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New Directions in Federalism Studies

**Edited by Jan Erk and
Wilfried Swenden**

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Series editor's preface

It can hardly be called into question that the current volume addresses a highly relevant topic. As the editors point out in their introductory chapter, some 40 percent of the world's population lives in federal states. To be sure, if we exclude those who do not live in democratic systems, the proportion goes down considerably. Furthermore, if we wanted to ascertain exact figures we would be confronted with the dual challenge of defining "democracy" and "federalism" – concepts which lend themselves to a considerable degree of ambiguity. Yet, it is beyond doubt that the number of federal systems has grown significantly in recent decades, sometimes as a result of external pressures emanating from international monetary institutions such as the World Bank or the IMF, who have advocated vertical power sharing as a means of enhancing economic efficiency in developing nations. Such demands need not necessarily lead to a fully fledged federal system. There are many examples of vertical power sharing which stop short of a true transfer of political authority to sub-national units – which is the defining criterion of federalism. Such instances of decentralization may come very close to federalism in that many of the institutional arrangements may look very similar, but there is no guarantee of subnational autonomy.

The belief in the superior efficiency of federalism is but one cause of the emergence and development of federal systems. Path dependency is a powerful explanation, as is the need to accommodate deeply divided subcultures by giving them far-reaching rights of self-government. In addition, democratic theorists have maintained that federalism simply makes for better democracy because it brings much decision-making closer to the people. However, much of this rests on shaky empirical grounds and this volume shows that unambiguous evidence for the presumed effects of federalism is hard to generate.

Focusing mainly on European democracies but looking as far afield as India and Argentina, the contributors draw our attention to the considerable variation in individual federal arrangements which make large *N* comparisons risky, because like may not be compared with like. Federalism is a multifaceted phenomenon and its precise effects depend to a large degree on the specific institutional rules of a given country. Federalism may be integrated or unintegrated, it may have in-built incentives that foster competition or enforce cooperation, and the required level of equalization across subnational units may differ

substantially. Furthermore, federalism interacts with a range of other institutional variables like the degree of neo-corporatism, the power of constitutional courts or the nature of the party system.

Regional diversity is another case in point. While federalism aims, as César Colino writes in this volume, at facilitating the integration and coexistence of different territorial groups or entities, the very nature of such entities differs widely and may hence lead to very different kinds of federalism. Germany, for example, has little need to accommodate substantially different communities through a federal system of governance. Arguably, German federalism owes its existence mainly to the historical trajectory of nation-building. The absence of strong sub-national variation has facilitated or even promoted emergence of a highly sophisticated and almost unintelligible mechanism for making the conditions of life largely similar across the German *Länder*. This differs sharply from other federal systems where the very essence of federalism is the preservation of difference – be it cultural, linguistic or economic. Furthermore, the strong emphasis on cooperation has increased the risk of gridlock and, contrary to what some democratic theorists would expect, led to a conspicuous lack of democratic accountability. Co-decision by the *Bundesrat* makes it almost impossible even for informed citizens to attribute policy outcomes to specific political camps. Unsurprisingly, the confrontational British political system is frequently regarded to be superior from this perspective. Yet, devolution means that the UK has taken decisive steps in the opposite direction while two rounds of federalism reform in Germany seem to cast doubt on the validity of some overly pessimistic accounts of the capacity of German federalism to reform.

In any case, there can be little doubt that federal institutions normally embody powerful checks against excessive central power. At least under conditions of democratic government the growing number of federal systems can be regarded as a gain in terms of freedom. As many stateless nations have accomplished some degree of self rule in the recent past, we may see fewer of such developments in the future. Furthermore, as the editors point out in their concluding chapter, there are significant countervailing trends. The global economic crisis has resulted in a “resurgence of central government activism”, and geopolitical considerations related to Russia’s increasingly assertive role may make it likely that “concerns over international security are likely to trump concerns over domestic federal reforms”.

