8 T.M. Frank, ed., Why Federations Fall (New York University Press, New York, 1968), p. 173.

With the exception of the Canadian federation through mis-reading of the American civil war and in spite of the fact that the existence of two racial nationalisms, the French Canadians and the English Canadians, the leaders created a strong Central Government, thereby diverging from the classical federations: the US, the Australian and Swiss which have usually started with limited delegated powers for their central governments.⁹

The American federal arrangement was very much facilitated in Australia by the largeness of the Australian provinces, and extreme isolation between the regional units. In Switzerland the American federal approach was brought about by the extreme diversities of the cantons in religion, language and race. The German federation is in a class of its own. The co-existence of strong leadership of Bismark and the predominant size of Prussia, the federation was rather an exception of the 19th century federal attempts.

The 20th century federations, with the rise of welfare states have tipped the balance in favour of the Central Government. The new federation of the post-classical ones, of America, Australia, Canada and Switzerland, the Federal Governments obtained the lion's share in the distribution of power.

The Indian federation (1950) is a clear example of the large sweep of allocation of power to the Central

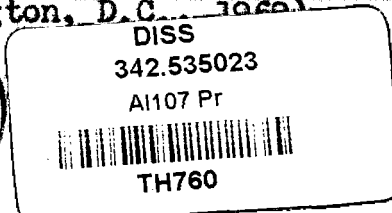
9 Dikshit, n. 2, p. 76.

10

Government. The Indian Constitution being the bulkiest, thorough and detailed federal constitution, remains the unavoidable inspiration for the many later federal constitutions. For instance, the Malaysian federation, has borrowed a lot, in content and in format. ¹¹ Even the classical federal constitutions, in its move from dualistic to co-operative federalism, the Indian constitution provided the insight, inspiration modes and legitimation of such moves. Dual federalism means that the levels of government, central and regional in their coordinate and independent status are rival, apprehensive, and over-productive over its sphere of competence.

The gradual erosion of the regional sphere of competence in in favour of the Central Government, in the classical federations, mainly, the American, was through judicial review, ¹² financial grant-in-aid. ¹³ The developments in science and technology, the changed nature of diplomacy, new constraints of nation-building and expectation of people from the central

-
- 10 S.A. Haqqi, ed., Union-State Relations in India (Meerut, 1967), p. 49 "India thus offer a new variety of federal government here tilting the scales in favour of the Centre". Also see G. Austin, The Indian Constitution (Oxford University Press, 1976), p. 186, "The Assembly, in fact, produced a new kind of federalism to meet India's particular needs".
- 11 Tan Sri Mohamed Suffian Hashim, Judge of the Federal Court, An Introduction to the Constitution of Malaysia (Malaysia, 1972), p. 292, "Our constitution, following the Indian model, is a very long and elaborate one".
- 12 "Publius", Journal of Federalism, vol. 3, no. 2, Fall 1973, p. 23.
- 13 J.C. Sundquist and W.D. David, Making Federalism Work (The Brooking Institute, Washington, D.C., 1968) pp. 1-6.



N71

government were important factors in this shift of powers from the states to the centre. This trend brought half a dozen or more of new brand names of federalism, i.e. "co-operative federalism", "functional federalism", "creative federalism", and last but not least "permissive federalism". Permissive federalism is hostile to the original concept and principle of federalism in that this new notion of federalism does not co-exist with the co-ordinate status of regional governments vis-a-vis the central government and it presages the withering of federalism to unitary government.¹⁴

All these catchy names of the new brands of federations, emanate from the changing relationships between the federal government and regional government. This change in favour of the central government is a modification in the concept of federalism. As a matter of fact federalism should be understood as a process, an evolving pattern of changing relationship between centre and the units in accordance with the changing

14. M.D. Reagan, New Federalism (Oxford University Press, New York, 1972), p. 7 and p. 167.

Prof. Reagan sees that the co-ordinate status which means equal in rank or importance is inconsistent to the American Article VI Sec. 1 which considers national laws as "the Supreme law of the land ... anything in the Constitution laws of any State to the contrary notwithstanding". His interpretation of this article is contrary to the prevailing interpretation of those of Wheare, Dicey and the understanding of this article by the US Supreme Court. On page 167, Prof. Reagan condemns dual and cooperative federalism in granting co-ordinate status to the levels of government and maintains that the status should be in "... reality is that of the national government needs to be superior".

needs of the polity rather than a static design regulated by fixed rules. This should not lead one to think that the rules are insignificant. Carl Friedrich rightly concludes that, "What it does mean is that any federal relationship requires effective and built-in arrangements through which these rules can be recurrently changed upon the initiative and with the consent of the federated entities."¹⁵

This shift from rivalry in divided power of competence to shared divided powers, which is adverse to the regional governments, afforded a new mode and stance to the classical federations, that started more or less as dual federations which means that the two levels of government resemble "two separate streams" running beside each other as separate and distinct from one another. Each level of government was conducting its own affairs (as specified in its lists of powers) in isolation of each other. But through the passage of time the adjacent banks of the parallel streams eroded at certain points and water started seeping from one stream to the other. Such points of contacts between the above mentioned streams facilitated the idea of delegation, barter, temporary switching, or lending some of the exclusive powers to be exercised by the no more "rival" but "partners" and thus under co-operative federalism "rivalry" transcended itself to "co-operation". But the "we" and "they" that used to exist between the two levels of government is still acknowledged but individual

15 Carl Friedrich, Trends of Federalism in Theory and Practice (Pall Mall, London, 1968), p. 173.

16

competence is not jealously guarded as in the old days. They, now, like two trees planted apart, through time, extended their branches to each side, but with this the main principle behind federalism remained as it was, as any quantitative change will transfer the federal concept into unitary one. What had really happened so far, except in permissive federalism, was that our parallel streams were only twisting their beds at certain points, and have so far, never substituted their separateness into a completely shared one.

The Indian and the UAE federations have certainly not started with the dual federalism paradigm. The Indian federation has indeed originated a new paradigm - the cooperative federalism. This explains why K.C. Wheare refused to take the Indian federal arrangement among the other 4 examples of federalism.

17

Bombwall narrating the story of the Indian federation says: "Unlike the 'classical' federations of the United States and Switzerland, federalism has taken shape in India in the era of positive state... India's constitution makers were, therefore, wise in preparing the blue-print of cooperative federalism."

16 R.L. Watts, New Federations (Oxford, at the Clarendon Press, 1966), p. 13, "The difference between the two versions of the federal concepts is chiefly one of emphasis: dual federalism views the two sets of governmental primarily as equal rivals, co-operative federalism: views them as equal partners. What lies at the roots of both theories is the premise that in a federation neither level of government is subordinate to the other".

17 Wheare, n. 3, pp. 26-28.

18 K.R. Bomball, The Foundations of Indian Federalism (Asia, New Delhi, 1967), p. 26.

dual federalism as "wrong because it encourages a false²² competition between state and national governments". And that dual federalism is an "inadequate conception because it tends to assume that the responsibilities of state and national governments were coordinate, whereas the reality is that the national government needs to be superior"²³. He maintains that "permissive federalism suits the seventies, and that "who knows? by eighties the Americans might finally feel of national community to permit themselves to be unitary state in name and content"²⁴.

If the staunchest and exemplary of all federalisms, the American Federalism, is facing the fate of death sentence, and if the prophecy of Reagan comes true, thereby wiping away the federal ethos of more than 200 years of democratic tradition in all levels of government being co-equal; how then could we have faith in the most recent, in fact, and "experience of federation of UAE, which had no legacy at all in dual federalism. Will it maintain itself as a federal polity?

The previous and the following chapters do not incline the observer of this federation, to conclude that UAE is viable, because the UAE federation lacks the most essential elements to sustain itself as a federal entity. At the individual level, also, there is no democracy, no election,

22 Ibid.

23 Ibid.

24 Ibid.

no other form of political participation, Even the Sheikhs, at the sovereign level, do not reveal any democratic attributes. The veto power is very humiliating and uncondusive for the operation of a federal polity. The question that arises is how could the unequal Sheikhs, "prepare the people of the union ... for a dignified and free constitutional life" as the preamble of the federal provisional constitution maintains: When they deny it to themselves, how can they go a step further of equalizing the commons with themselves. Also the UAE exhibits a political system that is highly oligarchic and autocratic. There is no separation of powers among the various wings of the government. The supreme council of the Union enjoys the highest concentration of powers and formulates the general policy in "all matters" within the Union competence. The Union Legislature initiates no bills, as initiation of bills emanates from the Union Council of Ministers [Art. 60, sec. 2.] All that the Union Legislature can do is to "discuss" certain issues. The reason for the survival of autocratic regime is due to the prevalence of traditional society in UAE in particular, and in the Middle East in general. The elites who are entitled for high official positions such as cabinet ministers and legislature rests on "descent, wealth with little emphasis on skill or merit".²⁵ The difference between traditional society and a modern society lies on where the emphasis is laid upon for recruitment of the elites, "the more traditional the society, the

more prominent is descent is likely to be in the identification of elites (while) the more modern the society the more prominent are skills likely to be in its identification.

The elites in power in the UAE are heavily drawn from the ruling families of the various member Emirates in the federation with the concentration of political power and official authority in Abu Dhabi and Dubai.

Chapter IV

THEORY OF FEDERALISM : SURVEY OF THE LITERATURE ON THE SUBJECT

A close scrutiny of the constitutions and actual functioning of all the federations indicates certain common features which distinguish them from unitary constitutions. First is the supremacy of the constitution and its written and rigid character. There is no doubt that all constitutions, whether unitary or federal are legally supreme. But the constitution occupies a unique importance in a federation. The federation which comes into being by the voluntary agreement by the federating units to establish over themselves a new government to which they, by mutual agreement and of their free will, assign a certain part of their authority. After the establishment of a federation, each unit (Centre and the states) exercises its authority in accordance with the provisions of the constitution. The provisions of the constitution are so defined as to be clearly and unambiguously understood.

The second feature of the supremacy of a federal constitution is its rigidity. It is an inherent feature of its character. The units in a federation surrender their individual sovereignty on certain conditions which are strictly adhered to and are binding on all the parties concerned. Hence the amending process of such constitutions is made rigid unlike the unitary state. Rigidity is equally necessary to prevent it from the short-sightedness of the legislators who are sometimes elected as a result of an

excitement produced amongst the voters. As Sharma and Chaudhary rightly put it: "Now to allow unfit and inexperienced persons, who have risen to the position of legislators merely by virtue of having played *upon* the sentiments of the voters, to change the constitution which had been framed after deep and thoughtful deliberations by the most capable persons is to defeat the real object of peaceful and orderly administration of a federation. It requires the talent of men well-versed in the art of constitution making to suggest and incorporate necessary changes in a document, of the complex and peculiar nature of a federal constitution, which might satisfy the many interests and indeed prove to be of a lasting nature."¹ One of the best example of rigidity of a federal constitution is the American Constitution.

Equally important characteristic of federation is the special position of judiciary. It is created not only to uphold the constitution and keep the two governments within proper limits but also to interpret the supreme law of the land according to changing needs of the federation and to solve the conflicts between Centre and the state or amongst states themselves. The judiciary derives its authority from the constitution itself.

The co-existence of two governments, the Central and state governments, becomes special feature of the federal state.

1 B.M. Sharma and L.P. Choudhry, Federal Polity (Asia Pub., 1967), p. 18.

The theory of federalism explains why too much emphasis is laid on the notion of coordinate status among the member states on the one hand, and the central government vis-a-vis the member states on the other hand. The coordinate status derives its origin from the theory of federalism, which originates from the concept of sovereignty. Once the political practitioners ignore this fact, of coordinate nature of all levels of government in a federal scheme, they, in fact, undermine the federal polity. This concept is best arrived midway between the dual federalism described as "layer cake" and cooperative federalism categorized analogically as "marble cake"². At this equilibrium point each level of government maintains its dignity to be "equal in importance and rank"; independent in some measure of power and policy as necessitated by the theory of federalism and its concretization and operationalization.

2 D.J. Elazar, (Ed.), M. Grodzins (by), The American System (Rand McNally & Co., Chicago, 1966), p. xii.

"Among the author's last documents was a certain measure of dissatisfaction with marble analogy ... his new sense of the role of the constitutional division of American government into levels caused him to modify starkness of analogy that served best when people had to be alert to the very existence of pervasive sharing, the very fact that Grodzins began to give Constitutional factors more weight lessened his interest in the "marble cake" as a descriptive term ... he has become convinced that "layer cake" thinking is useful in certain situations because it helps bring some measure of rationality and order to what, from the other perspective, often appears to be sheer chaos." Also see the qualifications K.C. Wheare has introduced to the word "exclusive" in his book Federal Governments (Oxford University Press, 1968), p. 75.

Any diversion from the course of coordinate nature of federalism severely hurts the people concerned whether they are aware of what federalism is or not. Take for instance the reaction of the Lesser UAE Member Emirates in response to the non-accordance of equality in rank (co-ordinate) to them. Professor Anthony writes that in Ras al-Khymah "Shaikh Saqr's discontent with the premier position of Abu Dhabi and Dubai inside the UAA(UAE) is symptomatic of complaints among the other Rulers, voiced privately, if not publicly, against the bipartite hegemony which Abu Dhabi and Dubai have established".³ In USA the Republican Party reaction to cooperative federalism and its effect in expanding the federal power was very strong. They said that the aggrandizement of the federal government was part of the democrats' effort to achieve their goal of national socialism..." President Nixon said that "unless we preserve, in this country, the place of the state government, its traditional pace - with the power, the authority, the responsibilities and the revenues to discharge those responsibilities, then we are not going to have an America as we have known it, we will have some other form of government."⁴ The apprehension of President Nixon was a true reaction to the American intellectuals' advocacy of unitary system in the 1960s. "Among intellectual circles generally, particularly upto

3 J.D. Anthony, Arab States of the Lower Gulf (The Middle East Institute, Washington, 1975), p. 111.

4 J.C. Sundquist and W.D. David, Making Federalism Work (The Brookings Institute, Washington D.C., 1969), p. 7.

the late 1960s, there has been considerable skepticism about it if not outright opposition to state governments ... as they are constituted. The position in these circles has been that states were not created along rational geographical or other lines and in any event, do not serve rationally defined areas at the present time.... Normally linked with this position, although not necessarily articulated in a preference for a unitary political system ...⁵ Now what lies behind this ice-berg of defence and advocacy of member states to be equal among themselves and vis-a-vis the central government, is the theory of federalism which depends solely on the concept of sovereignty. There are three versions of sovereignty. None of the three versions in theory excludes the member state in a federation from being a sovereign state or retaining a portion of it, to which its co-ordinate status could be attached.

1. Sovereignty is Divisible :

The federal principle involves the supremacy of the constitution as an essential element, in which sovereignty is included. It becomes difficult as Laski puts it, to find out a 'determinate human superior' which Austin thought he could discover in the constitution of the United States of America. Nevertheless the U.S. Government continues exercising sovereign powers according to the scheme of

5 H.D. LeBlanc, The Politics of States and Urban Communities (Harper & Row Pub., New York, 1971), p. 19.

division of powers included in the constitution. A.V. Dicey discovered sovereignty in federation in a body with powers of amendment but like Austin he also failed to understand the precise part which the Centre must play in the amending process - either by initiating a proposal or by controlling the composition of the convention called to do so.

The advocates of divisibility of sovereignty maintain that sovereignty is capable of belonging in portion to the central government and in the other portion to member states. The idea that sovereignty is split into halves or portions distributed between the two levels of federal state means that the two levels are co-equal. The American federal theory depends on this version of divisibility of sovereignty to a large extent which takes its origin from the colonial days. This concept could be applied as true translation to all federations which have been under colonial rule, i.e. U.S.A., Canada, India, Malaysia etc. and U.A.E. too.

2. Sovereignty is Indivisible :

This concept of indivisibility of sovereignty is conducive to either unitary governments or to confederal governments. Due to the dominance of this concept in the 18th and even 19th century lies the fact of the absence of federal governments, even in U.K. which possesses a federal base society. It was only the American pragmatism which transcended this concept of "indivisibility" to "divisibility" wherein we see that the federal experiments flourished.

It was during the exercise of the imperial power of Britain over its colonies that de facto federalism sprung up

and this gave birth to the notion of divisibility of sovereignty.

3. Sovereignty is Concurrent in both the Central and State Regions :

This notion is to say that sovereignty does exist concurrently in both levels of government, central and regional. This concept of sovereignty in federalism is of a recent origin. It was put forward by Nawiasky in 1920. The concurrent sovereignty made extensive use of the previous notion of indivisibility of sovereignty. For Nawiasky, indivisible sovereignty is an essential character of the state. And for him a federation is a state, thereby this new state, also, possesses this "essential characteristic" he maintains that sovereignty necessarily resided in all of them. "After the Second World War Nawiasky's theory was adopted by the Soviet Theoreticians of international law".⁶

From this survey of the three versions of sovereignty we see that the three of them adopted by federal schemes of USA and USSR, the Americans through their idea of historical rise of federalism prior to its design have adapted a combination of the two versions of sovereignty: indivisibility-cum-divisibility of sovereignty, the USSR through their convention that sovereignty is indivisible and at the same time essential characteristic of a state, whether regional or federal. They have combined also two versions of the

6 Ivan Berner, International Legal Aspects of Federalism (Longman, 1973), p. 22.

sovereignty in their federal arrangement. These are the indivisibility-cum-concurrent sovereignty.

It seems that to explain centre-state relationship, as co-ordinate and of equal rank and importance, a combination of any two versions of sovereignty have to be accommodated. And the essence of the coordinate status could only come through such combination of more than one version of sovereignty, in order to prove that each level of government could possess the coordinate status, that is sovereignty or a portion of it.

According to the above blending of the versions of sovereignty, we see that the de facto federalism of UAE, before the inception of its provisional construction was more in harmony of facilitating, the co-ordinate status among the various levels of governments, than it is now existing under the provisional constitution. In the pre-UAE federal arrangements the sheikhdoms were more autonomous coordinate and co-equal. Their foreign affairs and defence were taken over by the British Government, the Sheikhs were running their local governments without interference, collectively the Sheikhs used to meet as equal sovereigns in their Trucial State Council, they had, also a development Council to monitor their modernization projects.

The equality among member states in a federation did not take much toil from the eminent writers on federalism to establish it as a straight forward application of sovereign powers. But they have spent much time in providing and proving the equality of the centre vis-a-vis the states,

because in federalism there always exists the spectre of the dominance, or hegemony of the Central Government. This fear is more prominent in UAE. This is due to the co-habitation, in the city of Abu Dhabi, two capitals, that of Abu Dhabi emirate as the federal seat. Following the United States, the federations are always equated with a new town federal capital having no allegiance or attachment to one particular state such as the city of Washington.⁷

In UAE this coordinate status among the Sheikhdoms themselves and as against the Central Government, is blurred, especially when the Central Government in Abu Dhabi City, is also catering for Abu Dhabi Emirate administration. This makes Abu Dhabi government appear as a second Central Government.

This activated J.S. Mill's warning against the destruction of co-ordinate status among member states thus: "... there should not be any one state so much powerful than the rest as to be capable of vying in strength with many of them combined. If there be such one, and only one, it will insist on being the master of the joint deliberations: if there be two they will be irresistible when they agree; and whenever they differ everything will be divided by a struggle of ascendancy between the rivals."⁸

7 D.J. Elazar, ed., The Politics of the American Federalism (D.C. Heath, Lexington, 1969), p. viii.

"Recent research has highlighted the plausibility of this view by indicating the extent to which the American colonies enjoyed a de facto federal relationship with English King and Parliament prior to independence".

8 J.S. Mills, On Liberty and Considerations on Representative Government (Basil Blackwell, Oxford, 1948), p. 229.

But one should keep in mind that the concept of sovereignty is never qualified by wealth, size or richness. MacMahon writes in this connection that the "feature of federalism is the legal equality of the member states of the Union and that this principle is not inconsistent with the wide variation among the member states in geographical size, population, and resources"⁹.

The co-existence of sovereignty in both levels of government, projected in the prevalence of co-ordinate status serves a vital purpose in limiting the powers of both levels and thereby maintaining the viability of the federal polity. The co-ordinate status, further, is projected in that none of the two levels of government has the "last word"¹⁰ or dictate arbitrary coercive measures of recession, expulsion or domination. Speaking in this respect Watts (~~p. 309~~) says that "if a regional government acting alone is given the right to leave the federation, or if the Central Government acting alone is given the right to expel a member government, then one tier of government is subordinate to the other thereby violating the principle of coordinate governments"¹¹. He adds that the unilateral right of secession is not compatible to the notion of co-ordinate status of both levels, as such a right of secession "... weakens the whole federal system by

⁹ A.W. MacMahon, Administering Federalism in a Democracy (Oxford University Press, New York, 1972), p. 4.

¹⁰ G.J. Friedrich, Trends of Federalism (Fall Mall Press, 1968), p. 8.

¹¹ R.L. Watts, New Federations (Oxford, at the Clarendon Press, 1966), p. 309.

placing coercion in the hand of the regional governments..." and "Introduces the element of uncertainty and lack of confidence".¹² Dicey wrote that "the principle which ... shapes every part of the American polity is that the distribution of limited, executive, legislative and judicial authority among bodies each co-ordinate and independent of the other which ... is essential to the federal form of government."¹³ Dicey later in a statement clarifies how essential "co-ordinate and independent" bodies are for federalism. He said that "the tendency of federalism to limit on every side the action of government and to split up the strength of the state among co-ordinate and independent authorities is specially noticeable because it forms the essential distinction between a federal system such as that of America or Switzerland, and a unitarian system of governments such as that which ~~(154)~~¹⁴ exists in England..."

Professor K.C. Wheare in subscribing support for the coordinate authority in the United States federalism which "many consider it the most important and the most successful example",¹⁵ said that "the field of government is divided between a general authority and regional authorities which are not subordinate one to another, but co-ordinate with each other ... the states are ~~not~~^{not} co-equally supreme within their

12 Ibid., p. 310.

13 A.V. Dicey, Introduction to the Study of the Law of the Constitution (MacMillan & Co. Ltd., 1959), p. 140.

14 Ibid., pp. 153-4.

15 Wheare, n. 2, p. 1.

sphere, in no legal sense are they subordinate corporations"¹⁶.
 And that therefore "the principle of or generalization upon
 which the American association is based is that the division of
 power between distinct and co-ordinate governments"¹⁷, the concept
 of coordinate domain of the distinct levels of government is
 so technical that K.C. Wheare failed to pursue its complete
 implementation even in the American Federalism, the archetype
 of such an association. The working of U.S. Constitution ever
 since its inception upto 1913, he thought that this constitution
 "... lent colour to the view that the general government was
 subordinate. This was due to the provision that the members
 of the upper house of the general Congress, the Senates, were
 to be chosen by the legislatures of the States."¹⁸ The other
 constitutions of the classical federations contain even more
 anomalies contrary to the co-ordinate status, thereby, lending
 their constitutions as quasi-federal ones. But these modifi-
 cations are sometimes cured by compensation of having fair
 federal-governments practice, repugnant to exploitation on
 those deformities of their federal constitutions.

In the UAE provisional constitution, neither the
 theory of federalism nor its manifestation of having
 co-ordinate authorities manifested itself in the provisional
 constitution. The modifications of the federal principle
 are many and numerous, and the practice and working of the

16 Ibid., p. 2.

17 Ibid.

18 Ibid., p. 3.

federal government there do not seem to abridge the gap. In fact the Central Government, as dominated by the Abu Dhabi hegemony is multiplying them as we shall see later. There is no doubt that when Wheare wrote about the neglect of co-ordinate doctrine by politicians, he observed, "Is not this just one of those distinctions which theorists draw and politicians ignore"?

Chapter V

ELEMENTS AND INGREDIENTS OF FEDERALISM

The necessity and desirability for sound federations pre-suppose some basic essential constituents. What are these essential constituents that produce in a body of countries such as the cantons of Switzerland, the colonies of America, or the Sheikhdoms of the UAE, the two conditions Dicey mentions as a pre-requisite for the formation of a federalism, so that the above units appear in the eyes of their inhabitants to impress the characteristic of a common nationality, and secondly to reveal "a very peculiar state of sentiment among the inhabitants of the units which propose to unite"¹. While the ingredients are well known to the authorities on federalism, there is no unanimity over the combination of these factors in a federation. B.M. Sharma states that "In each country the factors that promoted the federal system were all its own and were not necessarily applicable to any other country. Clearly, therefore, there is no particular set of circumstances which helps the growth of federalism everywhere"². That is each federation tells its own "distinct tale"³. Professor K.C. Wheare admits, too, that "It is not possible to pick one or any one

1 A.V. Dicey, Introduction to the Study of the Law of the Constitution (MacMillan & Co. Ltd., 1959), p. 141.

2 B.M. Sharma and L.P. Choudhry, Federal Polity (Asia Pub. 1967), p. 128.

3 C.J. Friedrich, Constitutional Government and Democracy (Oxford IBH Pub. Co., New Delhi, 1974), p. 196.

combination of them and say that unless this or these are present, the desire for federal union will not arise. That desire may be provided by any one of them⁴.

But in spite of this the desire for the federation in UAE, shares the motives and apprehensions that caused the American, the Canadian, the Swiss, the Australian, and Indians to federate.

The Sheikhdoms of UAE fall in the same behaviour pattern of the 13 colonies which Miller described, namely, "they carefully nursed their dislike for one another"⁵. The Sheikhdoms had their own grievances, with counter-territorial claim over the other,⁶ but once again like the American colonies which had found their "real force to this sense of common or special destiny ... was the fact that all the thirteen of them surrounded by French in the North, the Spanish in the

4 K.C. Wheare, Federal Government (Oxford University Press, 1968), p. 42.

5 R.D. Dikshit, The Political Geography of Federalism (MacMillan Co. of India Ltd., 1975), p. 49.

6

الريس، رايه نجيب، مصرائح الواحات والنظ. ص ٤٤
 "وذلك قضية الا استقرار لم تنته عند حدود المطامح التي يريها دوليات الخليج ...
 الوطني تطار ببولي، ذلك قوة بعضهم ... درأس الحصة بالارات السبع كلها."

Riyadh Al-Rayyis Najib, The Struggle of the Oases and Oil, p. 22.

Translation :

"But the question of non stability did not end with the foreign designs on the petty Gulf States ... Abu-Dhabi claims Dubai, Sharjah claims Ajman, ... and Ras Al-Khaymah claims the entire seven Emirates."

South⁷. The Emirates sheikhdoms, likewise, shared their own foes, i.e. Iran's territorial claims over many islands off the Oman Trucial Coast; Saudi Arabia's claim over Burfajmi Oasis in Abu Dhabi, and territorial dispute with the Sultanate of Oman with other emirates. Dubai Sheikhdom has a racial problem with the presence of 66 per cent⁸ of its population from Iranian stock, and the other emirates with less prominent proportions imposed a threat to the identity of the whole area of the Trucial coast of Oman. The Sheikhdoms similar to the Australians who thought their country represents a wheat bowl "placed next door to hungry millions of Asia", the former thought also that the Sheikhdoms are "Bases of oil" that flared territorial claims over their land from Iran, Saudi Arabia and Sultanate of Oman as well as a threat of occupation of oil fields by big powers.¹⁰

Anyhow listing the factors and ingredients of federalism will give an insight as to how this awareness or consciousness came about in the various federal arrangements, in general and in UAE in particular. Many factors contribute in the creation of federation. An analytical study of the history of federation reveals the following factors.

7 Dikshit, n. 6, p. 48.

8 Kajib, n. 6, p. 22.

9 Dikshit, n. 6, p. 106.

10 Jamal Badawi, Consolidation of the Federation: Question of People and State (Ministry of Information and Tourism, U.A.E.), p. 5.

First: Geographical Contiguity of the Federal Units-cum-Isolation :

This is the first factor which "... contributes to the growth of sympathy among the federal units"¹¹ and that it is "the most important, even an essential factor in the formation of federalism"¹². Success and maintenance of federalism is always attributed to the neighbourhood of the federal units fostered by their contiguity. A critical analysis of working of federations indicates that a federation has been successful only between contiguous states. It was the physical nearness that enabled the British colonies in North America to federate together in 1776. Again the geographical contiguity of 22 cantons of Switzerland was responsible for the creation of federation despite several other disintegrating factors. This factor besides other elements tipped the scales in favour of the seven emirates to unite without Bahrain and Qatar.

Second: Defence Factor-cum-Sufficient Military Threat :

Geographical contiguity alone would not kindle the desire for federation until the necessity is ~~not~~ dictated by certain other factors among which the problem of defence occupies an important place.

"Security against foreign danger", wrote the Federalist, "is one of the primitive objects of civil society"¹³. It is an avowed requisite for the object of American union". The need

11 Sharma, n. 2, p. 128.

12 Ibid., p. 130.

13 Federalist Papers (A MENTOR Book, New York, 1966), p. 256.

for "defence occupies a very prominent place"¹⁴. In the Swiss confederation this factor was "perhaps the most important factor that gave the Swiss communities a consciousness ... that had initiated the confederation and had served to keep it together"¹⁵. The threat to the Swiss communities of the Austrian-Hapsburg, followed by Revolutionary France had well driven home the sense of military insecurity. The Swiss awareness of lacking any other unifying factor other than the geographical proximity factor, as there is no one race, or tongue, or creed or allegiance to one ruler, than the sense of "need of protection" was the prime reason and the basis for the Swiss in coming together.¹⁶

The 13 colonies of America being also helpless as separated entities of small potential were faced with threat of survival. "But soon, when Powers strong enough to engulf each of them individually began to appear on the American scene the colonies began to seek strength in Union"¹⁷.

Thus this acute sense of insecurity in the 13 colonies, was sounded and projected in the purpose of their first union to maintain and defend common liberty against similar danger. The danger of security should be both common and of substantial duration, in order to hammer their stake and act as a melting crucible. Such prolonged duration of external threat does a

14 Sharma, n. 2, p. 130

15 Dikshit, n. 5, p. 34.

16 Ibid., p. 36.

17 Ibid., p. 60.

lot of good service to the constituent units. It helps to even-out their extreme individualities retaining only, the healthy ones. "If political frontiers remain active for a long enough time, the constituent parties, through a process of mutual adjustment, learn to live like a close-knit family this leads to the evolution of an integrated polity"¹⁸. The external threat, here, to the national survival has the effect of moulding the diverse units into unity, and reduce their internal antagonisms. The units "... develop common external antagonism which overrides internal antagonism"¹⁹. Authorities on federalism are in consensus that such factor works as "squeezing", "cohesive" and "catalytic" as indicated to Dikshit, Wheare, and Frank respectively. But, military threat has to have one more qualification, other than its "longevity" that is, it should be proportional to the collective strength and capability of the constituent units proposing federalism. The lower Gulf nine states federation failed because the Iranian opposition to its formation was too much to ignore. Iran's claim over Bahrain was so vehement to be brushed aside by the wider federation of the nine Gulf Sheikhdoms,²⁰ Even the present Federation of UAE, could not stop or stand against the baseless Iranian claim and occupation of half of Abu Mossa island from Sharjah and the other two islands of Tunb of Ras al-Khaymah.²¹ The Iranian military take-over was carried

¹⁸ Ibid., p. 61.

¹⁹ Wheare, n. 4, p. 44.

²⁰ M.S. Agwani, Politics of the Gulf (Vikas Pub. House, New Delhi, 1978), p. 27.

²¹ J.D. Anthony, Arab States of the Lower Gulf (The Middle East Institute, Washington, 1975), pp. 26-27.

out only one day before the British evacuation from the area²² and two days before the announcement of the UAE federation. The external threats that Canada faced is ideal. In my mind, it was mild and just enough to bring forth the federation. Some authorities dispense such threats as "imaginary", especially the threats in connection with the American designs for Canada. Too much of a threat will have an adverse effect. "This factor has much to explain why the Americans are today²³ one nation rather than a collection of isolated states".

Third: To Fill the Weak-Links from Alien Ideology:

This factor prompted many federations to be suggestive. The units in a federation forget their internal differences whenever the security of the federation is threatened from outside. Many a times foreign ideology is accepted for the survival of the nation. When World War II was imminent, Churchill proposed a federal scheme with France to save the latter from succumbing to the Nazis. The Malaysian federation faced threat from communism and so does the UAE. The existence of a neighbouring regime with communist-orientation in South Yemen, and its mission to liberate the Gulf states through sponsoring insurgent faction in the Sultanate of Oman, and political movements in the various individual states of the Gulf has contributed in expediting the formation of UAE²⁴ federation. In fact, moved by this threat, the police

22 H.M. Albahrna, The Arabian States (Beirut, 1975), footnote p. XLVI.

23 Dikshit, n. 5, p. 61.

24 K.R. Singh, Indian Ocean (Manohar, New Delhi, 1977), p.130.

departments and the various agencies of all the Gulf states initiated the first unified collaboration to deal firmly with the insurgent movements in various states. It pre-dated the three federal attempts in the Gulf. Now the threats facing UAE, post-federation are moderate but do not over-ride the internal antagonism to give the principle of federalism much time and space to breathe. It is only through the presence of moderate doses of military and/or ideological threat that a federal polity can be sustained. The threat faced by Canada exhibited this nature. The Canadian federation came into being in 1841, the threat factor has been activated by "fear and jealousy of the United States"²⁵. By memories of quarrels over fisheries and the war of 1812, boundary fighting/ disputes in 1839 and 1840s respectively, "the announcement of the US intention, during the civil war, of plan to rearm the great lakes and the abrogation of the Reciprocal Treaty, and ... reports of responsible Americans talking of plan to annex Canada to the United States"²⁶. For India it is "... the danger posed by the Chinese and Pakistani militance which is holding the Indian federation together"²⁷. However, this needs careful examination. The political and economic realities are the cementing factors of Indian federation. After the creation of Bangla Desh the threat from Pakistan has been minimised and Chinese are also trying to improve their relations with India.

25 Dikshit, n. 5, pp. 82-87.

26 Ibid., p. 87.

27 T.M. Frank, ed., Why Federations Fail (New York University Press, New York, 1968), pp. 185-6.

Fourth: A Federal-minded Leadership:

The ingredients of federalism produce what Dicey calls the secular sentiments which desire unity, or produce what Wheare calls the two desires of to be in a union and at the same time to remain "separate" or "autonomous". But in spite of these factors which are important for federal arrangement, some authorities on federation like Wheare give much weight to the role played by "leadership" or "statesmanship" in its creation and maintenance. He rightly puts it, the "... presence of all these factors in a given territory will not necessarily produce of itself ... a desire of sufficient strength to prevail over contrary forces"²⁸. This potential desire to unite has to be brought from potential to actual by a "right" leadership at the time of formation of federation. The federal factors are, mainly, always there, and are blind, and that territory could be fragmented, confederal, federal or unitary. It is only when we have a federal spirited leadership, that a federation could be made out of them. Take for instance the 13 colonies which despite possessing all the necessary factors conducive for a federation, yet remained fragmented in the beginning, then, confederated, and only with the federal spirited leadership of George Washington and his colleagues of the American federation saw the light of the day. UAE is in no different position. All the factors of union were present but leadership is not committed to federation. A George Washington is missing from UAE and in

28 Wheare, n. 4, p. 39.

the absence of such a leadership the UAE is fast steering towards unitarianism. Therefore the ingredients, the desires, they produce or the leadership which utilizes them have to be moderate, not too strong to produce unitary form of governments nor too weak to leave the units apart.

Fifth: Previous Common Allegiance and Previous Individual Units' Independence or Autonomy :

This factor concretizes the desire of both wanting to be under one general government for some common purposes and at the same time to be separate for other purposes. It is probably the most taming factor for the Central Government to stick to its limit of competence. This also shows that the units possess their own cadre and bureaucracy and are politically potent to stop the central government from "direct administration" of the units.

Colonialism has also helped, though in an indirect way, the growth of federalism in different colonies. As Sharma and Choudhry conclude "A mother country always formed separate units of administration. This resulted in the growing up of states lying near each other, semi-independently vis-a-vis the mother country, but independent of each other"²⁹. In fact de facto federalism existed during the colonial era. The Central Government in a newly created federation is only, therefore, the substitute for the Imperial power with a differential of replacing "consensual" association for

29 B.M. Sharma and L.P. Choudhry, Federal Polity (Asia Pub., Bombay, 1967), p. 151.

"coercive" one. British Imperialism is some times categorized as a "mid wife" for federal schemes. This was the case in USA, Canada, Australia, India, Malaysia etc. and UAE is no exception to this phenomena.

This pre-requisite is very crucial for the successful survival of federal systems. This factor tames also the ingredients and harmonize them and chop off all extremities in them.

"The outstanding role of colonialism in the origin of modern federalism readily invites one to overstate the connection that the successful federation has been formed of states that have existed as independent nations for a considerable period of time"³⁰. Its success, K.C. Wheare, attributes to the desire of unity with diversity. The desire for diversity is present in all federations. It is motivated by the particular problems created by the economic, social, geopolitical and historical conditions and environments. The units are normally not so anxious to surrender more power³¹ over economic affairs than otherwise absolutely necessary. This factor is the only factor that provides an experimentation before the actual federal arrangements and therefore affords the units the political potency, and thereby made the delegated powers obvious.

30 Frank, n. 27, p. 8.

31 Dikshit, n. 5, p. 32.

Sixth: A Semi-happy Diversities in race, Language, Religion and Politico-Social Institutions :

The essence of the ingredients of federalism is both to generate the desire to unite for some purposes in some spheres and facilitate the desire to remain separate in the other fields.

While the similarity in factors, like race, language, religion, etc. tip the balance toward unity, the acute diversities of these factors will ferment the reverse trend. In the more acute situation of diversity as that of Switzerland, cleavages and inroads that cut through these diversities among the court-constituencies mitigate that acuteness. Switzerland is the classic example of the multiple co-existence of diversities in practically all of these factors. Canada for instance, is plagued by acute diversity in language which nourished two antagonistic nationalisms; India similarly has different languages and, therefore, breeds strong local tendencies. Since there are many languages, India unlike Canada, escapes dual polarization as witnessed in Canada. America is an example of dissimilar political institutions, of the free states and slave states that culminated in the American civil war. Although the existence of a happy union of different languages, race, religion etc. is considered good for federation yet many a times these being unstable effects in federation. In UAE, factors of language, race, and religion do not provide a base for federal society. In spite of the fact that the whole population of UAE, speaks the same language, comes from the same race, follows the same religion,

and have similar political institutions, there is hardly any contribution of these factors in the formation of federation. The only federal component is the existence of different rival ruling dynasties which would like to remain autonomous. In this effort each of these Sheikhdoms is supported by the petty loyalties of the people to safeguard their vested interests.

Seventh: Economic Expectation from the Union Scheme :

This factor is obvious where the units possess compatible economy. It ensures the units of having a monopolistic privilege in the whole union. Economy of scale, plus common markets stimulate the private sector which would have to expand without bothering about restrictions that might be there in the absence of a union. Federalism, by its nature of duplication at its various levels of government is employment-intensive polity, and surely the middle class has a vested interest in such a scheme. Federalism "eventually ... opens a wider field, a bigger market and greater facilities to all the members..."³² To the President of UAE, the opening of such opportunities for the people of UAE as compared to the old days would be "heaven" and asks "who would like to go out of such a heaven"³³. To him only people not in their right

32 Sharma, n. 2, p. 135.

33

المصدر نفسه - برديس - ٤٦٠٤٢
ص ٤٤ "والذي يريد الفوائد التي يجلبها مع الاتحاد ... كيف يفكر قد علم انه يكون له نصيب
منه الا ان هل الذي يدخل الجنة يتخلى عنه يخرج؟ منها الى النار ...
ص ٤٦ " ... فاننا نقدر انه لهذا الذي يريد الخروج هو هتمن الخلل الذي لم يصل الى ريشه
نصيبه من ريشه ... وهذا يجب ان يكونه الحكمة مثل الاب والاهل الذين يرشدونه عن
الرشه ... الذي لا يرشدونه نوصيه نوصيه ان يرشد ...

senses could do so (secede). This "heaven" is of course provided by uncalled subsidies by the constituent state which owns unprecedented wealth of oil and natural gas. The President of UAE will not hesitate to use force against a unit which tries to secede. ³⁴ To Shaikh Zayed, the centre-state relations in this matter, is equivalent to authoritarian parent-child relationship.

One should think that federalism resembles "marriage" between the central government and the regional governments, and should be taken in the sense of an "enterprise", with "understanding". No unit in a federation should put much price for its partnership. There is a moral obligation on Abu Dhabi to help the other Sheikhdoms without strings or coercion. Because without such generous help the other Sheikhdoms especially those with poor resources will be fertile places for extreme ideological orientations. This will eventually undermine the whole autocratic regimes in

Translation :

Badawi, n. 10, p. 42.

"who sees these differences which were brought about by the federation ... how dare he thinks that there would be fragmentation again. Is it possible for those in heaven to entertain going out of it to the hell..."

(p.46) "... I consider him who wants to quit (the federation) like a child who has not reached yet his maturity and should be guided ... and here the Government should behave as the father or relatives who will bring to the child guidance until the child attains maturity... whoever does not want to be mature by himself, should be made to be so."

34 Ibid., p. 42.

the Gulf. Abu Dhabi, therefore, has to share generously without strings, otherwise the federation will be vitiated. But neither the Sheikdoms living in isolation or in hegemonistic conditions is conducive for the stability of the area.

Chapter VI

MODES OF TERRITORIAL DISTRIBUTION OF POWERS

The constitutional safeguards of federalism resemble several treasury boxes one inside the other. The territorial division of powers is considered as the safeguard of autonomy of the units of federation.

The special or particular blend of sovereignty in federalism leads to the theory or idea of federalism, this theory on its own behalf leads to the coordinate and independent nature of the levels of government. The coordinate and independent levels, in order to preserve its status as equal in rank and importance leads to the necessity of territorial division of powers. This division is treated as a semi-sacred as it symbolizes the coordinate autonomy of the units as well as the general government, and, therefore, should not be unduly muddled with by the legislative authorities of the federal level alone, or the regional level alone, have, accordingly necessitated the notion of rigidity and supremacy of the federal constitution, especially in the articles related to the division of powers. Rigidity of a constitution requires that change or modification in the constitution should follow a special method of amendment of the constitution. The supremacy of the constitution dictates, that besides the rigidity more than one body should be involved in the initiation and ratification of such changes in the constitution i.e. the involvement of the two levels of legislatures and sometimes, the direct participation of the people themselves

through referendum (Swiss and Australia and USA to a lesser extent). But this is not enough. The units or the central government may interfere in the domain of other. The existence of an arbiter, an umpire, is necessary to stop such encroachments. The federal Supreme Court, or their equivalent acts as a 'check and balance' thereby sustaining the equilibrium between the various co-ordinate levels of government.

The division of powers through the constitution between the various levels in a federation is of crucial importance. It is the division of powers that makes the constitution federal or unitary, and little or more sway to one level or the other that modifies the federal arrangement to be quasi-federal. The cruciality of the division of competence has also necessitated that the constitution should be reduced to writing. The emphasis on the division of powers has made of its self important approach and in fact "the first and most important..."¹ approach. Even the other new approaches to federalism, could not succeed in transcending it. These new approaches started as hostile and dichotomous to the constitutional one, but could not escape mentioning some of its variables or characteristics mentioned above.

The concept of distribution of competence not only occupies the minds of academicians and federal armchair thinkers but even the Constituent Assembly members. That is "when the Union Power Committee Report was being introduced in the Indian Constituent Assembly, it was declared that "one

1 Ivan Bernier, International Legal Aspects of Federalism (Longman, 1973), p. 2.

of the essentials of a federal Constitution is that it must provide for a method of dividing sovereign powers so that the Government at the Centre and the governments in the units are each within a defined sphere co-ordinate and independent"². Also in the Malaysian official copy of the 1957 Constitution ... there is a footnote attached to the title. It reads this constitution may be classified as federal in the sense that Power conferred by it are divided between the federal and state governments each government being legally independent on its own"³.