Thomas Poguntke, Series Editor
Bochum, June 2009

1 The new wave of federalism studies

Jan Erk and Wilfried Swenden

Comparative federalism as a growth industry

Federalism – the vertical division of political authority among orders of government – has experienced a remarkable renaissance in the recent decades, leading some observers to label comparative federalism a growth industry (Kaiser 2004; Erk 2007a). The boom is reflected in the growing prominence of specialist scholarly journals such as *Publius: The Journal of Federalism* and *Regional and Federal Studies*. Federalism is also granted individual chapters in no fewer than four volumes of the new *Oxford Handbooks of Political Science*. Federalism chapters appear in the handbook of political economy (Rodden 2006: 357–372), the handbook of political institutions (Galligan 2006: 261–280), the handbook of comparative politics (Beramendi 2007: 752–781) and the handbook of law and politics (Halberstam 2008: 142–164). Articles dealing with various aspects of federalism also increasingly feature on the pages of generalist comparative politics journals.

The recent surge in federalism studies is defined by two basic characteristics. First, the work is increasingly comparative in outlook; and second, contemporary federalism scholars tend to be more analytical in their approaches than previous generations of federalism researchers, whose work was often informed by a normative attachment to the merits of divided political authority (Elazar 1987). What we call “the new wave of federalism studies” is not defined by a clear scholarly consensus however. For starters, there is no clear agreement as to what federalism exactly means and how it should be operationalized. In very broad brushstrokes, what defines federalism studies is an interest in divided political authority, but beyond this, there are important disagreements. Divisions exist in substantive foci as well as in theoretical and methodological approaches. Yet we believe there are latent commonalities within the new wave. It is in this chapter that we expose common analytical puzzles shared by most of the new wave to help move beyond the divisions that beset our field of study. We employ four benchmarks based on institutions, democracy, cleavages and public policy in order to allow lessons/insights/findings from different empirical contexts to travel, thereby ensuring cumulative growth for the field.

In broad terms, all contributions to *New Directions in Federalism Studies* share a comparative outlook. Even chapters that are based on empirical evidence

from single cases follow a theoretical reasoning that endorses the premise of generalizability. That is, every case is seen to be part of a bigger whole and the quest is to unearth patterns to understand and explain federalism. While their subfields and empirical concerns might differ, the contributions to this volume are all part of this new wave of federalism studies that flourished in the last decade.

How can we explain this recent growth in federalism scholarship? We see two major reasons for the boom. The first relates to changes in the supply side of federal and decentralized government. Put simply, from Iraq to the European Union, there are more federal experiments with vertically divided political authority around the world. As the political importance of federalism increases, so does federalism as a subject of study. The second reason relates to developments within the discipline of political science. Following the decline of behavioralism and structural-functionalism, political science (re)discovered institutions (Weaver and Rockman 1993; Steinmo *et al.* 1995). Scholarly attention to institutional arrangements that shape political strategies and distribute political power brought a renewed interest in how political authority is divided, shared or dispersed among two or more orders of government. A rising interest in federalism would have still been quite likely irrespective of changes in its supply.

Changes in the supply side of decentralized government

In a recent comparative study, Liesbeth Hooghe, Gary Marks and Arjan Schakel demonstrate that between 1950 and 2006 the regional tiers of government in a majority of 42 OECD countries grew significantly in strength (Hooghe *et al.* 2008).¹ The authors measure regional authority by using a variety of indicators expressing degrees of regional self-rule (the degree to which regional governments can make autonomous decisions in certain matters) and shared rule (the extent to which regions participate in central decisions). Hooghe, Marks and Schakel observe that the growth of regional authority is not pronounced among those states that were already federal in 1950 (for instance Australia, the US, Switzerland or Germany) and among those states that are too small (i.e. three million inhabitants or fewer) to generate regional tiers of government of significance. However, their calculations show that regional authority has grown substantially in non-federal countries with populations above three million. The authors raise a number of explanations to account for this growth. For instance, the absence of warfare obviates the need for a strong centralized effort to reconstruct national economies after war. Furthermore, the functional logic of economic, infrastructural, environmental and welfare policies has pressed many formerly unitary states in the decentralizing direction. In recent years in Latin America alone, local or provincial elections were introduced in (non-federal) Bolivia, Chile, Colombia, Paraguay and Venezuela and strengthened in (federal) Argentina and Brazil (Treisman 2007: 3).