Franck writing about distribution of powers in a federation thinks that "a further characteristic of federal systems is that the matters entrusted to the Constituent units (whether their Power is residual or delegated) must be of substantial and not merely trivial..."⁴ To him such division "cannot be changed by the ordinary process of central" legislature.⁵ K.C. Wheare more consciously advised against giving the central government the residual power as this would amount to "delivering a blank cheque"⁶ to the central power. This much concern of distribution of competence and

2 G. Sawyer, Modern Federalism (C.A. Watts, Co. Ltd., London, 1969), p. 169, cited from CAI debate, vol. V, p. 37.

3 T.M. Franck, ed., Why Federations Fail (New York University Press, New York, 1968), p. 127.

4 Ibid., p. 5.

5 Ibid.

6 K.C. Wheare, Federal Government (Oxford University Press, 1968), , p. 35.

the necessity of the regions to retain substantial portion is due to the fact that "Division of power is, indeed, the very essential condition of a federal government whose formation is based upon this principle alone"⁷. In his book Treaties and Federal Constitution, R.C. Ghosh wrote that "the essential characteristic of a Federal State is the distribution of governmental power between a Central and several Regional authorities more or less co-ordinate and independent of each other, by a written Constitution, Supreme over both"⁸.

The presence or absence of division of powers radically changes the nature of the Constitution. Constitutions may be classified also in terms of method by which the powers of government are divided between the government of the whole country and any local government" ... on this principle constitutions are classified as 'federal' or 'unitary'. Supremacy of the Constitution over all the legislatures of a country, and the rigidity of the Constitution are essential characteristics of a federal constitution and they follow necessarily from the idea of federalism"⁹.

The best approach to federalism is that which takes into account some concepts i.e. sovereignty, division of power, supremacy/rigidity of the Constitution. Ashok Chanda

7 B.M. Sharma, Federal Polity

8 R.C. Ghosh, Treaties and Federal Constitutions (The World Press P. Ltd., Calcutta, 1961), p. 19.

9

sees that "federalism have commonly resulted from an agreement between independent or atleast autonomous governments, surrendering a defined part of their sovereignty or autonomy to a new central government"¹⁰. Ivan Bernier after reviewing all the different approaches to federalism, found that federalism "... would appear to exist when the following features may be found in a political entity: (1) a division of powers between . Central and regional governments; (2) a certain degree of independence between Central and regional governments; (3) direct action on the people by the Central and regional governments; (4) some means of preserving the constitutional division of powers"¹¹.

By defining the meaning of exact federalism M. Diamond prescribes the yard-stick to which this division of power should go. To him "Federalism was from the beginning understood to be a political arrangement by means of which small countries, with profound reasons for remaining so, could nonetheless voluntarily as equals try to provide for certain minimum common needs"¹². And, therefore, from the very nature of federalism derived from the "end" which generates it, namely, the premium placed on preserving autonomy as against the serving the common needs,¹³

10 Ashok Chanda, Federalism in India (George Allen & Unwin, London, 1965), p. 20.

11 Bernier, n. 1, p. 5.

12 M. Diamond, "End of Federalism", Publius, vol. 3, no. 2, p. 135.

13 Ibid.

With the previous theoretical background and the end of federalism the modes of allocation delegate and residue powers command a very important place for the maintenance of division of powers in order to avail of more room for the premium on preserving the autonomy and thereby, the co-ordinate status of the levels of governments. Therefore, the best recommended method for allocating powers between the two levels of government in federalism is to follow the simple method which is a true translation of the "exact" meaning of federalism. That is the central government should be granted the delegated or enumerated powers as it is the case in the USA Constitution and Switzerland - and assign to the Regions the residue powers. This method is more logical to the dictates of forming a federation, because the "certain purposes" of federalism can be translated into certain powers.

But greed of the national leaders tries to amass more powers for the Central Government, and thereby, mix federalism with unitary features. The first perversion of the above method is letting the Central Government to share in the residue powers as in Canada. The second is to assign the residue power to the Central Government as in the case of the Indian Constitution.

The first federation to break the tradition of Centre delegated powers and regions' residue is the Canadian federation (confederation). Originally the Canadian constitution-makers intended to keep the residual powers wholly in the domain of the Central Government, but the judicial interpretation has left it to the Provinces (Regions), and since the centre

numerated powers were merely exemplary the judicial review allowed the centre a residue power pertaining to the numerated powers and thus innovated the "aspects"¹⁴ doctrine. This arrange-⁵ment made the Central Government in Canada with "double" residue powers. The two exclusive lists of competence, one for the Centre and the other for the Regions are not so conducive to the co-ordinate levels of government (articles 91 and 92 respectively).

The Indian Constitution-makers further have aggravated the above mentioned mode in distributing the powers and have added atleast one more innovation. The aggravation lies in assigning the entire residue powers to the centre. The other innovation lies in creating a concurrent list in which both Centre and Regions can legislate, with the provision that the central laws take precedence over the Regional laws where the latter shall be rendered null and void in case of inconsistency. The Indian Regional list contains almost 97 topics, but this bulky number does not ameliorate the end of federalism and the prime place for preservation of autonomy for Regions, if "exact" federalism is taken into consideration.

The Malaysian federation took the Indian Constitution as a model with one exception, that is the residue powers are rather shared between the levels of governments, somehow like the Canadians.¹⁶

14 Sawyer, n. 2, p. 167.

15 Ibid., p. 165.

16 Mohamed Suffian Hashim, An Introduction to the Constitution of Malaysia (Malaysia, 1972), p. 137.

The UAE Constitution has followed rather the simple and most recommended division of powers. Here, the Central Government has been given extensive numerated list and the residue powers were left for the individual Emirates.¹⁷ But anomalies, to this method do exist in the UAE Provisional Constitution. There are specific Regional Powers spotted here and there in the Provisional Constitution. There is also a transitory powers giving to the individual Emirates concurrent power in matters related to Article 121 of the Union List subject to the prevalence of Article 151 which gives prevalence to the Union Government laws, in the sense that the regional laws "shall be rendered null and void to the extent that removes¹⁸ the inconsistency".

But division of powers is not all the assurance to the premium of preserving autonomy, a dent might be delivered to it by the judicial Supreme Court and its judges, emergency proclamations prevalence of unitary literature and ambitious non-federal type leadership and the financial helplessness of some other regions.

If the co-ordinate and particularly independent status of levels of governments faced its difficult test by the new approaches to federalism and was saved in late 1960s when the originator of "Marble Cake" federalism analogy repented his advocacy, and resorted to "layer cake-cum-marble cake"

17 Provisional Constitution UAE, Articles 3, 116 and 122.

18 Ibid., Article 149.

19

federalism before his death. But for the division of powers, and the threat posed by judicial review it seems that similar miracle would not take place. The appointment of the supreme judges is done by Central Governments, and this trend will continue. Such appointments by the Central Governments is more often made of judges who would look favourably on interpretation of the division of powers which would increase the powers of the centre. ²⁰ And judges, as lawyers, always look favourably to their clients. They, too, ^{stay} in the federal capitals, and draw their salaries and prestige from the federal governments.

Also, in the Asian federations such as India and Malaysia emergency poses more threat to the division of powers. In Malaysia for instance the emergency powers beyond the reach of judicial review, and empowers the centre to legislate as if there were no division of powers -- the essence of federalism. The Indian emergency provision goes to the same extent of operating as if the Indian federal system is a unitary government.

The UAE Martial law depicts the same stance. Article 145 of UAE Provisional Constitution runs "under no circumstances, may any of the provision of this Constitution be suspended, except when Martial Law is in force..." This means that the division of powers is impaired under martial law.

19 M. Grodzins, The American System (Rand McNally & Co., Chicago, 1966), p. xii.

20 Wheare, n. 6, p. 59.

The division of powers in UAE does not possess usual safeguards found in other federal constitutions to render such division of powers with sacredness and permanency. The judicial review or interpretation of the Federal Supreme Court is rather funny in upholding the Central Government as superior to its constituent units. The Federal Supreme Council usually modifies, or even reverses powers originally in the competence of the individual emirates through resolutions or decrees. It is the sole initiator and the sole ratification agency (Art. 144/2/a8b). Some of these decrees amending the division of powers are pursued coercively. These are either preceded by a press media campaign or submitted to as an appeasement for Sheikh Zayed to accept the Presidency of the federation for another term.

Chapter VII

CENTRE - STATE RELATIONS

In a federation, certain powers must remain exclusively within the jurisdiction of union and certain other must be with the units. Art.120 of the constitution divides legislature and executive powers between the union and the Emirates. Thus it says that the union shall have exclusive jurisdiction in the following matters:

- "1. Foreign Affairs;
2. Defence and the Union Armed Forces;
3. Protection of the Union's security against internal or external threat;
4. Matters pertaining to security, order and rule in the permanent capital of the Union;
5. Matters relating to Union officials and Union judiciary;
6. Union finance and Union taxes, duties and fees;
7. Union Public loans;
8. Postal, telegraph, telephone and wireless services;
9. Construction, maintenance and improvement of Union roads which the Supreme Council has determined to be trunk roads. The organisation of traffic on such roads;
10. Air traffic control and the issue of licences to Aircrafts and pilots;
11. Education;
12. Public health and medical services;
13. Currency board and coinage;
14. Measures, standards and weights;

- 15. Electricity services;
- 16. Union nationality, passports, residence and immigration;
- 17. Union properties and all matters relating thereto;
- 18. Census affairs and statistics relevant to Union purposes;
- 19. Union Information.*

Further, Art. 121 puts the following matters in the exclusive jurisdiction of the Union: "Labour relations and social security; real estate and expropriation in the public interest; extradition of criminals; banks; insurance of all kinds; protection of agriculture and animal wealth; major legislations relating to penal law, civil and commercial transactions and company law; procedures before the civil and criminal courts; protection of cultural, technical and industrial property and copyright; printing and publishing; import of arms and ammunitions except for use by the armed forces or the security forces belonging to any Emirate; other aviation affairs which are not within the executive jurisdiction of the Union; delimitation of territorial waters and regulation of navigation of the high seas". In addition to the residuary powers, Emirates, which constitute the federating units "exercise sovereignty" over their territories and territorial waters, natural resources and in all matters which do not come under the jurisdiction of the centre [Art. 3 and 23]. The units have also been conceded through Art. 123 the power of concluding "limited agreements of a local and administrative nature with the neighbouring states or regions" provided such

agreements are not against the Union or contrary to the Union laws. Each member emirate may maintain its own flag for local display [Art. 6]. They also have the right to raise and maintain their own armed forces [Art. 142]. Further any one of them may "retain their membership" in the Organisation of Petroleum Exporting Countries (OPEC) and/or the Organisation of Arab Petroleum Exporting Countries (OAPEC) or they may join both or either of these two organisations any time [Art. 123]. It is obligatory on the part of emirates to inform the Supreme Council of the Union prior to the conclusion of such an agreement. In case the Supreme Council objects the agreement will remain under animated suspension pending decision by the Federal Supreme Court. Art. 124 also directs the Union government to consult the emirates prior to the conclusion of an international agreement or treaty that "might affect the status of any one of the Emirates". In case of a conflict the matter must be referred to the Union Supreme Court for ruling. The Constitution also prescribes that the emirate members will not only enforce laws enacted by the Centre but are also empowered to legislate on such matters provided they keep in mind the supremacy of federal laws and the constitution [Art. 149].

A critical examination of these provisions reveals that in spite of these wide range of powers at the disposal of emirates their position is tantamount to being administrative units of a unitary state. Ali Mohammed Khalifa aptly comments: "One way to read the document that brought seven gulf emirates together in 1971-72 is to conclude that despite

the wide spectrum of powers allotted the member states, the constitution in actuality considers them no more than mere administrative units charged with the execution of federal polity in their respective territories.¹

In this Chapter an attempt is made to look at certain deimplementation aspects of the provisional Constitution and its sabotage in actual working. This trend of de-implementation, is shown clearly by watering down the federal division of competence between the Central Government and the individual emirates, by the Supreme Council by-laws, the various Union Decrees relating the nuzeration of the Union Ministries functions, dissolution of Abu Dhabi emirate's ministries in the Union executive branch and the elevation to the Union level of Abu Dhabi's ministry of Petroleum and Minerals Resources. The implementation of a federal Constitution means that the division of competence in the Provisional Constitution is sacrosent and maintainable in theory and practice. The elements mentioned above as interpreted by Abu Dhabi Ruler who is the UAE President, coupled with the lack of any federal experience involving the working of the union, which had been so far conducted on the principle of "trial and error",²

1 All Mohammed Khalifa, The United Arab Emirates : Unity in Presentation (Westview Press, London, 1979), p. 42.

2

المصدر انتم ايدينا ص ٤٤
 جازني اجابته على سؤال "هل من الاتحاد خطأ ؟" للشيخ زايد قوله "هل من المعقول ان الدول تعمل
 ببركة تاتي به وتضمه في زراعه ليرزغ ... هل معقول لا يخرج في الزراعة لانه انما هو انما
 ثم اجاب "انم الاخطاء كثيره"

resulted in diluting the federal principle. This has made the member emirates, other than Abu Dhabi, apprehensive of the dissolution of their internal sovereignties, resulting in reducing them to mere administrative divisions that are expected to take directives, if not outright dictates from the Central Government, i.e. the ruler of Abu Dhabi.

The Supreme Council's by-laws³ delivered the first blow to the federal arrangement. By reading its various provisions it is apparent that the Supreme Council of the Rulers is no more the almighty executive and legislative body of UAE as depicted in the Provisional constitution. The by-laws of this body have deflated its importance and alienated it from its proper constitutional functions. Further by virtue of these by-laws the Supreme Council does not retain the position assigned to it by the Provisional Constitution. Art. 113 and 115 delegate powers assigned to the Supreme Council to the President of the Union and Council of Ministers collectively. While Art. 113 empowers the President and the Council of Ministers to promulgate decrees which will have the effect of law, when the Supreme Council is in session. Such a decree

Jamal Badawi, Consolidation of the Federation : Question of People and State (Ministry of Information & Tourism, U.A.E.), p.44

Translation:

In a reply to question on "whether the federation committed errors?" Sheikh Zayed said "Is it possible for a sailor who works as sea-farer, to be brought and placed in agriculture for cultivation ... not to commit errors in agriculture because he was a sea-farer." Then he added that "the errors are Plenty".

3 Collection of the Laws and Decrees of UAE, Ministry of State for Supreme Council Affairs, 1974), pp. 57-65.

must be placed before Supreme Council for approval within a week. Art. 115 delegates powers to the President and the Cabinet collectively to issue decrees when the Supreme Council is not in session.

Such delegation during the session and in-between sessions of the Supreme Council according to the Constitution alone is not possible had the constitutional provisions been followed in the spirit in which they were formulated. But the Supreme Council by-laws have drawn a big wedge in these constitutional articles. Provision No. 5 of the Supreme Council by-law limits the session of Supreme Council to 8 months in a year. This provision authorises the President to govern together with the Council of Ministers for about 4 months in a year. The other provision, No. 6 in the by-law provides for the Supreme Council meeting once every two months, that means four times a year. This provision is yet another wedge in the executive powers of Supreme Council, which has prepared the justification for delegation of powers to the President (together with the Council of Ministers) to assume the Supreme Council's executive and legislative powers beyond the stipulated four months. Through provisions 5 and 6 the Union President (Abu Dhabi) can evade Dubai's veto power. It should be remembered here that original veto power was conceded to Dubai to check the hegemonistic position of Abu Dhabi.

A third reduction in the stature of the Supreme Council is the extent of the veto power enjoyed by Abu Dhabi and Dubai. According to the provisions of the Supreme Council's by-laws,

the veto power almost covers all the matters enlisted under the Supreme Council's competence. The constitution limits the veto to the substantive matters which should mean no more than few matters. But the by-laws did the reverse. Provision 9 of the by-laws made the procedural matters limited. This provision limits the procedural matters to the issues in the Supreme Council agenda such as the date of holding its sessions, the venue of such sessions, priority of items in the agenda for discussion, mode of taking votes, taking a discussion to non-recording a resolution. It would not be out of place to mention here that the minutes of the Supreme Council records only resolutions.

The Supreme Council of the Union consisting of chief executives i.e. rulers in their own emirates represent the highest de-jure authority in the federal government. However in actual practice the powers of Supreme Council have been gradually taken over by the President of the Union i.e. the ruler of Abu Dhabi through various provisions of the by-laws, thus making him the de facto chief executive, over the other emirates. Art. 113 and Art. 116 of the provisional constitution of UAE empower the President to issue decrees "together with Council of Ministers" during sessions of Supreme Council and when "Supreme Council is out of session", but these must be placed before Supreme Council not later than a week from such decrees effective dates. Provision 14(c) directs the Minister of State (who are appointed and works under the President) to present these decrees to Supreme Council for its approval.

Further provision 14C,D,(2) of the by-laws have given powers to the Union President which have virtually eliminated even consultation with the various rulers of the emirates. This in practice means the violation of the mandatory constitutional provision which directs the Council of Ministers to have prior consultations with the concerned rulers of the emirates. Certain subjects which affect them [Art. 124]. Virtually it has empowered the President of UAE together with his Council of Ministers to rule through decrees and by proxy on behalf of the member emirates. It is urgency which directs the promulgation of decrees and hence it is not possible for the President to get in touch with other 6 members of the Supreme Council.

Enlisted below, are the Union Ministries and some of their functions which are actual and potential encroachments on the emirates' sphere of competence. They are as follows:

Union Ministry of Interior's Functions:

(1) All matters pertaining to nationality, passports, immigration and residence. (2) Security of the Union from external and internal threats. (3) Promotes co-ordination and co-operation of various emirates. (4) Supervision of expenditures incurred by the Union subsidies to the emirates' local police forces, with concurrence of the emirates concerned.

Union Ministry of Defence:

(1) Organization of all matters in connection with the military service, mobilization total and partial for the security of the

Union, in agreement with the member emirates, (2) Co-ordinates co-operation between the Union Defense Force and the individual emirates' Defence Forces in accordance to the article 142 of the Provisional Constitution to defend the Union against external aggression, (3) Other functions that might be assigned to the Ministry due to any other law.

Union Ministry of Finance & Industry:

Co-ordinates the economic development plans to insure the realization of the aspired growth in concurrence with the individual emirates.

Union Ministry of Education:

Education in UAE, at all levels falls within the competence of the Union Ministry. This gives the Ministry free hand to mould the childrens' mind at an early stage in the already prevailing unitary trends.

Union Ministry of Health:

The whole realm of the citizens' health falls within the functions of the Union Ministry of Health.

Union Ministry of Public Works:

Its function covers: (1) Supervision and execution of projects financed from the Union budget, in the various emirates, (2) Any other function undertaken by the Ministry in accordance to any other law.

Union Ministry of Transport, Post, Wireless & Telephones:

The functions that affect and in future might affect the emirates exclusive competence are: (1) co-ordination of

co-operation among the member emirates for the purposes of organising and improving land, sea and aviation transport.

(2) Other functions that might be undertaken by the Ministry in accordance to any other law.

Union Ministry of Labour & Social Affairs:

The actual and potential functions that have a bearing on the imbalance of the division of competence between the two levels of governments are: (1) Introduction of the Union bills related to the following matters:

(a) Labour, (b) Social services and family welfare, (c) co-operatives and savings. (2) Assisting the member emirates financially and technically to implement the above mentioned matters. (3) Supervising the expenditure of federal financial assistance in social welfare according to urgency in some of the emirates. (4) Any other functions accorded to the Ministry by virtue of further laws.

Union Ministry of Informations:

(1) Co-ordination of the information policy among the member emirates to accord to the Union's general policy. (2) Catering for the closer co-operation among the member emirates to promote tourism. (3) Any other functions allocated to the Ministry due to further laws.

Union Ministry of Planning:

Its functions facilitate direct federalism. Here are some of them: (1) Planning, supervising and executing federal financed projects. (2) Other functions undertaken by the Ministry in accordance to the other laws.

Union Ministry of Agriculture & Fisheries:

(1) Setting up the general policy for the preservation and promotion of agriculture, animals, and fisheries, with the agreement of the member emirates concerned. (2) Proposing the necessary laws for the developments of such resources.

Union Ministry of Youth & Sports:

(1) Establishment of clubs, societies and associations for sports, social and cultural activities, its premises and encouraging the youth enrollment in such activities. (2) The support of youth activities in the member emirates in extending to them financial assistance. (3) Taking part in the Arab and international conferences and tournaments. (4) Any further assignment assigned to the Ministry by laws or by-laws.

Union Ministry of Housing:

(1) Distribution of houses constructed by the Union authority on the entitled citizens, in co-operation with emirates' local authorities concerned. (2) Offering technical consultation to the emirates' local housing authorities in planning and executing the such local authorities housing schemes. (3) Other functions given to the Ministry by virtue of law, or regulation.

Union Ministry of Electricity:

(1) Administering, operation, and maintenance of power houses electricity supply, and its main net-work which are agreed upon to be financed by the Union Budget.

Provision 23 of the same Union Decree under review makes it mandatory on the Union Ministers to consult the local emirates authorities concerned when the Union Ministers in executing their functions directly touch upon the Emirates. The same provision makes it a must on the Union Ministries, when introducing their drafted laws to take the opinion of concerned local authorities in the concerned emirate, but it is rarely done.

In 1972, by the Union Decree No. 46,⁴ the functions of the Union Ministry of Information were further extended to subordinate the individual emirates' Radio and T.V. Departments to be under the guidance and responsibility of the Union Ministry of Information. This was accomplished through the establishment of a General Directorate for Information with responsibilities of directing, planning and supervision of the Union's information affairs in the various emirates' Radio and Television Stations.

Provision (1) of this Decree establishes the Directorate for guidance, planning and supervision of the Union information affairs in the T.V. and Radio stations in UAE. Provision (5) confers on the Union Ministry of Information the sole responsibility of preparing and reviewing of political commentaries and news which deal with the Union's policy internally and externally and the Ministry shall arrange to supply the emirates' local T.V. and Radio stations with such items of news. Provision (6) of this Decree puts the Directors of the

4 Ibid., pp. 167-8.

local emirates broadcasting stations responsible to the Union Minister of Information in broadcasting the above mentioned matters. By this Union Decree the Emirates media of information have to be only recipients to whatever the Union Ministry wants to feed the people through the local stations. This decree has curtailed the powers of emirate members to interpret the developments at the Centre. By Decree (4) 1975,⁵ Provision (2), the Union Ministry of Information has been given complete control over the media in UAE. The Centre-State relations are not therefore a dialogue but a centre monologue.