Both in its federal and decentralized forms, there has been an increase in the supply of vertically divided political authority. Although federalism and political

decentralization are separate concepts, they both lead to the strengthening of regional and local orders of government. Decentralization in essence is an act of the centre to devolve some of its political competences to lower levels; regions, thus, do not have a constitutional guarantee to self-government. Under federalism, on the other hand, the regions' right to self-rule tends to be constitutionally enshrined. Both forms of vertical division, however, have become more salient partly due to international factors. For industrialized states, the global integration of international markets and the dominance of monetarist economic ideology weakened the political and economic responsibilities of central governments, thereby providing favorable conditions for decentralization. However, the current global financial crisis might slow this process as central governments around the world are forced to reclaim some of their former role in managing the economy. That being said, at this stage the financial crisis triggering a complete reversal of the economic empowerment of regions seems unlikely.

For many developing states on the other hand, the rise of decentralized government owes its existence to leading international monetary institutions such as the World Bank, the International Monetary Fund, the Inter-American Development Bank and the United Nations Development Program, who have all advocated various forms of vertically divided political and economic decision-making. These international fiscal institutions do more than just advocating decentralization; they formulate the implementation of such policies as a prerequisite for receiving monetary support. Daniel Treisman notes that between 1997 and 2003, the World Bank pledged 300–500 million US dollars per year to support projects with a significant decentralization component. In his view, “for a developing country short of money, devolving power must look like an easy way to cash in on the rich world’s desire to help” (Treisman 2007: 4).

The virtues of federalism and decentralization are not only propagated from the viewpoint of economic performance but also from the perspective of managing ethnic conflict. The process of democratization in Central and Eastern Europe following the end of the Cold War compelled reformers to think through appropriate institutional schemes for stabilizing and consolidating these new democracies. Institutional engineers often turned to federalism. But in some parts of the former communist world the pacifying potential of federalism was not warmly received. For instance, in some East European countries federalism was automatically associated with “ethno-federalism” – which carried negative connotations of divisive nationalist movements pitting one ethnic group against the other. The breakdown of multi-ethnic (if non-democratic) federations such as Czechoslovakia, Yugoslavia and the Soviet Union prevented the widespread adoption of federalism in this part of the world – notwithstanding federal Russia and Bosnia-Herzegovina (Heinemann-Grüder 2002: 4; Seroka 2002: 103–115). But such a pessimistic attitude towards the conflict-management potential of federalism is not shared in the west of the continent and elsewhere. In Western Europe, Spain, Belgium and the United Kingdom have sought to contain nationalist pressures by decentralizing powers to regional governments (Swenden 2006). Federalism was adopted in Iraq as a means to ensure the coexistence of

Kurds, Shiite and Sunni Muslims; and it is also seen as a necessary institutional ingredient for holding together large or multi-nation states such as Indonesia, Ethiopia, Nigeria or the Congo (Anderson 2007). An example of the growing international salience of federalism is the “Forum of Federations” – an international organization supported by many countries and governments in a quest to promote the conflict-management potential of federalism.

Another important example of the growth in the supply side of federalism is the European Union, of course. The very foundation of European integration is based on the principle of divided political authority between the member states and the union. Most observers tend to see the European Union as an international system of multi-level governance with federal traits (Hesse and Wright 1996; McKay 2001; Börzel and Hosli 2003). These traits have been helpful in reconciling the overarching goal of economic and political integration with the preservation of national state boundaries (for a recent literature review on the topic, see Kelemen and Nicolaïdis 2007).

In the last decades, some of the older federations such as Australia, Canada, Germany and Switzerland have undertaken various federal reform initiatives. These reforms generally aim to bring about better coordination and cooperation among orders of government as a means to enhance performance in an increasingly globalized world economy. For instance, Germany took some cautious steps to reform its federal structure in 2006 in light of growing criticisms that party political games and growing inter-regional disparities do not square well with a model of federalism that expects close cooperation among federal and regional orders of government (Scharpf 1988, Benz 2005). Less uniformity, less framework legislation, fewer joint policy tasks and more regional legislative autonomy are seen as possible ways to break away from the “reform gridlock” (*Reformstau*). A more daring reform plan discusses the possibility of returning some tax powers to the German provinces, i.e. the *Länder*. The issue of finance has also featured prominently in a recent reform of Swiss federalism (Vatter 2006) and in the Australian decision to replace a number of regional sales taxes with a (federal) Goods and Services Tax, the revenue of which mostly accrues to the constituent states of the Australian Commonwealth (Swenden 2004). Although changes to Canadian federalism have been less prominent, federalism remains highly vulnerable on a number of points. How to integrate Québec in the federation and whether (or to what degree) accept its opt-out from federal (welfare) programs remains unresolved, as well as how to limit the uses (or abuse) of the federal spending power, and how to reform the second chamber and strengthen its potential role as a tool of regional representation (Smith 2008).