The Union Government (dominated by Abu Dhabi) realized in 1974 that the functions conferred on the Union Ministries by Decree No. 1, 1972 are not enough. And in 1974 the emirates were once more confronted with further encroachment on their powers. The Union Decree No. 1, 1974, and amendment to the previous Union Decree No. 1, 1972,⁶ splitted the Ministry of Finance, Economy & Industry into two different ministries: One for Finance & Industry and the other the Ministry of Economy & Commerce. This was done by virtue of Provision (5) of the revising Union Decree 1974. Provision (3) of this Decree created a new Ministry of Islamic Affairs & Awqaf. This Decree also elevated Abu Dhabi's Ministry of Petroleum & Mineral Resources to the Union level with Union functions

⁵ Collection of the Laws and Decrees of UAE (Ministry of State for Supreme Council Affairs, 1975), p. 39.

⁶ Ibid., pp. 81-84.

(Provision 4). This provision in fact has become not an amendment to the Union Decree No. 1, 1972 but indeed an amendment to the Provisional Constitution Art. 23, which puts the Petroleum and Mineral resources in the competence of the individual emirates. Decree No. 1, 1974, through its provision (4) makes the elevated Abu Dhabi's Petroleum Ministry as co-ordinating agency of Petroleum Policy in UAE with the emirates' Petroleum Departments, and to represent the Union in international petroleum forums, and any other functions according to other laws.

The catastrophe to division of powers in the Provisional Constitution came in 1975 by the Union Resolution issued on 12 May 1975. This Decree represents the mammoth federal octopus holding major portion of the federal bargain in its firm grip. The comment of the UAE Constitutional Adviser to the Union Legislative Assembly about this Resolution is worth mentioning. He said that "the Supreme Council of UAE has issued in its meeting of 12/5/75 a resolution that contains some unitary measures, which will result in expanding the competence of the Union"⁷. These measures he cited are the following:

First: Preliminary acceptance of merging the individual Emirates' Armed Forces in the Union Armed Forces, with the sole ownership of arms in the three services to import weapons, complete supervision of the Union on importation and entry of

7 Al-Sayyid Mohamed Ibrahim, Basis of UAE Political and Constitutional Structure (Documentation and Studies Centre, Abu Dhabi, 1975), p. 66.

such into the Union.

Second: Acceptance to enable the Union Ministry of Interior of complete supervision of immigration residence and security apparatuses in the country and uniformity of all the individual emirates police forces in matters of laws, regulations, uniforms^{pay}/scales, and symbol.

Third: Handing over to the Union authorities the competence specified in the constitution especially those pertaining to foreign affairs in that communication with foreign countries should be channelled through the Union Ministry of Foreign Affairs. Also, the co-ordination of Petroleum Policy between the individual emirates Petroleum Departments and the Union Ministry of Petroleum and Mineral Resources, and notification of the letter of all concessions granted to foreign commissionaires.

In order to legitimize such expansion of the Union functions, the Constitutional Advisor, in his book Basis of the Political and Constitutional Structure of UAE, ^{speaking} ~~concerning~~ the non-unitary politics commented that the best federal arrangement is that in which each unit grants the federal government the whole of its external sovereignty and a part of its internal sovereignty. Such he said is called central federalism - the "climax" of federalism and its "top grade" and that such arrangement is "superseded" only by "complete unity". The Constitutional Advisor by comparing two exclusive categories of political systems (of course an illogical way of persuasion) is trying to impart on the Legislative Assembly's members that federalism is a second grade polity. The next

move is towards more and more powers to be transferred to the Union Government, probably until the whole internal sovereignty of the member emirates is surrendered and thereby the UAE could rid itself of this so called "second grade" political system as the Constitutional Adviser would like to achieve. The following chapter will touch upon Sheikh Zayed commission of errors on running the federation exemplified by by-passing the Supreme Council or the Cabinet whenever things appear to be in the interest of Abu Dhabi alone. As Sheikh Zayed once said "the Truth, as we know, is that people talk (or act) according to the interest they seek."⁸

⁸ Claud Morris, The Desert Falcon: The Story of H.H. Sheikh Zayed Bin Sultan Al Nahayan (Outline Series of Books, 1977), p. 63.

Chapter VIII

IMPLEMENTATION OF THE FEDERAL PROVISIONAL CONSTITUTION (1971 - 1979)

"A fear of national Power is a theme running the entire course of our country" and that "this fear cannot be dismissed as unreasonable", wrote R.A. Goldman. The insurance against such a fear lies, he said, "in the essence of states sovereignty" which "consists in the proposition that it is the right of the states to perform the role of arbiter or judge"².

In the UAE, the Centre-State relations is plagued with this fear of piecemeal disintegration and the withering away of the federal arrangements, to be replaced by the hegemony of the most powerful Sheikdom i.e. Abu Dhabi. This fear, in any federation, appears in the beginning when a federation at its inception has one and only one major region which feels that it is in its interest that the federal government should encompass and amass more powers, than a federal arrangement could warrant. When the federal polity is blessed with the existence of two major rival units, then the inceptent federal arrangement could survive instant annihilation. But this prolongation of the federal arrangement is contingent on the existence of a tie between the two rivals and contending units. Lesser units in such a situation could manipulate the contending

1 R.A. Goldman, A Nation of States (Rand McNally & Co., Chicago, 1964), p. 120.

2 Ibid., p. 120.

units by allying themselves with the two rivals, in a manner as to strike a balance between them and thereby manage to sustain the inchoate federation from failure. Such groupings might discourage the two major rivals and settle for a federation rather than hegemony.

Indeed the situation of the UAE federation falls in the second phase of this model. When will Abu Dhabi discard its unitary drive and settle for a real federation is not known. The whole history of UAE region carries the two themes of these two phases. It was a drive to dominate in the 19th century under the leadership of al-Qawasim and then its fragmentation by the help of British domination of the area and now again to hegemony under Abu Dhabi's leadership.

In such a model, usually, the weaker section of the group represents the federalist, while the relatively stronger camp represents the hegemonistic faction. Here, Dubai represents the federalist camp and Abu Dhabi represents the nationalist, consolidated state.

Sheikh Zayed is no doubt ambitious and his ambition is not taking into account the history of the area. Many expatriate experts also agree with him without taking into consideration the historical ethos of the country that the area would tolerate only a "nation of states".

Goldman in the preface of his book says "Our federal system is thus a kind of School for Statesmen, to do their work must seek and study, again and again, the

3 "Pressure for Change", Hindu, 4 April 1979.

understanding principles of our form of government"⁴. The preface continues "... our federal system can be defended and preserved only ^{by} those who understand it, knowledge is indispensable to its survival"⁵. It is realised by almost all Sheikhdoms that federation is the answer to all the problems rather a unitary state as Abu Dhabi would like it to be. Any other design than a working federalism is likely to be a failure.

This drive of hegemony as pursued by Abu Dhabi has been facilitated by two factors: the absence of a formidable external enemy and Abu Dhabi's domestic compulsions. The latter dominated the whole drive for the federation under the leadership of Abu Dhabi. The objectives of the Abu Dhabi's domestic compulsions are political, aiming at the dissolution of this emirate's local ministerial portfolios to liquidate local rivalry. And this dissolution following a Machavellian principle, necessitated the dissolution of the other emirates local administration and merging them in the union level. This was ^{initiated} done by Abu Dhabi. The other emirates hesitate to follow suit because their domestic compulsions are different. But in spite of this fact Abu Dhabi is urging the other emirates to do so under the name of "the consolidation of the federation" which is now a cause of bitter criticism and grievances. To foster his drive, Shaikh Zayed followed coercive measures towards all the other emirates and by transgressing the constitutional provisions.

4 Goldman, n. 1, Preface.

5 Ibid.

Hypothetically speaking, UAE's federation would have acquired a certain internal equilibrium, had Bahrain been admitted to offer a counterbalance to the preponderance by Abu Dhabi. Such a proposal was possible, had UAE taken advantage of an external danger to, prepare ground for inclusion of Bahrain. The UAE federation faced such dangers twice but both the times it failed to avail of the opportunity to relegate the hegemonistic design of Abu Dhabi. The first opportunity came when the wider federal scheme with the Lower Gulf States was under negotiation and the federating units of UAE showed reluctance to accept Bahrain as a new member of the federation. Their disinclination to have Bahrain was obvious due to Iranian claim over it. Iran was against any federal scheme which included Bahrain. The acceptance of Bahrain as a member of UAE federation against the wishes of Iran would ^{have} be strengthened the federation. Bahrain would have been helpful in checking the prepondering position of Abu Dhabi.

The other case was the reluctance of the federation to stand against Iran when it took over the two Tumb islands and part of Abu Mosa island, off-the Trucial Coast. Iran used force to occupy the Tumb islands, Abu Mosa was annexed by show of strength. The three islands belong to Al-Qausasim dynasties of Ras-al-Khaymah and Sharjah respectively. Iran occupied these islands just two days before the promulgation of the federation, but at that time the federation was within its negotiation stages. With this lapse the UAE federation missed its necessary neutralizing

factor to reduce the emirates' internal antagonism and fear of absorption.

Hypocrisy or double standard or what Shaikh Zayed calls the lack of "the great quality in life" has vitiated the raison d'etre of the federation. Shaikh Zayed advocated two concepts, first "federation" and second "consolidation of federation". Both the concepts, however, he advocated to promote his self interest. He used the two concepts to consolidate his powers and to monopolize and concentrate in himself and his sons first the rulership of Abu Dhabi, and then the rulership of the UAE.

By the concept of "federation" he means liquidation of his political rival cousins of Beni Khalifah, a faction of Shaikh Zayed's ruling family, Al-Nahiyahs. That's behind the prime motivating factor for Zayed desire for a dwarfed federation with any Member of the Sheikhdoms lies his domestic compulsion i.e. elimination of Beni Khalifah. Behind the concept of "consolidation of the federation" lies Zayed's design of hegemony of Abu Dhabi or the creation of "Greater Abu Dhabi" to put it in Prof. Anthony's terminology. In the Desert Falcon, a biography of Sheikh Zayed, the Sheikh observes: "It is rare indeed that a person says what is right. It is even more remarkable if he then goes on to apply what he considers right. This is, as I see it, the great quality in life".⁶ This statement, or confession, is one which Sheikh

Zayed would not like to make public. It is surely a reflection of what is going on in his mind. It is a reflection of a troubled and a guilty mind, which rarely says what is right, and seldom practices what he says.

Thus Shaikh Zayed's design for a "Federation" is not a natural one. Domestic compulsions prevailing in Abu Dhabi have overshadowed the usual, raison d'etre applicable for any federation. One of Shaikh Zayed's design in creating a federation is to alienate the contenders who are more numerous than his progeny, namely the faction of Al-Wahiyah.

Under the unitary form of government he will have little room to accommodate Bani Khalifah to the same prestigious positions. But any federation provides ample opportunities to place Bani Khalifah's faction to important positions. Such a federation will enable Shaikh Zayed to dissolve Abu Dhabi's ministerial cabinet and merge it in the Union set-up. This is the miracle behind the Shaikh Zayed concept of "federation". And for Shaikh Zayed any type of a federation will do the job. To him, therefore, a federation, even with one Sheikhdom will be sufficient. But during 1963/1969 in face of the intensity of the Iranian drive to fill the vacuum created by the intended British withdrawal, it was objective necessity and was realised by patriotic elements that all the 9 Lower Gulf Sheikhdoms get in a federal scheme. But Shaikh Zayed was not very favourable to the idea that all the 9 Sheikhdoms should come together to form the federation. He candidly stated that "No one can persuade us that there is some magic number of Emirates

that placed together make a union ... my own view has been that even if two Emirates make a Federation that would be good.⁷

The present federation has not done that "good" which was intended by Shaikh Zayed. The larger number of the emirates has even made it too good for him, as now there is too little room to accommodate the Bani Khalifah faction in power.

Prof. Anthony wrote about the contention over Abu Dhabi rulership and Shaikh Zayed's apprehension of such contention that "... the descendants of Shaikh Khalifah through his son Mohammad have remained potential claimants to the rulership ... through six sons of his (Mohammad) sons: Hamdan, Muburak, Tahnum, Sayf, Khalifah and Surur ... particularly Hamdan, whose political ambitions were quite evident during the reign of Shaikh Shakut (1923-1966) [Shaikh Zayed's brother] ... collectively," the six brothers cut a wide swath through the Abu Dhabi administrative structure. During 1971-72, for example, they held the following portfolios in the local government: Public Works, Public Health, Education, Electricity and Hydroelectric Power, Public Security, Agriculture and Municipalities ... the Vice-Premiership and Mayorship of the two most important political and administrative centres in the Emirate - Abu Dhabi town and Al-Ayn.⁸ About Sheikh Zayed's apprehension he wrote "Shaikh Zayed is well aware that a member of his line may someday contest his own right or that of his own son to the rulership and he has sought to minimize this threat".⁹ The Bani Khalifah was also apprehensive of

⁷ Claud Morris, The Desert Falcon: The Story of H.H. Shaikh Zayed Bin Sultan Al Nahiyah (Outline Series of Books, 1977), pp. 79-80.

⁸ J.D. Anthony, Arab States of the Lower Gulf (The Middle East Institute, Washington, 1975), p. 130.

⁹ Ibid.

Sheikh Zayed's design of a federation and the conspiracy behind it and hence was not in favour of a federal scheme. But Sheikh Zayed has to persuade them. So Prof. Anthony continues: "during 1968-1971 he (Sheikh Zayed) spent much time winning the support of Bani Khalifah for the federal idea..."¹⁰ And with the dissolution of Abu Dhabi's ministerial cabinet in 1973 and merging it with UAE cabinet - Sheikh Zayed got the excuse for the "impossibility to place all the six brothers in the UAE cabinet, following dissolution of the Emirate's Council of Ministers..."¹¹

While by using the concept of "federation" Sheikh Zayed pulled the political carpet from under the feet of Bani Khalifah, by employing the second concept of "consolidation of the federation", he pursued further his design but on a grander scale. For this grand purpose Sheikh Zayed has mobilised the huge oil wealth and recruited many legal and constitutional experts expatriate/trained in unitary system of government to fulfil his mission of concentrating powers in himself. The Union Ministry of Information with its mass media facilitated the spread of the unitary drive. This made the other emirates apprehensive of losing their identity. This fear is also considered real in academic circles.

The outspoken opponent of all the other Rulers to the unitary measures is Sheikh Rashid Ali-Muktan of Dubai, and Vice-President of the Union. He voiced his complaints and

10 Ibid.

11 Ibid.

grievances to the Lebanese Magazine Al-Hawadess of 22 June 1978. His son, Sheikh Mohammed, Union Minister of Union Defence, and Sheikh Rashid's advisor, Mr. Mahid Al-Tajer^e, the UAE Ambassador to U.K. also participated. Sheikh Rashid said that no official from Dubai can go abroad without the knowledge of the Union Ministry of Foreign Affairs. Even he cannot do so unless his trip abroad is arranged by the same ministry and accompanied by the Minister of State for Foreign Affairs. He said that he knew his limits and honoured his obligations. And that he had handed over to the Union authorities foreign affairs, immigration, airports, passports and "everything" and that he agreed to the unification of the armed forces, but he wondered "...what was the result?" Mr. Mahid Al-Tajer, said that they had supported without any reservation the subjection of airports to the Union authorities. They anticipated that the Union level alone will handle the airports. But it has resulted in duality in the administration. Now a Union official grants visa and another official representing the emirate checks the passports. Dubai's citizens, he said, are critical of such arrangements and think that this gives them the impression that the Union authorities suspect the emirate or impose on them "supervision". Mr. Mahid said that every emirate would like to see its sons in the airports who know their emirates' folks and cordially treat them. He suggested that it is possible for the Union to legislate and the emirate execute such legislation with accountability. It has also been tested ^{ified} by Al-Hawadess that the Union officials in Dubai's airport are expatriates and none of them is UAE national.

Sheikh Rashid said that he had no objection to the unification of the Armed Forces, but he does have reservation on the "operative style and the aim of the army". He reiterated that they cannot face a foreign enemy, and that fortunately all neighbouring countries are friendly and do not entertain invading the Union. Sheikh Rashid's son, Sheikh Mohammed, Union Minister of Defence, elaborating on his father's objection to the operation style said that they had advanced several steps in the way of the unification of the Armed Forces, and that co-ordination increased day by day between his Ministry and the Military General Headquarter. In 1978, marked as the year of unification of the Armed Forces, Dubai abstained from issuing orders to the regional regiments under its command. But he said that he noticed "deliberate ignorance" of his ministry by the Centre and that the appointments of senior officers in the Military General Headquarter had been carried out without his knowledge. He also mentioned that they had all taken a decision to stop arms purchase for the individual emirates regiments and direct their efforts for building the federal army. All regions complied to such a decision, he said, with the exception of the western region (Abu Dhabi) which has bought weapons (tanks, planes, and rockets).

Sheikh Rashid said that there is no dispute between Dubai and Abu Dhabi, but there are differences between them on "federal conduct and federal observance".¹²

A strong Abu Dhabi's army was a source of comments from neighbouring countries such as Saudi Arabia and Iran. The Saudis pointed to Sheikh Zayed that his army is bigger than Saudi Arabian army while the Shah of Iran warned them of possible coups and instability. The Shah warned that "armies originate coups and endanger stability in the country"¹³.

The Rulers agreed that Abu Dhabi should reduce its army to sixteen thousands and get rid of the expatriates in its army, and compensate for this by raising the army's capability. But in spite of this Abu Dhabi raised its regiment to twenty-seven thousands.

Mr. Mahdi pointed out that, naturally if the trust among the federal partners declines and suspicion increases then the individual emirates feel apprehensive of the military strength of any one emirate. He added, that this explains the concern of various emirates about the important appointments in the regiments and its General Headquarter. This shocked the confidence in Sheikh Zayed. Anyhow Sheikh Zayed's illegal appointment of his second son Sheikh Sultan as Commander in Chief of Union Army and Dubai adamant rejection of such an unconstitutional appointment exposed and checked Sheikh Zayed's further drive to acquire more powers at the cost of other Rulers.

Sheikh Zayed with two years of ^QQuranic education coupled with knowledge of agriculture, runs the Union without paying attention to the federal constitution. Article 145 says that in normal times "under no circumstances, may any of the

provisions of the 'Constitution be suspended". But it seems that Sheikh Zayed has ignored this provision and suspended many provisions of the Constitution. Article 7 of the Constitution makes the Islamic Shariah "main" source of jurisdiction. But he speaks of the Islamic Shariah as "the main"¹⁴ source of jurisdiction for the Union. Article 9 makes it mandatory that the federal capital be completed in not more than seven years from the commencement of this constitution". And now the Union is running in its 8th year and Abu Dhabi town is still the provisional capital. Article 79 provides that members of the Union Legislative Assembly should be "permanent residents of the emirates they represent". But Sheikh Zayed acted contrary to it. He appointed Ahmad Al-Jabir an ex-M.P. for Umm al-Qaywayn to represent Abu Dhabi in the Union Legislative Assembly. And last but not least article 114 which maintains that no decree may be issued without the Council of Ministers has conferred it and the Supreme Council has ratified the same. Sheikh Zayed, as it has been pointed out earlier, appointed his son Sheikh Sultan as Commander in Chief without such consultation with Cabinet or ratification by the Supreme Council.

Sawt al-Khaleej (Voice of the Gulf) dated 17 July 1978, in response to Al-Hawadess article reviewed earlier, carried an interview with Hamad Abushihab, the Deputy Speaker of the Union Legislative Assembly in which he traced the differences between Abu Dhabi and Dubai. He said that it was due to the appointment

14 Essays (Ministry of Information and Culture, UAE, 1975), p. 51.

of Sheikh Sultan and the objection of Dubai to it. He explained that all the key positions in the Union Army (after unification) are in the hands of Abu Dhabi. He mentioned that Sheikh Zayed is the Supreme Commander of the Armed Forces, his elder son, Sheikh Khalifah, is the Deputy Supreme Commander, and his second son, Sheikh Sultan, is the Commander in Chief. He added that the latter's appointment "was without the consent of the Supreme Council and the Cabinet of Ministers". In the same interview, the Deputy Speaker to the Union Legislative Assembly, Hamad Abushihab condemned the Union Ministry of Information in precipitating a poisonous centre - state relationship, and maintained that the said Ministry tried to stamp every step toward unification pursued by Sheikh Zayed as a "defeat" for the other emirates' Sheikhs and a "victory" for Sheikh Zayed. In collaborating with the Ministry of Information, the Deputy Speaker said the Sheikh Zayed's aides "never leave a chance to criticize the other emirates' Rulers, demanding from them to hand over their local administration to the federal establishments". This is contrary to the Oath Sheikh Zayed had taken to "respect the Constitution"

[Article 52].

Chapter IX

CONCLUSIONS

In 1939 while delivering a lecture on American Presidency Prof. Harold J. Laski suggested that federation is an appropriate governmental technique for an expanding capitalism. No doubt it was said in a different context but it throws light on a very important aspect, so far ignored by political scientists. It is also instructive to recapitulate that the Imperial Federation of Prussia under the Iron Chancellor, Otto Von Bismark, revealed the capacity of the federal arrangement in maintaining an 'internal imperialism' in which the hegemony of Prussia was legitimized. German Imperial Federation was once defined as an association "of a lion, half-a-doze foxes and a score of mices". Hence one might hypothesize that there is a thin gap dividing imperialism (empire-building) from federalism (nation-building) in a situation of unequal development of the federating units. While imperialism depends on involuntary and coercive measures to bring states under one hegemonistic government, Federalism on the other hand, depends on persuasion and 'voluntary association' to reconcile the expanding power of a central government and the autonomy of regional or provincial units of the federation. Sometimes federal arrangements are distorted resulting either in fragmentation of a unified federal personality by over-emphasis on previously projecting the centralized characteristics of consolidation into one level government. This distortion or vulgarisation of the normative federal concept, made some authorities on Federalism conceive of a high correlation between "Federalism" and its "Failure",

Abu Dhabi, the richest and the strongest unit of UAE federation is consciously making all efforts to dominate the other constituent units of the federation. Prior to the formation of UAE federation in 1972 Abu Dhabi tried to dominate the Trucial Coast emirates without success under the leadership of Sheikh Zayed, the great-grand father of the present President of UAE or the Al-Qawasim emirates (Sharjah and particularly Ra al-Rhymah). Abu Dhabi envisages the federation as a convenient mechanism to revive the old days design hegemony over the area. The historical precedent of domination whether genuine as in the case of Al-Qawasim or nearly genuine as in the case of Abu-Dhabi, is fast distorting the federal principles as it is currently witnessed in the present federational arrangement of the UAE.

The Federation of UAE, if it has to remain a viable federation and not degenerate into a clandestine form of empire-building it might be better if its Presidency is given to an emirate which has never been an aspirant for domination. Ever since the formation of federation Dubai in fact had been playing the role of a "balancer" between the two contending hegemonistic drives of Abu Dhabi and Al-Qawasim. Hence it is the natural choice to be an unopposed candidate for Presidency to play the stabilizing role in the UAE federation.

The fear of dissolution of local governments and their merger with federal government (which is controlled by Abu Dhabi) during peace time has alarmed the disgruntled emirates. There is a need to arrest this trend for the healthy functioning of the federation. It can be done at two levels. First local

administration should be treated differently and separately from central administration and a minister of local affairs should be added in the Union Council of Ministers. The local governments at the emirates level should have autonomous political systems -- with a legislature, executive and judiciary different from their counterparts at the Centre.

The initiative in this regard should come from the weaker emirates. Such move will not only benefit them but will also help ^{in the} maintenance of federalism in two ways. First, Abu Dhabi will be compelled to reverse its earlier initiation of dissolution or elevation of its local governments. This reversal or resort of Abu Dhabi to a full fledged local government will once again bring the Bani Khalifah (Al Nahiyah) to power, and thereby weaken the design of present leadership of Abu Dhabi namely hegemonistic drive pursued now by Sheikh Zayed. In such a situation, the two contending factions of the ruling family of Al Nahiyah will neutralize each other in favour of a workable federation. Sheikh Zayed's faction, as it is well known, is in favour of consolidation of federation. The Bani Khalifah is not in favour of the present federal arrangement and the two factions would remain satisfied with a federal plan somewhere in between these two opposing positions, which are now pursued by the two factions of the ruling family. The result of such a compromise will put a stop to the hegemonistic unitary drive pursued by Sheikh Zayed, and as a consequence this will fortify a healthy federal principle.

Secondly the provision for differentiated functions in the individual emirates will have another benefit conducive to

a viable federation. By filling the bureaucratic vacuum at the emirates' level, little room will be available for the federal octopus to expand and thus remain confined to its demarcated federal competence only. With efficient bureaucracy at the local levels the emirates will get rid of such uncalled-for federal assistance, technical and otherwise. This will help an emirate to execute not only the projects financed by itself, but also those financed through the federal budget. Any pressure by the Union government on the emirates to hand over their local administration will be opposed not only by the individual rulers themselves, but also by the incumbent local administration (sons of the soil).

The legal, constitutional and judicial experts, at the centre should not be allowed to put their weight in tilting the scales of federalism in favour of the Central Government, which in effect means increase in the role of Abu Dhabi. As long as they stay in Abu Dhabi town and draw their remuneration from the heavily subsidized budget by Abu Dhabi Emirate's oil revenues, it is not difficult to assume that they would be biased toward Abu Dhabi's interests.

For the successful working of the UAE federation, and its reasonable insulation from the domination of Abu Dhabi, it might be a good idea to build a separate capital city to house the federal government and thereby promote the location of what might be called an impartial capital, capable of playing the role of an arbiter in situation of tensions and conflicts. In the interest of smooth functioning of the federation such a capital must not be housed in the territory of any of the dominant partners.

The Supreme Council by-laws and the various decrees and resolutions enacted by this body are unitary in nature and have radically modified the division of powers in favour of the Centre. In fact, such enactments have transformed it into a mini-unitary constitution.

The 'open-ended' functions of the federal ministers and the frequent additions of functions to the ministries have made a massive encroachment in the competence of the individual emirates.

There are many opportunities for the citizens of the UAE to participate at the federal level. At present the federal level is staffed by a large proportion of personnel drawn from foreign countries. The replacement of such foreign personnel by the nationals of UAE with their local and national loyalties will help to tip the scales toward a genuine federalism.

The provisional constitution was initially to run for five years. However the deep-rooted tribal consciousness and heritage militates against the flowering of a modern federal arrangement. Federalism is the most intricate political system and a new constitution is premature for UAE. It might be added that any call for a permanent constitution under the ^{prevailing} circumstances is a call to incorporate and indeed legitimize the unitary trends set by the various decrees and resolutions of the Central Government. But a little weeding of the non-federal provisions in the provisional constitution is more advisable at present.

The weeding of ^{the} renovation of the provisional constitution demands removal of its autocratic preamble and explicit

cognizance of the role of the people. It has to start with "we the people" rather than "we the Rulers..." and should contain democratic purposes that are supposed to be inherent in the articles of the constitution. Article 9 has to be taken seriously and the federal capital has to be built afresh as directed by this article of the provisional constitution. The new capital is as necessary for a federation as its constitution. The new federal capital will then symbolise and be the repository of the ideals of a federation.

The provisional constitution paid little attention to the division of powers between the emirates (units) and the federal Governments (Centre). As a matter of fact these should have been more explicit and enumerated. Schedules or lists encompassing such powers are advisable. In all the classic federations as well as in Indian and Malaysian federations one can count the various powers given to each level. The UAE provisional constitution was drawn in haste and is ambiguous in this respect. In fact such enumeration of powers was left outside the constitution to be dealt with under the various decrees. The decree No. 1, 1972, and its amendments specify the functions of the various Federal ministries. Such decrees evade the usual mandatory rigidity for its amendment and expansion. The veto power awarded to Abu Dhabi and Dubai is contrary to federal principles and introduces polarisation of the various constitution units.

Democracy and its institutions are a must for a successful federalism. The principle of election based on adult franchise is far more better than the existing non-democratic system. Even for the Cheikhs themselves the

democratic representation will work as a buffer between the various rival rulers. In case of tension, which is always inevitable in a federation, will not be among the rulers themselves i.e. Sheikh Zayed V, Sheikh Rashid for instance, ^{but} and will be among the representatives of the people. This will reduce the political temperature among the ruling Sheikhs who will act then as a cooling device for such tensions instead of being burnt by it.

The federal assembly should be bi-cameral. The upper house must have equal emirate representatives like the U.S. Senate and the other house should consist of elected representatives, on the basis of the population of each emirate. The Federal legislative Assembly (both houses) should initiate all bills and not merely function as debating body. The federal executive branch should limit itself to the implementation of laws and policies emanating from the legislature. The Supreme Council under the provisional constitution has too much executive and legislative powers. The best function for it is to reduce its hegemony in these spheres and limit its powers. It should lean toward juridical functions, rather than executive or legislative.

The Presidency of the UAE also should not be a birth right for Sheikh Zayed just because his emirate is profoundly rich in oil resources. Oil is not a permanent asset, it is a depletable source of income, and in the long-run, a potential emirate is far more better than an actual oil province emirate. Therefore, the Presidency should rotate among the various rulers. It is only then that the various rulers will

have the feeling of involvement rather than alienation from the federal arrangement. Other than this the rulers should have more and more contact with the central government. Their present arrangement of get together is not enough to mould them organically in the federation.

Other than the above organs, there should be permanent boards, commissions, and committees, incumbents of which should come from residents of various emirates. New functions need not be given to the ministries but should be placed on concurrent basis and dealt with by such commissions, etc. This is an ideal device especially when the smaller emirates are apprehensive of the dominating drive pursued by the Central Government, which indeed is concentric with Abu Dhabi government.

APPENDIX I

THE PROVISIONAL CONSTITUTION OF THE UNITED ARAB EMIRATES

We, the Rulers of the Emirates of Abu Dhabi, Dubai,
1
Sharjah, Ajman, Umm al Qawain and Fujairah;

Whereas it is our desire and the desire of the people of our Emirates to establish a Union between these Emirates, to promote a better life, more enduring stability and a higher international status for the Emirates and their people;

Desiring to create closer links between the Arab Emirates in the form of an independent, sovereign, federal state, capable of protecting its existence and the existence of its members, in co-operation with the sister Arab states and with all other friendly states which are members of the United Nations Organisation and of the family of nations in general, on a basis of mutual respect and reciprocal interests and benefits;

Desiring also to lay the foundation for federal rules in the coming years on a sound basis, corresponding to the realities and the capacities of the Emirates at the present time, enabling the Union, so far as possible freely to achieve its goals, sustaining the identity of its members providing that this is not inconsistent with those goals and preparing the people of the Union at the same time for a dignified and free constitutional life, and progressing by steps towards a comprehensive, representative, democratic regime in an Islamic and Arab society

1 Ras El Khaima joined the Union on 10 February 1972.

free from fear and anxiety;

And whereas the realisation of the foregoing was our dearest desire, towards which we have bent our strongest resolution, being desirous of advancing our country and our people to the status of qualifying them to take appropriate place among civilised states and nations;

For all these reasons and until the preparation of the permanent Constitution for the Union may be completed, we proclaim before the Supreme and Omnipotent Creator, and before all the peoples, our agreement to this provisional Constitution, to which our signatures were appended, which shall be implemented during the transitional period indicated in it;

May Allah, our Protector and Defender, grant us success.

PART ONE

THE UNION, ITS FUNDAMENTAL CONSTITUENTS AND AIMS

Article 1

The United Arab Emirates is an independent, sovereign, federal state and is referred to hereafter in this Constitution as the Union. The Union shall consist of the following Emirates:-

Abu Dhabi - Dubai - Sharjah - Ajman - Umm Al Qawain -
¹
 Fujairah - Ras Al-Khaimah.

1 The original signatories of the Constitution did not include Ras Al Khaimah, which adhered to the Union on 10 February 1962. A new paragraph was added by a Declaration of Constitutional Amendment No. 1 (1972) which reads as follows:-

Any other independent Arab country may join the Union, provided that the Supreme Council agrees unanimously to this.

Article 2

The Union shall exercise sovereignty in matters assigned to it in accordance with this Constitution over all territory and territorial waters lying within the international boundaries of the members Emirates.

Article 3

The member Emirates shall exercise sovereignty over their own territories and territorial waters in all matters which are not within the jurisdiction of the Union as assigned in this Constitution.

Article 4

The Union may not cede its sovereignty or relinquish any part of its territories or waters.

Article 5

The Union shall have a Flag, an Emblem and a National Anthem. The Flag and the Emblem shall be prescribed by Law. Each Emirate shall retain its own flag for use within its territories.

In the event of the acceptance of a new member joining the Union, the Supreme Council of the Union shall determine the number of seats which will be allocated to that member in the National Assembly of the Union, being in addition to the number stipulated in Article 68 of this Constitution.

Article 6

The Union is a part of the Great Arab Nation, to which it is bound by the ties of religion, language, history and common destiny.

The people of the Union are one people, and one part of the Arab Nation.

Article 7

Islam is the official religion of the Union. The Islamic Shari'ah shall be a main source of legislation in the Union. The official language of the Union is Arabic.

Article 8

The citizens of the Union shall have a single nationality which shall be prescribed by law. When abroad, they shall enjoy the protection of the Union Government in accordance with accepted international principals.

No citizen of the Union may be deprived of his nationality nor may his nationality be withdrawn save in exceptional circumstances which shall be defined by Law.

Article 9

1. The Capital of the Union shall be established in an area allotted to the Union by the Emirates of Abu Dhabi and Dubai on the borders between them and it shall be given the name "Al Karana".

2. There shall be allocated in the Union budget for the first year the amount necessary to cover the expenses of technical studies and planning for the construction of the

Capital. However, construction work shall begin as soon as possible and shall be completed in not more than seven years from the date of entry into force of this Constitution.

3. Until the construction of the Union Capital is complete, Abu Dhabi shall be the provisional headquarters of the Union.

Article 10

The aims of the Union shall be the maintenance of its independence and sovereignty, the safeguard of its security and stability, the defence against any aggression upon its existence or the existence of its member states, the protection of the rights and liabilities of the people of the Union, the achievement of close co-operation between the Emirates for their common benefit in realising these aims and in promoting their prosperity and progress in all fields, the provision of a better life for all citizens together with respect by each Emirate for the independence and sovereignty of the other Emirates in their internal affairs within the framework of this Constitution.

Article 11

1. The Emirates of the Union shall form an economic and customs entity. Union laws shall regulate the progressive stages appropriate to the achievement of this entity.

2. The free movement of all capital and goods between the Emirates of the Union is guaranteed and may not be restricted except by a Union Law.

3. All taxes, fees, duties and tolls imposed on the movement of goods from one member Emirate to the other shall be abolished.

Article 12

The foreign policy of the Union shall be directed towards support for Arab and Islamic causes and interests and towards the consolidation of the bonds of friendship and co-operation with all nations and peoples on the basis of the principles of the Charter of the United Nations and ideal international standards.

PART TWO

THE FUNDAMENTAL SOCIAL AND ECONOMIC
BASIS OF THE UNION

Article 13

The Union and the member Emirates shall co-operate, within the limits of their jurisdiction and abilities, in executing the provisions of this Part.

Article 14

Equality, social justice, ensuring safety and security and equality of opportunity for all citizens shall be the pillars of the Society. Co-operation and mutual mercy shall be a firm bond between them.

Article 15

The family is the basis of society. It is founded on morality, religion, ethics and patriotism. The law shall guarantee its existence safeguard and protect it from corruption.

Article 16

Society shall be responsible for protecting childhood and motherhood and shall protect minors and others unable to

look after themselves for any reason, such as illness or incapacity or old age or forced unemployment. It shall be responsible for assisting them and enabling them to help themselves for their own benefit and that of the community.

Such matters shall be regulated by welfare and social security legislations.

Article 17

Education shall be a fundamental factor for the progress of society. It shall be compulsory in its primary stage and free of charge at all stages, within the Union. The law shall prescribe the necessary plans for the propagation and spread of education at various levels and for the eradication of illiteracy.

Article 18

Private schools may be established by individuals and organisations in accordance with the provisions of the law, provided that such schools shall be subject to the supervision of the competent public authorities and to their directives.

Article 19

Medical care and means of prevention and treatment of diseases and epidemics shall be ensured by the community for all citizens.

The community shall promote the establishment of public and private hospitals, dispensaries and cure-houses.

Article 20

Society shall esteem work as a corner-stone of its

development. It shall endeavour to ensure that employment is available for citizens and to train them so that they are prepared for it. It shall furnish the appropriate facilities for that by providing legislations protecting the rights of the employees and the interests of the employers in the light of developing international labour legislations.

Article 21

Private property shall be protected. Conditions relating thereto shall be laid down by Law. No one shall be deprived of his property except in circumstances dictated by the public benefit in accordance with the provisions of the Law and on payment of a just compensation.

Article 22

Public property shall be inviolable. The protection of public property shall be the duty of every citizen. The Law shall define the cases in which penalties shall be imposed for the contravention of that duty.

Article 23

The natural resources and wealth in each Emirate shall be considered to be the public property of that Emirate. Society shall be responsible for the protection and proper exploitation of such natural resources and wealth for the benefit of the national economy.

Article 24

The basis of the national economy shall be social justice. It is founded on sincere co-operation between public and private activities. Its aim shall be the achievement of

economic development, increase of productivity, raising the standards of living and the achievement of prosperity for citizens, all within the limits of law.

The Union shall encourage co-operation and savings.

PART THREE

FREEDOM, RIGHTS AND PUBLIC DUTIES

Article 25

All persons are equal before the law, without distinction between citizens of the Union in regard to race, nationality, religious belief or social status.

Article 26

Personal liberty is guaranteed to all citizens. No person may be arrested, searched, detained or imprisoned except in accordance with the provisions of law.

No person shall be subjected to torture or to degrading treatment.

Article 27

Crimes and punishments shall be defined by the law. No penalty shall be imposed for any act of commission or omission committed before the relevant law has been promulgated.

Article 28

Penalty is personal. An accused shall be presumed innocent until proved guilty in a legal and fair trial. The accused shall have the right to appoint the person who is capable to conduct his defence during the trial. The law

shall prescribe the cases in which the presence of a counsel for defence shall be assigned.

Physical and moral abuse of an accused person is prohibited.

Article 29

Freedom of movement and residence shall be guaranteed to citizens within the limits of law.

Article 30

Freedom of opinion and expressing it verbally, in writing or by other means of expression shall be guaranteed within the limits of law.

Article 31

Freedom of communication by post, telegraph or other means of communication and the secrecy thereof shall be guaranteed in accordance with law.

Article 32

Freedom to exercise religious worship shall be guaranteed in accordance with established customs, provided that it does not conflict with public policy or violate public morals.

Article 33

Freedom of assembly and establishing associations shall be guaranteed within the limits of law.

Article 34

Every citizen shall be free to choose his occupation, trade or profession within the limits of law. Due consideration

being given to regulations organising some of such professions and trades. No person may be subjected to forced labour except in exceptional circumstances provided for by the law and in return for compensation.

No person may be enslaved.

Article 35

Public office shall be open to all citizens on a basis of equality of opportunity in accordance with the provisions of law. Public office shall be a national service entrusted to those who hold it. The public servant shall aim, in the execution of his duties, at the public interest alone.

Article 36

Habitations shall be inviolable. They may not be entered without the permission of their inhabitants except in accordance with the provisions of the law and in the circumstances laid down therein.

Article 37

Citizens may not be deported or banished from the Union.

Article 38

Extradition of citizens and of Political refugees is prohibited.

Article 39

General confiscation of property shall be prohibited. Confiscation of an individual's possessions as a penalty may not be inflicted except by a court judgment in the circumstances specified by law.

Article 40

Foreigners shall enjoy, within the Union, the rights and freedom stipulated in international charters which are in force or in treaties and agreements to which the Union is party. They shall be subject to the corresponding obligations.

Article 41

Every person shall have the right to submit complaints to the competent authorities, including the judicial authorities, concerning the abuse or infringement of the rights and freedom stipulated in this Part.

Article 42

Payment of taxes and public charges determined by law is a duty of every citizen.

Article 43

Defence of the Union is a sacred duty of every citizen and military service is an honour for citizens which shall be regulated by law.

Article 44

Respect of the Constitution, laws and orders issued by public authorities in execution thereof, observance of public order and respect of public morality are duties incumbent upon all inhabitants of the Union.

PART FOUR

THE UNION AUTHORITIES

Article 45

The Union authorities shall consist of :-

1. The Supreme Council of the Union.
2. The President of the Union and his Deputy.
3. The Council of Ministers of the Union.
4. The National Assembly of the Union.
5. The Judiciary of the Union.

CHAPTER 1 - THE SUPREME COUNCIL OF THE UNION

Article 46

The Supreme Council of the Union shall be the highest authority in the Union. It shall consist of the Rulers of all the Emirates composing the Union, or of those who deputise for the Rulers in their Emirates in the event of their absence or if they have been excused from attending.

Each Emirate shall have a single vote in the deliberations of the Council.

Article 47

The Supreme Council of the Union shall exercise the following matters:-

1. Formulation of general policy in all matters invested in the Union by this Constitution and consideration of all matters which leads to the achievement of the goals of the Union and the common interest of the member Emirates.
2. Sanction of various Union laws before their promulgation, including the Law of the Annual General Budget and the Final Accounts.
3. Sanction of decrees relating to matters which by virtue of the provisions of this Constitution are subject to the ratification or agreement of the Supreme Council. Such sanction

shall take place before the promulgation of these decrees by the President of the Union.

4. Ratification of treaties and international agreements. Such ratification shall be accomplished by decree.

5. Approval of the appointment of the Chairman of the Council of Ministers of the Union, acceptance of his resignation and his removal from office upon a proposal from the President of the Union.

6. Approval of the appointment of the President and Judges of the Supreme Court of the Union, acceptance of their resignations and their dismissal in the circumstances stipulated by this Constitution. Such acts shall be accomplished by decrees.

7. Supreme Control over the affairs of the Union in general.

8. Any other relevant matters stipulated in this Constitution or in the Union laws.

Article 43

1. The Supreme Council shall lay down its own by-laws which shall include its procedure for the conduct of business and the procedure for voting on its decisions. The deliberations of the Council shall be secret.

2. The Supreme Council shall establish a general Secretariat which shall consist of an adequate number of officials to assist it in the execution of its duties.

Article 44

Decisions of the Supreme Council on substantive matters shall be by a majority of five of its members provided that

this majority includes the votes of the Emirates of Abu Dhabi and Dubai. The minority shall be bound by the view of the said majority.

But decisions of the Council on procedural matters shall be by a majority vote. Such matters shall be defined in the bye-laws of the Council.

Article 50

Sessions of the Supreme Council shall be held in the Union capital. Sessions may be held in any other place agreed upon beforehand.

Chapter II - THE PRESIDENT OF THE UNION AND HIS DEPUTY

Article 51

The Supreme Council of the Union shall elect from among its members a President and a Vice President of the Union. The Vice President of the Union shall exercise all the powers of the President in the event of his absence for any reason.

Article 52

The term of office of the President and the Vice President shall be five Gregorian years. They are eligible for re-election to the same offices.

Each of them shall, on assuming office, take the following oath before the Supreme Council:

"I swear by Almighty God that I will be faithful to the United Arab Emirates; that I will respect its Constitution and its laws; that I will protect the interests of the people of the Union; that I will discharge my duties faithfully

and loyally and that I will safeguard the independence of the Union and its territorial integrity".

Article 53

Upon vacancy of the office of the President or his Deputy for death or resignation, or because either one of them ceases to be Ruler in his Emirate for any reason, the Supreme Council shall be called into session within one month of that date to elect a successor to the vacant office for the period stipulated in Article 52 of this Constitution.

In the event that the two offices of the President of the Supreme Council and his Deputy become vacant simultaneously, the Council shall be immediately called into session by any one of its members or by the Chairman of the Council of Ministers of the Union, to elect a new President and Vice President to fill the two vacant offices.

Article 54

The President of the Union shall assume the following powers:

1. Presiding the Supreme Council and directing its discussions,
2. Calling the Supreme Council into session, and terminating its sessions according to the rules of procedure upon which the Council shall decide in its bye-laws. It is obligatory for him to convene the Council for sessions, whenever one of its members so requested,
3. Calling the Supreme Council and the Council of Ministers into joint session whenever necessity demands.

4. Signing Union laws, decrees and decisions which the Supreme Council has sanctioned and promulgating them.
5. Appointing the Prime Minister, accepting his resignation and relieving him of office with the consent of the Supreme Council. He shall also appoint the Deputy Prime Minister and the Ministers and shall receive their resignations and relieve them of office in accordance with a proposal from the Prime Minister of the Union.
6. Appointing the diplomatic representatives of the Union to foreign states and other senior Union officials both civil and military (with the exception of the President and Judges of the Supreme Court of the Union) and accepting their resignations and dismissing them with the consent of the Council of Ministers and the Union. Such appointments, acceptance of resignations and dismissals shall be accomplished by decrees and in accordance with Union laws.
7. Signing of letter of credence of diplomatic representatives of the Union to foreign states and organisations and accepting the credentials of diplomatic and consular representatives of foreign states to the Union and receiving their letters of credence. He shall similarly sign documents of appointment and credence of representatives.
8. Supervising the implementation of Union laws, decrees and decisions through the Council of Ministers of the Union and the competent Ministers.
9. Representing the Union internally, vis-a-vis other states and in all international relations.

10. Exercising the right of pardon and commutation of sentences and approving capital sentences according to the provisions of this Constitution and Union laws.
11. Conferring decorations and medals of honour, both civil and military, in accordance with the laws relating to such decorations and medals.
12. Any other power vested in him by the Supreme Council or vested in him in conformity with this Constitution or Union laws.

Chapter III - THE COUNCIL OF MINISTERS OF THE UNION

Article 55

The Council of Ministers of the Union shall consist of the Prime Minister, his Deputy and a number of Ministers.

Article 56

Ministers shall be chosen from among citizens of the Union known for their competence and experience.

Article 57

The Prime Minister, his Deputy and the Ministers shall, before assuming the responsibilities of their office, take the following oath before the President of the Union:-

"I swear by Almighty God that I will be loyal to the United Arab Emirates; that I will respect its Constitution and laws; that I will discharge my duties faithfully; that I will completely observe the interests of the people of the Union and that I will completely safeguard the existence of the Union and its territorial integrity."

Article 58

The law shall define the jurisdiction of the Ministers and the powers of each Minister. The first Council of Ministers of the Union shall be composed of the following Ministers:-

1. Foreign Affairs
2. Interior
3. Defence
4. Finance, Economy and Industry
5. Justice
6. Education
7. Public Health
8. Public Works and Agriculture
9. Communications, Post, Telegraph and Telephones
10. Labour and Social Affairs
11. Information
12. Planning

Article 59

The Prime Minister shall preside over the meetings of the Council of Ministers. He shall call it into session, direct its debates, follow up the activities of Ministers and shall supervise the co-ordination of work between the various Ministers and in all executive organs of the Union.

The Deputy Prime Minister shall exercise all the powers of the Prime Minister in the event of his absence for any reason.

Article 60

The Council of Ministers, in its capacity as the executive authority of the Union, and under the supreme control

of the President of the Union and the Supreme Council, shall be responsible for dealing with all domestic and foreign affairs which are within the competence of the Union according to this Constitution and Union laws.

The Council of Ministers shall, in particular, assume the following powers:-

1. Following up the implementation of the general policy of the Union Government, both domestic and foreign.
2. Initiating drafts of Federal laws and submitting them to the Union National Council before they are raised to the President of the Union for presentation to the Supreme Council for sanction.
3. Drawing up the annual general budget of the Union, and the final accounts.
4. Preparing drafts of decrees and various decisions.
5. Issuing regulations necessary for the implementation of Union laws without amending or suspending such regulations or making any exemption from their execution. Issuing also police regulations and other regulations relating to the organisation of public services and administrations, within the limits of this Constitution and Union laws. A special provision of the law or the Council of Ministers, may charge the competent Union Minister or any other administrative authority to promulgate some of such regulations.
6. Supervising the implementation of Union laws, decrees, decisions and regulations by all the concerned authorities in the Union or in the Emirates.

7. Supervising the execution of judgements rendered by Union Law Courts and the implementation of international treaties and agreements concluded by the Union.
8. Appointment and dismissal of Union employees in accordance with the provisions of the law, provided that their appointment and dismissal do not require the issue of a decree.
9. Controlling the conduct of work in departments and public services of the Union and the conduct and discipline of Union employees in general.
10. Any other authority vested in it by law or by the Supreme Council within the limits of this Constitution.

Article 61

Deliberations of the Council of Ministers shall be secret. Its resolutions shall be passed by a majority of its members. In the event that voting is evenly divided the side on which the Prime Minister has voted shall prevail. The minority shall abide by the opinion of the majority.

Article 62

While in office, the Prime Minister, his Deputy or any Union Minister, may not practice any professional, commercial or financial occupation or enter into any commercial transactions with the Government of the Union or the Governments of the Emirates, or combine with their office the membership of the board of directors of any financial or commercial company.

Furthermore, they may not combine with their office more than one official post in any of the Emirates and shall relinquish all other local official posts, if any.

Article 63

The members of the Council of Ministers shall aim to serve in their conduct the interests of the Union, the promotion of public welfare and totally renounce personal benefits. They must not exploit their official capacities for their own interests or that of any person related to them.

Article 64

The Prime Minister and the Ministers shall be politically responsible collectively before the President of the Union and the Supreme Council of the Union for the execution of the general policy of the Union both domestic and foreign. Each of them shall be personally responsible to the President of the Union and the Supreme Council for the activities of his Ministry or office.

The resignation of the Prime Minister, his removal from office, his death, or the vacating of his office for any reason whatsoever shall involve the resignation of the whole Cabinet. The President of the Union may require the Ministers to remain in office temporarily, to carry out immediate administration, until such time as a new Cabinet is formed.

Article 65

At the beginning of every financial year, the Council of Ministers shall submit to the President of the Union for presentation to the Supreme Council, a detailed statement of internal achievements, on the Union's relations with other states and international organisations, together with the recommendations of the Cabinet on the best and most practical

means of strengthening the foundations of the Union, consolidating its security and stability, achieving its goal and progress in all fields.

Article 65

1. The Council of Ministers shall draw up its own bye-laws including its rules of procedure.

2. The Council of Ministers shall establish a general Secretariat provided with a number of employees to assist it in the conduct of its business.

Article 67

The Law shall prescribe the salaries of the Prime Minister, his Deputy and the other Ministers.

Chapter IV -- THE NATIONAL ASSEMBLY OF THE UNION

Section 1 -- General Provisions

Article 68

The National Assembly of the Union shall be composed of forty members. Seats shall be distributed to member Emirates as follows:-

Abu Dhabi	- 6 seats
Dubai	- 6 seats
Sharjah	- 6 seats
Ras Al-Khaimah	- 6 seats
Ajman	- 4 seats
Umm Al-Qawain	- 4 seats
Fujairah	- 4 seats

Article 69

Each Emirate shall be free to determine the method of selection of the citizens representing it in the Union National Assembly.

Article 70

A member of the Union National Assembly must satisfy the following conditions:-

1. Must be a citizen of one of the Emirates of the Union, and permanently resident in the Emirate he represents in the Assembly.
2. Must be not less twenty-five Gregorian years of age at the time of his selection.
3. Must enjoy civil status, good, conduct, reputation and not previously convicted of a dishonourable offence unless he has been rehabilitated in accordance with the law.
4. Must have adequate knowledge of reading and writing.

Article 71

Membership of the Union National Assembly shall be incompatible with any public office in the Union, including Ministerial portfolios.

Article 72

The term of membership in the Union National Assembly shall be two Gregorian years commencing from the date of its first sitting. When this period expires, the Assembly shall be completely renewed for the time remaining until the end of the transitional period as laid down in Article 144 of this Constitution.

Any member who has completed his term may be re-elected.

Article 73

Before assuming his duties in the Assembly or its Committees, a member of the Union National Assembly shall take the following oath before the Assembly in public session:-

"I swear by Almighty God that I will be loyal to the United Arab Emirates; that I will respect the Constitution and the laws of the Union and that I will discharge my duties in the Assembly and its Committees honestly and truthfully."

Article 74

If, for any reason, a seat of any member of the Assembly becomes vacant before the end of the term of his membership, a replacement shall be selected within two months of the date on which the vacancy is announced by the Assembly, unless the vacancy occurs during the three months preceding the end of the term of the Assembly.

The new member shall complete the term of membership of his predecessor.

Article 75

Sessions of the Union National Assembly shall be held in the Union capital. Exceptionally, sessions may be held in any other place within the Union on the basis of a decision taken by a majority vote of the members and with the approval of the Council of Ministers.

Article 76

The Assembly shall decide upon the validity of the mandate of its members. It shall also decide upon disqualifying members,

if they lose one of the required conditions, by a majority of all its members and on the proposal of five among them. The Assembly shall be competent to accept resignation from membership. The resignation shall be considered as final from the date of its acceptance by the Assembly.

Article 77

A member of the National Assembly of the Union shall represent the whole people of the Union and not merely the Emirate which he represents in the Assembly.

Section 2 -- Organisation of work in the Assembly

Article 78

The Assembly shall hold an annual ordinary session lasting not less than six months, commencing on the third week of November each year. It may be called into extraordinary session whenever the need arises. The Assembly may not consider at an extraordinary session any matter other than those for which it has been called into session.

Notwithstanding the preceding paragraph, the President of the Union shall summon the Union National Assembly to convene its first ordinary session within a period not exceeding sixty days from the entry into force of this Constitution. This session shall end at the time appointed by the Supreme Council by decree.

Article 79

The Assembly shall be summoned into session, and its session shall be terminated by decree issued by the President of the Union with the consent of the Council of Ministers of the Union. Any meeting held by the Council without a formal summons,

or in a place other than that legally assigned for its meeting in accordance with this Constitution, shall be invalid and shall have no effect.

Nevertheless, if the Assembly is not called to hold its meeting for its annual ordinary session before the third week of November, the Assembly shall be ipso facto in session on the twenty first of the said month.

The term of office of the President and the two Vice Presidents shall expire when the term of the Assembly expires or when it is dissolved in accordance with the provisions of the second paragraph of Article 88.

The term of office of the controllers shall expire with the choice of new controllers at the opening of the next ordinary annual session. If any post in the Bureau becomes vacant, the Assembly shall elect who shall fill it for the remaining period.

Article 85

The Assembly shall have a Secretary-General who shall be assisted by a number of staff who shall be directly responsible to the Assembly. The Assembly's standing orders shall lay down their conditions of service and their powers.

The Assembly shall lay down its standing orders, issued by decree promulgated by the President of the Union with the consent of the Council of Ministers.

The standing orders shall define the powers of the President of the Assembly, his two Vice Presidents and the Controllers and shall define generally all matters pertaining to the Assembly, its committees, its members, its Secretariat, its employees, its rules and procedures of discussion and

voting in the Assembly and the Committees and other matters within the limits of the provisions of this Constitution.

Article 86

Sessions of the Assembly shall be public. Secret sessions may be held at the request of a representative of the Government, the President of the Assembly or one third of its members.

Article 87

Deliberations of the Assembly shall not be valid unless a majority of its members at least are present. Resolutions shall be taken by an absolute majority of the votes of members present, except in cases where a special majority has been prescribed. If votes are equally divided, the side which the President of the session supports shall prevail.

Article 88

Meetings of the Assembly may be adjourned by a decree promulgated by the President of the Union with the approval of the Council of Ministers of the Union for a period not exceeding one month, provided that such adjournment is not repeated in one session except with the approval of the Assembly and for once only. The period of adjournment shall not be deemed part of the term of the ordinary session.

The Assembly may also be dissolved by a decree promulgated by the President of the Union with the approval of the Supreme Council of the Union, provided that the decree of dissolution includes a summons to the new Assembly to come into

session within sixty days of the date of the decree of dissolution. The Assembly may not be dissolved again for the same reason.

Section 3 -- Powers of the National Assembly

Article 89

In so far as this does not conflict with the provisions of Article 110, Union Bills, including financial bills, shall be submitted to the National Assembly of the Union before their submission to the President of the Union for presentation to the Supreme Council for ratification. The National Assembly shall discuss these bills and may pass them, amend or reject them.

Article 90

The Assembly shall examine during its ordinary session the Annual General Budget draft law of the Union and the draft law of the final accounts, in accordance with the provisions in Chapter Eight of this Constitution.

Article 91

The Government shall inform the Union Assembly of internal treaties and agreements concluded with other states and the various international organisations, together with appropriate explanations.

Article 92

The Union National Assembly may discuss any general subject pertaining to the affairs of the Union unless the Council of Ministers informs the Union National Assembly that such discussion is contrary to the highest interests of the

Union. The Prime Minister or the Minister concerned shall attend the debates. The Union National Assembly may express its recommendations and may define the subjects for debate. If the Council of Ministers does not approve of these recommendations, it shall notify the Union National Assembly of its reasons.

Article 93

The Government of the Union shall be represented at sessions of the Union National Assembly by the Prime Minister or his deputy or one member of the Union Cabinet at least. The Prime Minister or his deputy or the competent Minister, shall answer questions put to them by any member of the Assembly requesting explanation of any matters within their jurisdiction, in conformity with the procedures prescribed in the standing orders of the Assembly.

Chapter V - THE JUDICIARY IN THE UNION AND THE EMIRATES

Article 94

Justice is the basis of rule. In performing their duties, judges shall be independent and shall not be subject to any authority but the law and their own conscience.

Article 95

The Union shall have a Union Supreme Court and Union Primary Tribunals as explained hereinafter.

Article 96

The Union Supreme Court shall consist of a President and a number of judges, not exceeding five in all, who shall be

appointed by decree, issued by the President of the Union after approval by the Supreme Council. The law shall prescribe the number of the chambers in the Court, their order and procedures, conditions of service and retirement for its members and the preconditions and qualifications required of them.

Article 97

The President and the Judges of the Union Supreme Court shall not be removed while they administer justice. Their tenure of office shall not be terminated except for one of the following reasons:

1. Death.
2. Resignation.
3. Expiration of term of contract for those who are appointed by fixed term contract or completion of term of secondment.
4. Reaching retirement age.
5. Permanent incapacity to carry the burdens of their duties by reasons of ill health.
6. Disciplinary discharge on the basis of the reasons and proceedings stipulated in the law.
7. Appointment to other offices, with their consent.

Article 98

The President and the Judges of the Union Supreme Court shall, before holding office, swear on oath before the President of the Union and in the presence of the Union Minister of Justice, that they will render justice without fear or favour and that they will be loyal to the Constitution and the laws of the Union.

Article 90

The Union Supreme Court shall have jurisdiction in the following matters:-

1. Various disputes between member Emirates in the Union, or more and the Union Government, whenever such disputes are submitted to the Court on the request of any of the interested parties.
2. Examination of the constitutionality of Union laws, if they are challenged by one or more of the Emirates on the grounds of violating the Constitution of the Union.
Examination of the constitutionality of legislations promulgated by one of the Emirates, if they are challenged by one of the Union authorities on the grounds of violation of the Constitution of the Union or of Union laws.
3. Examination of the constitutionality of laws, legislations and regulations in general, if such request is referred to it by any Court in the country during a pending case before it. The aforesaid Court shall be bound to accept the ruling of the Union Supreme Court rendered in this connection.
4. Interpretation of the provisions of the Constitution, when so requested by any Union authority or by the Government of any Emirate. Any such interpretation shall be considered binding on all.
5. Trial of Ministers and senior officials of the Union appointed by decree regarding their actions in carrying out their official duties on the demand of the Supreme Court and in accordance with the relevant law.

6. Crimes directly affecting the interests of the Union, such as crimes relating to its internal or external security, forgery of the official records or seals of any of the Union authorities and counterfeiting of currency.
7. Conflict of jurisdiction between the Union judicial authorities and the local judicial authorities in the Emirates.
8. Conflict of jurisdiction between the judicial authority in one Emirate and the judicial authority in another Emirate. The rules relating thereof shall be regulated by a Union Law.
9. Any other jurisdiction stipulated in this Constitution, or which may be assigned to it by a Union law.

Article 100

The Union Supreme Court shall hold its sittings in the capital of the Union. It may, exceptionally, assemble when necessary in the capital of any of the Emirates.

Article 101

The judgements of the Union Supreme Court shall be final and binding upon all.

If the Court, in ruling on the constitutionality of laws, legislations and regulations, decides that a Union legislation is inconsistent with the Union Constitution, or that local legislations or regulations under consideration contain provisions which are inconsistent with the Union Constitution or with a Union law, the authority concerned in the Union or in the Emirate, accordingly, shall be obliged to hasten to take the necessary measures to remove or rectify the constitutional inconsistency.

Article 102

The Union shall have one or more Union Primary Tribunals which shall sit in the permanent capital of the Union or in the capitals of some of the Emirates, in order to exercise the judicial powers within the sphere of their jurisdiction in the following cases:-

1. Civil, commercial and administrative disputes between the Union and individuals whether the Union is plaintiff or defendant.
2. Crimes committed within the boundaries of the permanent capital of the Union, with the exception of such matters as are reserved for the Union Supreme Court under Article 99 of this Constitution.
3. Personal status cases, civil and commercial cases and other cases between individuals which shall arise in the permanent capital of the Union.

Article 103

The law shall regulate all matters connected with the Union Primary Tribunals in respect of their organisation, formation, chambers local jurisdiction, procedures to be followed before them, the oath to be sworn by their judges, conditions of service relating to them and the ways of appeal against their judgements.

The law may stipulate that appeals against the judgements of these Tribunals shall be heard before one of the chambers of the Union Supreme Court, in the cases and according to the procedures prescribed therein.

Article 104

The local judicial authorities in each Emirate shall have jurisdiction in all judicial matters not assigned to the Union judiciary in accordance with this Constitution.

Article 105

All or part of the jurisdiction assigned to the local judicial authorities in accordance with the preceding Article may be transferred by a Union law issued at the request of the Emirate concerned, to the Primary Union Tribunals.

Circumstances in which appeals against judgements by the local judicial authorities in penal, civil, commercial and other litigations may be referred to the Union Tribunals, shall be defined by a Union law provided that its decision in such appeals shall be final.

Article 106

The Union shall have a Public Prosecutor who shall be appointed by a Union decree issued with the approval of the Council of Ministers assisted by a number of members of the Public Prosecutor's office.

The law shall regulate matters relating to the members of the Union Public Prosecutor's office with respect to their method of appointment, ranks, promotion, retirement and the qualifications required of them.

Besides, the Union Law of Criminal Procedure and trials shall regulate the power of this body and its procedures and the competence of its assistants from the police and the public security officers.

Article 107

The President of the Union may grant pardon from the execution of any sentence passed by a Union judiciary before it is carried out or while it is being served or he may commute such sentence, on the basis of the recommendation of the Union Minister of Justice, after obtaining the approval of a committee formed under the chairmanship of the Minister and consisting of six members selected by the Union Council of Ministers for a term of three years which may be renewed. The members of the committee shall be chosen from citizens of good repute and capability.

Membership of the committee shall be gratis. Its deliberations shall be secret. Its decisions shall be issued by a majority vote.

Article 108

No sentence of death imposed finally by a Union judicial authority shall be carried out until the President of the Union has confirmed the sentence. He may substitute it by an attenuate sentence in accordance with the procedure stipulated in the preceding Article.

Article 109

There shall be no general amnesty for a crime or for specified crimes except by law.

The promulgation of the law of amnesty shall consider such crimes being deemed non avenue, and shall remit the execution of the sentence or the remaining part of it.

PART FIVEUNION LEGISLATION AND DECREES AND THE
AUTHORITIES HAVING JURISDICTION THEREINChapter 1 - UNION LAWSArticle 110

1. Union laws shall be promulgated in accordance with the provisions of this Article and other appropriate provisions of the Constitution.
2. A draft law shall become a law after the adoption of the following procedure:-
 - (a) The Council of Ministers shall prepare a bill and submit it to the Union National Assembly.
 - (b) The Council of Ministers shall submit the bill to the president of the Union for his approval and presentation to the Supreme Council for ratification.
 - (c) The President of the Union shall sign the bill after ratification by the Supreme Council and shall promulgate it.
3. (a) If the Union National Assembly inserts any amendment to the bill and this amendment is not acceptable to the President of the Union or the Supreme Council, or if the Union National Assembly rejects the bill, the President of the Union or the Supreme Council may refer it back to the National Assembly. If the Union National Assembly introduces any amendment on that occasion which is not acceptable to the President of the Union or the Supreme Council, or if the Union National Assembly decides to reject the bill, the President of the Union may promulgate the law after ratification by the Supreme Council.
 - (b) The term "bill" in this clause shall mean the draft which is submitted to the President of the Union by the Council of Ministers including the amendments, if any, made to it by the Union National Assembly.

4. Notwithstanding the foregoing, if the situation requires the promulgation of Union laws when the National Assembly is not in session, the Council of Ministers of the Union may issue them through the Supreme Council and the President of the Union, provided that the Union Assembly is notified at its next meeting.

Article 111

Laws shall be published in the Official Gazette of the Union within a maximum of two weeks from the date of their signature and promulgation by the President of the Union after the Supreme Council has ratified them. Such laws shall become in force one month after the date of their publication in the said Gazette, unless another date is specified in the said law.

Article 112

No law may be applied except on what occurs as from the date they become in force and no retroactive effect shall result in such laws. The law may, however, stipulate the contrary in matters other than criminal, if necessity so requires.

Chapter II - LAWS ISSUED BY DECREES

Article 113

Should necessity arise for urgent promulgation of Union laws between sessions of the Supreme Council, the President of the Union together with the Council of Ministers may promulgate the necessary laws in the form of decrees which shall have the force of law, provided that they are not inconsistent with the Constitution.

Such decree-laws must be referred to the Supreme Council within a week at the maximum for assent or rejection. If they are approved, they shall have the force of law and the Union National Assembly shall be notified at its next meeting.

However, if the Supreme Council does not approve them, they shall cease to have the force of law unless that it has decided to sanction their effectiveness during the preceding period, or to settle in some other way the effectiveness during the preceding period, or to settle in some other way the effects arising therefrom.

Chapter III - ORDINARY DECREES

Article 114

No decree may be issued unless the Council of Ministers has confirmed it and the President of the Union or the Supreme Council according to their powers, has ratified it. Decrees shall be published in the Official Gazette after signature by the President of the Union.

Article 115

While the Supreme Council is out of session and if necessity arises, it may authorise the President of the Union and the Council of Ministers collectively to promulgate decree whose ratification is within the power of the Supreme Council, provided that such authority shall not include ratification of international agreements and treaties or declaration or recession of martial law or declaration of a defensive war or appointment of the President or Judges of the Union Supreme Court.

PART VIITHE EMIRATESArticle 116

The Emirates shall exercise all powers not assigned to the Union by this Constitution. The Emirates shall all participate in the establishment of the Union and shall benefit from its existence, service and protection.

Article 117

The exercise of rule in each Emirate shall aim in particular at the maintenance of security and order within its territories, the provision of public utilities for its inhabitants and the raising of social and economic standards.

Article 118

The member Emirates of the Union shall all work for the co-ordination of their legislations in various fields with the intention of unifying such legislations as far as possible.

Two or more Emirates may, after obtaining the approval of the Supreme Council, agglomerate in a political or administrative unit, or unify all or part of their public services or establish a single or joint administration to run any such service.

Article 119

Union law shall regulate with utmost ease matters pertaining to the execution of judgements, requests for commissions of rogation, serving legal documents and surrender of fugitives between member Emirates of the Union.

PART SEVEN

DISTRIBUTION OF LEGISLATIVE, EXECUTIVE AND
INTERNATIONAL JURISDICTIONS BETWEEN THE UNION
AND THE EMIRATESArticle 120

The Union shall have exclusive legislative and executive jurisdiction in the following affairs:-

1. Foreign affairs.
2. Defence and the Union Armed Forces.
3. Protection of the Union's security against internal or external threat.
4. Matters pertaining to security, order and rule in the permanent capital of the Union.
5. Matters relating to Union officials and Union judiciary.
6. Union finance and Union taxes, duties and fees.
7. Union public loans.
8. Postal, telegraph, telephone and wireless services.
9. Construction, maintenance and improvement of Union roads which the Supreme Council has determined to be trunk roads. The organisation of traffic on such roads.
10. Air Traffic Control and the issue of licences to aircrafts and pilots.
11. Education.
12. Public health and medical services.
13. Currency board and coinage.
14. Measures, standards and weights.
15. Electricity services.
16. Union nationality, passports, residence and immigration.
17. Union properties and all matters relating thereto.
18. Census affairs and statistics relevant to Union purposes.
19. Union Information.

Article 121

Without prejudice to the provisions of the preceding Article, the Union shall have exclusive legislative jurisdiction in the following matters:-

Labour relations and social security; real estate and expropriation in the public interest; extradition of criminals; banks; insurance of all kinds; protection of agricultural and animal wealth; major legislations relating to penal law, civil and commercial transactions and company law, procedures before the civil and criminal courts; protection of cultural, technical and industrial property and copyright; printing and publishing; import of arms and ammunitions except for use by the armed forces or the security forces belonging to any Emirate; other aviation affairs which are not within the executive jurisdiction of the Union; delimitation of territorial waters and regulation of navigation on the high seas.

Article 122

The Emirates shall have jurisdiction in all matters not assigned to the exclusive jurisdiction of the Union in accordance with the provisions of the two preceding Articles.

Article 123

As an exception to paragraph 1 of Article 120 concerning the exclusive jurisdiction of the Union in matters of foreign policy and international relations, the member Emirates of the Union may conclude limited agreements of a local and administrative nature with the neighbouring states or regions, save that such agreements are not inconsistent with the interests of the

Union or with Union laws and provided that the Supreme Council of the Union is informed in advance. If the Council objects to the conclusion of such agreements, it shall be obligatory to suspend the matter until the Union Court has ruled on that objection as early as possible.

The Emirates may retain their membership in the OPEC organisation and the Organisation of Arab Petroleum Exporting Countries or may join them.

Article 124

Before the conclusion of any treaty or international agreement which may affect the status of any one of the Emirates, the competent Union authorities shall consult that Emirate in advance. In the event of a dispute, the matter shall be submitted to the Union Supreme Court for ruling.

Article 125

The Government of the Emirates shall undertake the appropriate measures to implement the laws promulgated by the Union and the treaties and international agreements concluded by the Union, including the promulgation of the local laws, regulations, decisions and orders necessary for such implementation.

The Union authorities shall supervise the implementation by Emirates' Governments of the Union laws, decisions, treaties, agreements and Union judgements. The competent administrative and judicial authorities in the Emirates should forward to the Union authorities all possible assistance in this connection.

PART EIGHT**FINANCIAL AFFAIRS OF THE UNION****Article 126**

The general revenues of the Union shall consist of the income from the following resources:-

1. Taxes, fees and duties imposed under a Union law in matters within the legislative and executive jurisdiction of the Union.
2. Fees and rates received by the Union in return for services provided.
3. Contribution made by member Emirates of the Union in the Annual Budget of the Union in accordance with the article herein coming after.
4. Union income from its own properties.

Article 127

The member Emirates of the Union shall contribute a specified proportion of their annual revenues to cover the annual general budget expenditure of the Union, in the manner and on the scale to be prescribed in the Budget Law.

Article 128

The law shall prescribe the method of preparing the general budget of the Union and the final accounts. The law shall also define the beginning of the financial year.

Article 129

The draft annual budget of the Union, comprising estimates of revenues and expenditure, shall be referred to the Union National Assembly at least two months before the beginning of the financial year, for discussion and submission of comments

thereon, before the draft budget is submitted to the Supreme Council of the Union, together with those comments, for assent.

Article 130

The annual general budget shall be issued by a law. In all cases, where the budget law has not been promulgated before the beginning of the financial year, temporary monthly funds may be made by Union decree on the basis of one twelfth of the funds of the previous financial year. Revenues shall be collected and expenditure disbursed in accordance with the laws in force at the end of the preceding financial year.

Article 131

All expenditure not provided for in the budget, all expenditure in excess of the budget estimates and all transfers of sums from one part to another of the Budget must be covered by a law.

Notwithstanding the foregoing, in cases of extreme urgency, such expenditure or transfer may be arranged by decree-law in conformity with the provisions of Article 113 of this Constitution.

Article 132

The Union shall allocate in its annual budget a sum from its revenue to be expended on building and construction projects, internal security and social affairs according to the urgent needs of some of the Emirates.

The execution of these projects and the disbursement thereon shall be drawn from these funds, accomplished by means of and under the supervision of the competent Union bodies

with the agreement of authorities of the Emirates concerned. *

The Union may establish a special fund for this purpose.

Article 133

No Union tax may be imposed, amended or abolished except by virtue of law. No person may be exempted from payment of such taxes except in the cases specified by law.

Union taxes, duties and fees may not be levied on any person except within the limits of the law and in accordance with its provisions.

Article 134

No public loan may be contracted except by a Union law. No commitment involving the payment of sums from Union Exchequer in a future year or years may be concluded except by means of a Union law.

Article 135

The final accounts of the financial administration of the Union for the completed financial year shall be referred to the Union National Assembly within the four months following the end of the said year, for its comments thereon, before their submission to the Supreme Council for approval, in the light of the Auditor-General's report.

Article 136

An independent Union department headed by an Auditor-General who shall be appointed by decree, shall be established to audit the accounts of the Union and its organs and agencies, and to audit any other accounts assigned to the said department for that purpose in accordance with the law.

The law shall regulate this department and shall define its jurisdiction and the competence of those working therein, and the guarantees to be given to it, its head and the employees working in it in order that they may carry out their duties in the most efficient manner.

PART THREE

ARMED FORCES AND SECURITY FORCES

Article 137

Every attack upon any member Emirates of the Union shall be considered an attack upon all the Emirates and upon the existence of the Union itself, which all Union and local forces will co-operate to repel by all means possible.

Article 138

The Union shall have army, navy and air forces with unified training and command. The Commander-in-Chief of these forces and the Chief of the General Staff shall be appointed and dismissed by means of a Union decree.

The Union may have Union Security Forces.

The Union Council of Ministers shall be responsible directly to the President of the Union and the Supreme Council of the Union for the affairs of all these forces.

Article 139

The law shall regulate military service, general or partial mobilisation, the rights and duties of members of the Armed Forces, their disciplinary procedures and similarly the special regulations of the Union Security Forces.

Article 140

The declaration of defensive war shall be declared by a Union decree issued by the President of the Union after its approval by the Supreme Council. Offensive war shall be prohibited in accordance with the provisions of international characters.

Article 141

A Supreme Defence Council shall be set up under the chairmanship of the President of the Union. Among its members shall be the Vice President of the Union, the Chairman of the Council of Ministers of the Union, the Ministers of Foreign Affairs, Defence, Finance, Interior, the Commander in Chief and the Chief of the General Staff. It shall advise and offer views on all matters pertaining to defence, maintenance of the peace and security of the Union, forming of the armed forces, their equipment and development and the determination of their posts and camps.

The Council may invite any military adviser or expert or other persons it wishes to attend its meetings but they shall have no decisive say in this deliberations. All matters pertaining to this Council shall be regulated by means of law.

Article 142

The member Emirates shall have the right to set up local security forces ready and equipped to join the defensive machinery of the Union to defend, if need arises, the Union against any external aggression.

Article 143

Any Emirate shall have the right to request the assistance of the Armed Forces or the Security Forces of the Union in order to maintain security and order within its territories whenever it is exposed to danger. Such a request shall be submitted immediately to the Supreme Council of the Union for decision.

The Supreme Council may call upon the aid of the local armed forces belonging to any Emirate for this purpose provided that the Emirate requesting assistance and the Emirates to whom the forces belong agree.

The President of the Union and the Council of Ministers of the Union collectively, may, if the Supreme Council is not in session, take any immediate measure which cannot be delayed and considered necessary and may call the Supreme Council into immediate session.

PART TENFINAL AND TRANSITIONAL PROVISIONSArticle 144

1. Subject to the provisions of the following paragraphs, the provisions of this Constitution shall apply for a transitional period of five Gregorian years beginning from the date of its entry into force in accordance with provisions of Article 152.

2. (a) If the Supreme Council considers that the topmost interests of the Union require the amendment of this Constitution, it shall submit a draft constitutional amendment to the Union National Assembly.

(b) The procedure for approving the constitutional amendment shall be the same as the procedure for approving laws.

(c) The approval of the Union National Assembly for a draft constitutional amendment shall require the agreement of two-thirds of the votes of members present.

The President of the Union shall sign the constitutional amendment in the name of the Supreme Council and as its representative and shall promulgate the amendment.

3. During the transitional period, the Supreme Council shall adopt the necessary measures to prepare a draft permanent Constitution to take the place of this temporary constitution. It shall submit the draft permanent Constitution to the Union National Assembly for debate before promulgating it.

4. The Supreme Council shall call the Union National Assembly into extraordinary session at a time not more than six months before the end of the period of validity of this temporary Constitution. The permanent Constitution shall be presented at this session. It shall be promulgated according to the procedure laid down in paragraph 2 of this Article.

Article 145

Under no circumstances, may any of the provisions of this Constitution be suspended, except when Martial Law is in force and within the limits specified by this law.

Notwithstanding the foregoing, session of the National Assembly of the Union may not be suspended during that period nor may the immunity of its members be violated.

Article 146

In case of necessity defined by Law, Martial law shall be declared by a decree promulgated with the approval of the Supreme Council on the basis of a proposal made by the President of the Union with the consent of the Council of Ministers of the Union. Such decree shall be notified to the Union National Assembly at its next meeting.

Martial law shall be similarly lifted by decree issued with the approval of the Supreme Council when the need, for which it was imposed, no longer exists.

Article 147

Nothing in the application of this Constitution shall affect treaties or agreements concluded by member Emirates with states or international organisations unless such treaties or agreements are amended or abrogated by agreement between the parties concerned.

Article 148

All matters established by laws, regulations, decrees, orders and decisions in the various member Emirates of the Union in effect upon the coming into force of this Constitution, shall continue to be applicable unless amended or replaced in accordance with the provisions of this Constitution.

Similarly, the measures and organisations existing in the member Emirates shall continue to be effective until the promulgation of laws amending them in accordance with the provisions of the Constitution.

Article 149

As an exception to the provisions of Article 121 of this Constitution, the Emirates may promulgate legislations necessary for the regulation of the matters set out in the said Article without violation of the provisions of Article 151 of this Constitution.

Article 150

The Union authorities shall strive to issue the laws referred to in this Constitution as quickly as possible so as to replace the existing legislations and systems, particularly those which are not consistent with the provisions of the Constitution.

Article 151

The provisions of this Constitution shall prevail over the Constitutions of the member Emirates of the Union and the Union laws which are issued in accordance with the provisions of this Constitution shall have priority over the legislations, regulations and decisions issued by the authorities of the Emirates.

In case of conflict, that part of the inferior legislation which is inconsistent with the superior legislation shall be rendered null and void to the extent that removes the inconsistency. In case of dispute, the matter shall be referred to the Union Supreme Court for its ruling.

Article 152

This Constitution shall take effect from the date to be fixed in a declaration to be issued by the Rulers

signatories to this Constitution.

Signed in Dubai on this day the 18th of July, 1971,
corresponding to this day the 25th of the month of Jamed Awwal
1391.

(Signatures of the Rulers of Abu Dhabi, Dubai, Sharjah,
Ajman, Umm Al Qaiwain, Fujairah). 1

1 Ras Al Khaimah joined the Union on the 10th February 1972.

APPENDIX II

EMIRATES NEWS
DATED : THURSDAY, MARCH 22, 1979

MEMORANDUM SEEKS UNIFICATION STEPS? ABOLITION OF BORDERS

Abu Dhabi, March 21 (Ittihad): The Federal National Council (FNC) and the Council of Ministers held an extraordinary joint session here on February 13 last to discuss the situation in the U.A.E., the developments in the region and their impact on the U.A.E. The meeting decided to submit to the Supreme Federal Council a memorandum containing the recommendations for consolidating the federation. The following are excerpts from the memorandum.

Current developments

The Gulf region and the neighbouring countries are witnessing some events which have great impacts on the future of the region. Besides the continued Zionist aggression on the Arab lands and the bloody conflict which erupted between Ethiopia and Somalia in the Horn of Africa, the changes of leadership in the Indian sub-continent and Afghanistan, the assassinations of three Yemeni presidents, bloody events have taken place in Iran toppling the regime of Shah Reza Pahlavi.

No doubt, the major powers are trying to protect their interests in the region by all means in view of its strategic important and abundant oil resources. All indications point to a rise in international struggle in the region which is considered vital to foreign interests for exploiting weaknesses

in the region to infiltrate.

National interests make it obligatory for the concerned authorities in the UAE to perceive the dimensions of the changes taking place in the region and their possible repercussions on the UAE so as to make sincere efforts for solving internal problems in the interests of the country's stability.

Consolidation of federation

The federation is our common destiny as small entities are no longer secure in the contemporary world. It alone can face big challenges and grapple with problems in the region which has a poor population density and is the focus of increasing foreign ambitions due to its huge oil resources. This alone makes the drive for consolidating the federation an imperative necessity to ensure security, stability, progress and prestige for the country and its people.

In the light of this concept, several attempts were made to consolidate the federation and sub-committees of the Supreme Council, a follow-up committee of the Cabinet and a joint committee of the Cabinet and the FNC were set up. All these committees agreed on the necessity to strengthen the federation and its institutions to cross the hurdles during impeding the drive for federation.

In view of the problems facing the federation and the dangers threatening the region, the Cabinet and the FNC agreed on the following principles to overcome the hurdles.

Armed forces' unification

The country's security is indivisible and any aggression on its borders is tantamount to aggression on all its lands. The armed forces have been entrusted with the task of protecting the country's territorial integrity. Their division weakens the country and results in the loss of common nation feeling.

Appreciating these facts, the Supreme Defence Council issued on May 6, 1976 a resolution unifying the armed forces under one command. The Supreme Federal Council affirmed this decision unanimously on November 6, 1976 by cancelling clause 142 of the provisional constitution which allowed the emirates to establish local armed forces. In spite of this, no serious step towards actual unification has taken place. Therefore, the resolutions unifying the armed forces should be implemented so that they come under one command and are loyal to one country. The armed forces should be developed and plans should be evolved to purge it of foreign elements. National cadres should be encouraged to establish an army to protect the homeland. Attention should also be bestowed on armaments which should be expanded to increase the defence capability. The recommendation of the Cabinet submitted to the Supreme Council on April 16, 1975 and which authorises only the federal authorities to import arms should be implemented. This is to end the present situation of imports of arms by the different emirates.

Internal security

Division of security is in itself a danger. In the case of our country, the dangers are greater because of the manpower

needs which are of diverse levels and nationalities. Developing countries particularly those in strategic regions and endowed with natural wealth are always subject to subversive attempts of the powers which try to disseminate their ideologies.

The most important task of internal security is to find out and eradicate infiltration. Such a mission cannot be accomplished unless the security bodies are united. Nothing has taken place so far for unification of the police forces and the state security despite the Supreme Council's resolution. This resolution should be implemented and the tasks of security should be entrusted to nationals at command and individual levels.

Internal border

History has proved that colonisation does not depart from any occupied country before sowing the seeds of intrigue, disintegration and division.

One of the colonisation conspiracies is the creation of the border problems from which we are now suffering. Our people reject the conspiracies of colonisation, refuse to be its victims and urge our rulers to stick to the spirit of fraternity, consider the country's higher interests and completely abolish the internal border between the emirates.

Immigration

Immigration without planning has created an economic burden on the country as expatriates' demands on public services have increased. It has also a security burden as also a social

Durden. Immigration does not follow the legal way as infiltration takes place due to the lack of adequate control of entry points in the country.

Immigration should be dealt with by subjecting it to a strict study that would match the country's needs of manpower for development and the national interests and secondly by imposing stricter control over entry points to curb illegal entry.

Nationality

Nationality affairs is of extreme importance since it is linked to political considerations pertaining to the country's higher interests.

Naturalisation in our country went contrary to the needs of political considerations or legal conditions and several violations took place. This necessitates reconsidering the provisions of naturalisation to withdraw the nationality of those who got it without right. This should be made to implementation of the Supreme Council's resolution at its joint session with the Council of Ministers on December 5, 1977.

Furthermore, naturalisation committees should be reconstituted with citizens having an adequate awareness of and national belief as members.

Conservation of national wealth

It is no longer accepted that the country depends on any single emirate. One emirate rich in resources while another lacking in resources will reflect in a difference

between the different emirates' ability to attain development as also the standard of living of their respective citizens.

There must be a unification of revenues of the various emirates into a single budget for the whole country's development in a coordinated way.

The national economy is dependent on oil which is a depleting source. This necessitates giving concern to exploit it in the best possible means and invest its surplus in creating alternative sources for the national income.

Our country is rich financially and poor economically. We do not want our future generations to suffer like our ancestors before oil was found. That is why a quick movement towards planning in order to create a solid economical base depending on investment and the sources of income is essential.

The central bank should also be established quickly and its administration should be given to capable nationals.

The economy should be consolidated and rid of foreign exploitation. National banking institutions should be encouraged. Our resources are subject to absorption and export abroad and we should not keep silent and see our resources exhausted and taken abroad. Moreover, a reserve fund should be established to safeguard the national economy and serve our future generations.

National Economy

Among the phenomena which evoke uneasiness is the illegal competition by foreign capital. This economic invasion will render the national economy a play thing in the hands of foreign influence. Linked to this is the phenomenon of foreign

banks which have increased terribly by exploiting the lack of control over them.

In the field of real estate and land resources, foreign ownership has increased and the government and the FNC formulated some draft laws to regulate the economic activities and prevent foreign hegemony over the national economy. The draft laws were forwarded to the Supreme Council but nothing has taken place so far.

The approval of these bills is very important in order to preserve the country's interests. Moreover, there should be no discrimination between citizens in taking to economic activities.

Specialised banks should be established such as the real estate bank and the industrial bank in order to activate the economy situation.

Living Standard

Though the country gave social subsidies to a large number of citizens, they are but a small amount of the gross national product and have failed to raise the standard of living of the recipients. Raising the standard of living of citizens necessitates providing them with suitable sources of income and finding them suitable work to serve the society. Economic and social justice is a pillar of internal stability.

Not by bread alone human beings live. The citizen should be nurtured democratically and fields of freedom and opinion should be provided to him to participate in the country's politics in a democratic way consistent with Islam.

• Planning

Planning is a basic demand and it necessitates the framing of a comprehensive development strategy based on scientific and sound planning.

Absence of planning exhausts resources.

Judiciary

The judiciary should be unified under one authority. So far, four emirates have amalgamated their judiciary with the federal judiciary and the three remaining should also be merged with the federal judiciary.

Delay in issuance of laws after preparing them creates a judicial vacuum which endangers our interests and delays progress. So, laws should be issued and adhered to.

Some laws and regulations which have led to complications and obstructed progress should be cancelled.

Federal institutions

The Supreme Council, which draws up the state's policy, should meet periodically every month as delayed meetings obstruct the flow of work and suspend the issuance of resolutions.

The Supreme Council's General Secretariat should have competent cadres to prepare agenda, studies and documents.

Ministers should also be given powers since much slackness in ministries in the past was due to their inadequate powers.

The base of the FNC should be expanded and the immunity of its members should be nullified. It should be given full legislative powers so that it becomes an actual legislative authority and not a mere consultative council submitting recommendations.

Constitution

Countries do not resort to provisional constitutions except during stages of political transformation or in critical periods of political turmoil. That is why the provisional constitution is an anachronism.

Our country had prepared its five-year provisional constitution as an experiment in the wake of the federation. Before expiry of the term, the council set up a committee to prepare a draft permanent constitution. After finishing its work, the committee sent the draft to the Supreme Council which extended the provisional constitution by five more years.

After eight years of the federation, it has become clear that the provisional constitution is a hurdle for unification attempts.

The current phase necessitates the immediate start for having a permanent constitution.

EMIRATES NEWS
SATURDAY, MARCH 31, 1979.

D U B A I M E M O R A N D U M

Following is the English translation of the text of the memorandum. In the Name of Allah, The Beneficent, The Kind

The Government of Dubai - in faithfulness to the people of the United Arab Emirates and in fulfilment of the historic trust it has borne and is still bearing since the creation of the federation - wishes to put in complete objectivity before the Supreme Council, the following matters:

Firstly: The establishment of the federation has created the true modern concept of the State. Such concept stipulated, as a matter of priority, that in order to establish a state, its basic law which is the constitution must govern the acts of its various institutions without leaving any room or inlet for personal opinion to either control or supersede its provisions.

Secondly: There is no doubt whatsoever that the federal march, despite the great lengths it has covered since the creation of the federation and which has a tremendous impact on the lives of our people, has stumbled more than once because the experiment of the concept of the modern state was a new in our lives and that we could not fully assimilate its dimensions on the one hand and because our approach to the constitution did spring from a deep irreconcilable faith in the necessity of being bound by it on the other hand. This is in addition to the serious shortage of competent national cadres suffered by us which should form the basic foundation for the various institutions of the State.

Thirdly: Therefore, such inadequacy appears, on the face of it, to be a mere disagreement between the persons at the highest levels of the responsibility, or that it could be a conflict between a narrow-minded local interest and a comprehensive and overall federal interest which, in fact, is not the case at all.

Fourthly: The federation has suffered for a year or more from a real crisis, particularly when the problem of adherence to the constitution has emerged as merely a side issue, in the opinion of some, or a premeditated problem, in the opinion of others. In fact, it is a basic and important problem and it should not be taken lightly vis-a-vis the various new laws which the main institutions in the state attempted to adopt and thereby ignoring the provisions of the Constitution. In addition to that, it is a known fact that many provisions of the Constitution which provide the federal institutions with extensive legislative powers did not see the light. Such powers were in whole essential and intrinsic for the establishment, consolidation and development of the federation.

Fifthly: In the light of what we have already stated, most of the contents of the joint memorandum of the Federal National Council and the Council of Ministers - which is the subject matter of discussion in the current session of the Supreme Council - indicates that those who drafted such a memorandum have totally ignored the provisions of the Constitution thus aiming in an unconstitutional manner to shake the foundations on which the federation of the United Arab Emirates stands.

Sixthly: If we wish to move away from generalisation to specific issues, then the most outstanding example which emerges before us is the question of the unification of the armed forces and the repeal of the provisions of Article 142 of the Constitution which provide for each emirate to maintain its independent armed forces. We have all rushed forward to amend the Constitution in order to complete the process of unification of the armed forces. Article 142 of the Constitution was thus repealed on November 6, 1976, when the Supreme Council issued, on May 6, 1976, its historic resolution No. 1 of 76 to unify the armed forces and specified therein the various responsibilities and duties. Our aim in taking such measures was to strengthen and consolidate the federal authority and at the same time conform with the provisions of the Constitution. Instead of implementing the above-mentioned resolution in a positive spirit to achieve the objectives expected therefrom, we were taken aback with Decree No. 1/78 of January 20, 1978, promulgated by His Highness the President of the Supreme Defence Council which resolution, in spirit and substance, contravenes Resolution No. 1/76 despite what we had previously said i.e. the said Resolution No. 1/78 contravenes the provisions of the Constitution. Moreover, there were certain decrees relating to the organisation of the army which we had to settle in accordance with the provisions of the Constitution. An example is Federal Decree No. 3 of 1978 dated January 20, 1978, with regard to the appointment of Commander-in-Chief of the Army and which was issued in contravention of all constitutional principles or even constitutional customs.

Seventhly: The other subject which was dealt with in the aforesaid joint memorandum is the question of the unification of the judiciary. Notwithstanding the constitutional provision relating to this question, we were hoping that the government and the Federal National Council would attend to unifying the laws implemented in the various emirates and which represent the core of competence of the federal authorities. Such act would not have made the question of unifying the judicial structure a separate and distinct issue. The same applies to the bill for ownership of lands and immoveable properties by non-nationals which in our opinion and as presently drafted and with its retro-active effect tarnishes the reputation of the state internally and abroad and also represents a clear violation of the rights of the individuals particularly in relation to our Arab brothers.

As to the bills relating to commercial agencies, regulations of trade licences and organisation of the affairs of industry, we believe that they were laid down without serious study of their consequences and repercussions with regard to our economic situation and the acute economic recess we are presently suffering from and which we have not encountered in many, many years, in addition to their clear violation of the principles of the Constitution.

Our reference above to certain bills was to serve as an example only and to assist in indicating a few causes which impeded the federal march. We have, however, to refer in this respect to our determined stands concerning certain other federal laws such as the immigration and naturalisation

laws, to which we have totally adhered in conformity with the provisions of the Constitution, whereas certain emirates did not conform with the provisions of such laws and consequently tens of thousands of passports were issued to persons who did not deserve them while other legally-deserving nationals were deprived from holding such passports. This entails a great danger to the future of the nation and the nationals.

Rightly: As for the permanent Constitution, it is one of our most cherished aspirations, especially when the present Provisional Constitution was promulgated at a particular stage and in particular circumstances. We should really revise it to make it a permanent constitution to suit the stage that we have now reached.

But such an aspiration, cherished as it is, must not prevail over every other consideration and whimsically repeal the Provisional Constitution which is in force now and overlook the constitutional and legal customs which have to be observed in such a situation.

However, the Government of Dubai proposes that representatives of all the emirates shall proceed immediately to study the subject of the permanent constitution from the point of view of two fundamental principles; viz. our holy religion of Islam and the inherited traditions, so that the Constitution will then come as a doctrine springing from our deep faith and will be in keeping with the traditions of our society. Only then we can, in implementing the provisions of the permanent constitution, look into the joint memorandum of the Council of Ministers and the Federal National Council

without committing any violation of the Constitution. Such violations could simply be interpreted as our disapproval of the sovereignty of the Constitution and the Law. Such sovereignty is mandatory in order to conduct the affairs of any state, large or small.

We have also to mention that the draft of the permanent constitution which was previously made did not originate from a serious study by the representatives of the emirates, but was merely an academic effort made by some experts in addition to the fact that it did not spring from our religion, Islam.

Finally: We did not see any justification in going into all the details contained in the joint memorandum of the Council of Ministers and the Federal National Council, since that will entail a lengthy discussion which we do not need to go into at present, especially if we take into consideration our comprehensive approach to the present crisis and its motives and reasons which in our opinion, relate to the foundations on which the federal state, which we have all accepted for ourselves until now, was built. From this standpoint and with our emphasis that the Government of Dubai considers the federation and its continuity as a question of a country and the destiny of a nation, for which it is always prepared to sacrifice anything within its power, we - in view of the various prolonged phases through which the present crisis has passed and which make it unbearable, particularly when the appropriate solution does not appear to be available to us - propose that the Supreme Council requests certain brotherly nationals in the Gulf region to exert their good offices to

unify the opinion so as to ensure the interest of the federation and to achieve the aspirations of our people.

The responsibility of all of us at this stage of the life of the federation is a historic responsibility, and our duty and the trust reposed in us prompt us to be equal to the seriousness of the responsibilities entrusted to us.

May God help us to achieve what He loves and desires.

Rashid bin Saeed Al Maktoum
Vice President of the State
and Ruler of Dubai

Dubai, 27 Rabi Al Sani, 1399 H, corresponding to 26th March
1979, A.D.

EMIRATES NEWS
SATURDAY, MARCH 31, 1979.

SFC AND CABINET MEMORANDUM IS NOT UNCONSTITUTIONAL

Abu Dhabi, March 30 (Ittihad)

The following is an unofficial translation of a memorandum prepared in reply to the points raised in the Dubai government's memorandum dated March 26, 1979 to the Supreme Federal Council (SFC).

The memorandum was handed to the Minister of State for Supreme Council Affairs for being presented to the SFC.

"Before commenting on the memorandum submitted by the Dubai Government, we would like to first record that the Dubai government attended the Supreme Council session held on March 19, 1979. It requested that the session be postponed to March 27, 1979. But at the session held on a date set on the basis of its demand, the Dubai Government absented itself.

"(Subsequently) it said that it would neither attend the Council meeting nor would it ask for its postponement and sent the memorandum mentioned above and made it public in the mass media, thereby violating the provisions of the Provisional Constitution and the rules of procedure of the SFC. The Dubai Government's memorandum places the SFC in a de facto situation, delaying its work, since the constitutional duty obliges it to attend the SFC meeting, discuss the subjects presented and spell out its observations on them.

"(We would like to point out in particular that), the Dubai Government has the right to veto any objective resolution

in accordance with Clause 49 of the Constitution, which lays down that the SFC resolutions on objective issues are passed by a majority of five of its members, including the votes of Abu Dhabi and Dubai governments.

"Thus the Dubai government, which described the joint memorandum forwarded by the Federal National Council (FNC) and the Cabinet as unconstitutional, has (itself) assumed an [UN] constitutional course in replying to it, despite the fact that it was able to use its rights and discharge its constitutional responsibilities inside the SFC meeting.

"We state the following in reply to the (points) included in the memorandum:

Firstly: The Dubai government has alleged that the contents of the joint memorandum submitted by the FNC and the Cabinet, point to the fact that those who formulated it had completely ignored the provisions of the constitution, as if they are trying in an unconstitutional manner to shake the foundation on which the United Arab Emirates Federation is built.

"The right (position) is that the subjects included in the joint memorandum submitted by the FNC and the Cabinet represent the hopes and aspirations of the citizen masses for consolidating the Federal march and arguing its drive for the welfare of the homeland and the citizen.

"Under all circumstances, these (subjects) are mere recommendations submitted to the SFC, which is the supreme authority in the Federation, for discussion and decision in the light of the objectives of the Federation and the mutual

interests of the member emirates and consistent with the provisions of the Constitution.

"So, there is no violation of ignoring of the constitution in what was forwarded. The fouting of these recommendations being through constitutional legal channels, was in itself a consolidation of the bases on which the Federation is built.

"Secondly: The Dubai government memorandum referred to the unification of the judiciary and mentioned that regardless of the constitutional text connected with this subject, it was better to give attention to the unification of laws applied in the various emirates.

"In reply to this (we say that) Federal Law No. 6 of 1978 was issued on June 5, 1978 after the approval of the Cabinet and the PNC and the endorsement of the SFC. The (above) mentioned law covered the unification of judiciary in four emirates, that is Abu Dhabi, Sharjah, Ajman and Fujairah while three emirates remained with local judicial bodies. These are Dubai, Ras Al Khaimah, and Umm Al Quwain. This is the subject of the memorandum which represents a hope and aspiration from the Cabinet and the PNC and the citizen masses. As for the desire to unify laws applied in the various emirates, the Justice Ministry has almost completed the preparation of major legislation in connection with penal code, civil and trade transactions and companies and procedures in respect of the civil and penal and other courts. This is in addition to the many Federal laws which were issued and applied throughout the Federation.

"Thirdly: As for resolution No. 1 of 1978 regarding completion of the organisation of the Armed Forces in the country, the resolution was issued by His Highness the President in his capacity as the Supreme Commander of the Armed Forces on the basis of the constitutional amendment No. 1 of 1976, which provided for cancellation of the text of clause 142 of the Provisional Law which allowed member emirates to have local armed forces.

"(Resolution No. 1 of 1978) authorised only the country to establish land, sea and air armed forces. This resolution was also in tune with the Federal Law No. 19 of 1972 regarding the Supreme Defence Council which authorised the Supreme Commander of the Armed forces to issue the resolutions necessary for defence and preservation of the Federation and its security. This resolution did not emerge from a vacuum but depended on the recommendations of the three-member committee consisting of the Deputy Supreme Commander of the Armed Forces, the Defence Minister and the Chief of Staff. Thus the resolution was issued by a concerned authority and in accordance with the provisions of the Constitution.

"Fourthly: With regard to the Federal decree No. 3 of 1978 on the appointment of the Commander in Chief of Armed Forces, His Highness the President had issued the aforesaid decree on the basis of his constitutional powers provided in Clause 138 of the country's Provisional Constitution which stipulated that the appointment of the Commander-in-Chief of the Armed Forces should be by a Federal decree issued by the President.

"It is worth noticing that according to the Constitution, this decree (under Clause 138) does not require the approval of the SFC for issuance. Therefore this decree has been issued by the competent authority in accordance with the provisions of the Provisional Constitution.

"Fifthly: As for the draft law organising industry, the SFC has appointed [approved] the same at its meeting held on March 19, 1978.

"That is why it seems strange that the Dubai government agrees to the draft law at the SFC meeting on March 19, 1979 and then announces in its memorandum dated March 26, 1979 that it is contrary to the provisions of the law.

"Sixthly: As for the draft law on the acquisition of lands and real estate by non-nationals, the bill was approved by the SFC in its meeting on March 19, 1979 after resolving not to enforce it with retroactive effect and to apply it with immediate effect.

"The same previous notice is applicable here since it seems strange that the Dubai government agrees to the draft bill at the SFC meeting on March 19, 1979 and then describes it in the memorandum dated March 26, 1979 as defaming the country inside and abroad and violating the rights of the individuals.

"Seventhly: As for the draft law on trade agencies and regulation of licences, this subject was presented to the SFC in previous sessions and the SFC decided to set up a ministerial committee to be attended by the directors of municipalities to study the draft bill in collaboration with the Chambers of

Commerce and Industry in the various emirates and the subject is still under consideration. Therefore, it is still premature to allege that it is contrary to the provisions of the Constitution.

"Eightly: As for the allegation in the memorandum that some emirates are not sticking to the rules of Federal law the Dubai government has violated several constitutional and legal rules provided for in the Provisional Constitution of the country and the Federal laws and the resolutions of the SFC and Supreme Commander of the Armed Forces.

"These violations are not formal ones connected with non-observance of a formal procedure, but are substantive violations contradicting the Federation's aims and the mutual interest of the member emirates.

"Here are several examples of such violations:-

"1. Violation of the rules of the Constitution and the Federal laws by not contributing to the Federal budgets and not assigning a specific rate (percentage) from the annual resources of the emirate for covering the expenditures of the Federation's annual budget.

"2. Violation of the rules of the Constitution and the resolutions of the SFC and the Supreme Commander of the Armed Forces with regard to the unification of the Armed Forces and completion of its organisation.

"3. Violation of the rules of the Constitution and law on the jurisdiction of the Supreme Federal Court, whether on disputes about legal punishments or other matters within the jurisdiction of the Supreme Court.

"4. Violation of the rules of the Constitution which stipulate that the Federation is the sole authority which adopts legislation and implements all issues in connection with public hygiene and medical services and also violation of the Federal laws issued in this respect.

"5. Violation of the provisions of the Constitution which stipulates that the Federation is the sole authority which adopts legislation and implements issues in connection with protection of the country's security; and also violation of the Federal Law No. 6 of 1976 on state security and the SFC resolution in this respect.

"6. Violation of the provisions of the Constitution which stipulates that the Federation is the sole authority which adopts legislation and implements all issues connected with naturalisation and passports and also violation of the Federal Law No. 17 of 1972 on naturalisation and passports and the resolutions of the SFC issued in this regard.

"7. Violation of the provisions of the Constitution which stipulates that the Federation is the sole authority which adopts legislation and implements all issues in connection with immigration and residence and also violation of the Federal Law No. 6 of 1976 on immigration and residence and the resolutions of the SFC issued in this respect.

"8. Violation of the provisions of Federal Law No. 11 of 1976 on fire-arms, ammunitions and explosives as also the resolution of SFC issued in this respect.

"9. Violation of the law in the purview (jurisdiction) of ministers and the resolution of the SFC on coordination of

the oil policy between the emirates and cooperation between the local departments and the Ministry of Petroleum and Mineral Resources.

"10. Violation of the provision of the Federal Law No. 2 of 1973 on the establishment of the Currency Board and the failure of the Dubai emirate to cooperate with the Currency Board by not contributing in strengthening the value of the country's currency by depositing a part of its cash reserves of hard currency with the Currency Board at a rate suited (linked) to the volume of trade exchange and financial resources of the emirate.

"Ninthly: As for the Dubai government's proposal that representatives from all the emirates start an immediate study on the subject of the permanent Constitution the proposal is but one of the recommendations which are included in the joint memorandum submitted by the FNG and the Cabinet and included in the agenda of the SFG to decide what it deems suitable on it.

"We stress our keenness in securing the higher interests of the country, the consolidation of its entity, completion of its leap forward and protection of its security and sovereignty.

"It becomes necessary in these current international circumstances and events that all of us become one single hand that carries the trust of national and historical responsibility for securing our march and safeguarding our achievements and fulfilling the hopes of our people.

"We ask Allah the Almighty to guide us all to the benefit of our people and homeland."

SELECTED BIBLIOGRAPHY

- Abdullah, M.M., The United Arab Emirates, Croom Helm, London.
- Al-Baharani, H.M., The Arabian Gulf States, Librarie Du Liban, Beirut, 1975.
- Anthony, J.D., Arab States of the Lower Gulf, Middle East Institute, Washington, 1975.
- Beard, C.H., An Economic Interpretation of the United States, MacMillan Co., 1961.
- _____, ed., The Enduring Federalist, Doubleday & Co., Inc. 1948.
- Bennett, W.H., American Theories of Federalism, University of Alabama, 1964.
- Bernier, I., International Legal Aspects of Federalism, Longman, 1973.
- Birch, A.H., Federalism, Finance and Social Legislation in Canada, Australia and the United States, Oxford at Clarendon Press, 1965.
- Bombvall, K.R., The Foundation of Indian Federalism, Asia Publishing House, Bombay, 1967.
- Brown, R.E., Charles Beard and the Constitution, Princeton, New York, 1956.
- Chanda, Ashok, Federalism in India, George Allen & Unwin, 1965.
- Chaube, S.K., The New Constitution of India, K.P. Baghi & Co., Calcutta, 1978.
- Craghton, D.C., British North America at Confederation, Ottawa, 1938.
- Dacey, A.V., Introduction to the Study of the Law of the Constitution, MacMillan & Co. Ltd., 1959.
- Dikshit, R.D., The Political Geography of Federalism, MacMillan Company of India Ltd., 1975.
- Donovan, F., The Madison's Constitution, Dodd, Mead & Co., New York, 1965.
- Dumbauld, E., The Constitution of the United States, University of Oklahoma Press, Norman, 1964.

- Blazar, D.J., ed. and Others Gordzins, M., The American System. A New View of Government in the United States, edited by D.J. Blazar, Chicago Rand McNally, 1969.
- Blazar, D.J., ed., The Politics of the American Federalism, Lexington: D.C. Heath, 1969.
- _____, Cooperation and Conflicts Reading in American Federalism, F.E. Peacock Publishing Inc., 1969.
- Frank, T.M., ed., Why Federations Fail, New York University Press, New York, 1968.
- Friedrich, C.J., Trends of Federalism in Theory and Practice, Pall Mall Press, 1963.
- _____, Constitutional Government and Democracy, Oxford and IBH Publishing Co., New Delhi, 1974.
- Ghosh, R.C., Treaties and Federal Constitutions, The World Press Pvt. Ltd., Calcutta, 1961.
- Goldwin, R. and Others, ed., A Nation of States: Essays on the American Federal System, Rand McNally & Co., Chicago, 1964.
- Gupta, B., Comparative Study of Six Living Constitutions, Sterling Publications (P) Ltd., New Delhi, 1973.
- Haksar, C.I.E. and Others, Federal India, Martin Hopkison Ltd., London, 1930.
- Hamilton, A., and Jay J., Federalist Papers, A Mentor Books, New York, 1966.
- Haqqi, S.A.H., ed., Union-State Relations in India, Meerut 1967.
- Hardgrave, J., India, Government and Politics in a Developing Nation, Harcourt Bruce Jovanovich Inc., 1976.
- Hashim, Tan Sri Mohammed Suffian, An Introduction to the Constitution of Malaysia, Malaysia, 1978.
- Le Blanc, H.C. and Others, The Politics of States and Urban Communities, Harper & Row Pub., New York, 1971.
- Livingstone, W.S., Federalism and Constitutional Change, Oxford at Clarendon Press, 1956.
- Lond, D.E., The Persian Gulf, West View Press, Colorado, 1978.
- MacMahon, A.W., Administering Federalism in a Democracy, Oxford University Press, New York, 1972.
- _____, Federalism: Mature and Emergent, Doubleday, New York, 1962.

- Misra, B.R. (?), Economic Aspect of Indian Constitution,
Orient Longman, Bombay, 1953.
- Morris, C., The Falcon Desert, London, 1977.
- Otataiba (Al), Mana Saeed, Petroleum and Economy of the United Arab Emirates, Croom Helm, London, 1977.
- Ransome, P., ed., Studies in Federal Planning, MacMillan & Co., Ltd., London, 1943.
- Ray, Amal, Inter-Governmental Relations in India, Asia Publishing House, New Delhi, 1966.
- Reagan, H.D., The New Federalism, Oxford University Press, New York, 1972.
- Riker, W.C., Federalism. Origin, Operation, Significance, Little Brown, Boston, 1964.
- Sawer, G., Modern Federalism, C.A. Watts & Co. Ltd., London, 1969.
- Sharma, B.M., Federal Polity.
- Sharma, A.P., Prelude to Indian Federalism, Sterling Publication (P) Ltd., 1976.
- Sharma, P.K., Federalism and Developed and Developing Areas, Pragati Publications, 1979.
- Sharma, S.R., The Indian Federal Structure, Central Book Depot, Allahabad, 1967.
- Shils, E., Political Development in the New States, Moulton, 1968.
- Singh, K.R., The Indian Ocean, Manohar, New Delhi, 1977.
- Smiley, D.V., The Canadian Political Nationality, London, 1967.
- Sundquist, T.C. and Others, Making Federalism Work, The Brookings Institute, Washington, D.C., 1969.
- Tachan, F., ed., Political Elites and Political Development in the Middle East, John Wiley & Sons, 1975.
- Venkatraghva, Competitive and Cooperative Trends in Federalism.
- Waite, P.J., The Life and Times of Confederation,
University of Toronto Press, 1962.
- Watts, R.L., New Federations, Oxford at the Clarendon Press, 1966.
- Administration of Federal Systems, Hutchinson Educational Ltd., 1970.

- Wheare, K.C., Federal Government, Oxford University Press, 1963.
- _____, Modern Constitution, Oxford University Press, 1975.
- Wildavsky, A., American Federalism in Perspective, Little Brown & Co., Boston, 1967.
- Wriggins, W.H., The Ruler's Imperative, Columbia University Press, New York, 1969.

ARABIC SOURCES

- Al Baharamah, Dr. H.M., The Modern Arabian Gulf States, Beirut, 1972.
- Al-Azraq, Abdul Wahhab, Imperative for the Amendment of the Provisional Constitution of UAE, Ministry of Information & Tourism, UAE.
- Al-Layyani, Asal B., Al-Bahrani Since Independence, 1977.
- Badawi, Jamal, Consolidation of the Federal Entity : A Question of People and State, Ministry of Information & Tourism.
- Collection of Laws and Decrees of UAE, Ministry of State; Supreme Council Affairs, 1974 1975.
- Ibrahim, Dr. Alsayyid M., Basis of Political and Constitution Structure of UAE, Documentation & Studies Centre, Abu Dhabi, 1975.
- Yunis, Adil, The Constitutional Format of UAE, Ministry of Information & Tourism, UAE.