Finally, federalism receives more attention because some of the emerging markets, especially India and Brazil, happen to represent federal states. The growing significance of these states from an economic point of view also propels more research interest into their political systems, including the nature of their federal systems (see for instance Rao and Singh 2005 on India; Samuels 2003 on Brazil). In parallel, some argue that a country as vast and unevenly developed as

China could only liberalize politically if it were to become a federation (Bahl and Martinez-Vasquez 2006: 249–300). Others have already argued that political decentralization has been the key to the economic success of China (Qian and Weingast 1996; but see Cai and Treisman 2006 for a critical assessment and an alternative explanation).

Political science rediscovers federalism (and political institutions)

As the contemporary political relevance of federalism increases, it is only natural that a new generation of political scientists is drawn to studying the contours of this complex phenomenon. In many ways, this reflects the fate of democratization studies. Each subsequent wave of democratization (Southern Europe, Latin America, Central and Eastern Europe) produced a new wave of democratization studies. Similarly, the rise of decentralization or the (prospect of) federalism in Europe and beyond propelled a rise in decentralization or federalism studies. But the growing scholarly attention is not only a factor of the growth in the supply side of federal and decentralized government. The study of federalism also benefits from a broader tendency among political scientists since the mid-1980s to revisit the relevance of political institutions (North 1990; Koelbe 1995).

Starting with the mid-1980s, institutionalism slowly moved to the centre of political science – hitherto dominated by society-based approaches such as behavioralism and structural-functionalism and actor-based rationalist approaches (Evans *et al.* 1984). In an influential piece from that period, James March and Johan Olsen highlight the limits of society-based and rationalist explanations of institutional phenomena that dominated the literature (March and Olsen 1984). In their view, political scientists using rational choice theory should pay more attention to collective action problems (rather than individual well-being) and acknowledge that many political decisions are taken under a “veil of ignorance” (i.e. these decisions are only prospective in nature and cannot rely on full information). Similarly, March and Olsen argue that structural (or society-based) explanations of political action pay insufficient attention to the reciprocal effect of institutions on societies: politics or political institutions can shape society as much as society can shape politics (see Peters 1999: 15–17 for a discussion).

Studying the causes and the consequences of an institutional configuration – in this case vertically divided political authority between orders of government – in many ways was an ideal terrain for this new approach in political science. As institutionalism became part of the mainstream, the study of federalism broke from being under the near-monopoly of legal scholars. But the rediscovery of political institutions came with an outlook slightly different from the older institutionalism. There have been calls for a distinctly *neo*-institutionalist approach (Rhodes 2007). New institutionalists distinguish themselves from the “old” institutionalists, who were more concerned with describing than explaining political institutions. Old institutionalists tended to follow legal scholars in their choice of

political institutions to study, and in how to study them. Furthermore, old institutionalists also tended to define institutions in a manner parallel to legal scholars (heavily focusing on the *trias politica*, i.e. executive, legislative and judiciary, without paying much attention to political parties or informal political processes). By contrast, new institutionalists provide a much broader definition of institutions (Peters 1999: 18–19), and they criticize but do not outright reject the methods deployed by behavioralists, structuralists and rational choice theorists. For instance, new institutionalists tend to nuance rather than reject the premises of rational choice theory and even seek to incorporate its analytical rigor. Rational choice institutionalists such as George Tsebelis (2002) and Frits Scharpf (1997) bring in institutional rules and consider how they affect or condition the strategic behavior of actors in the political process. Similarly, new institutionalists increasingly deploy the sophisticated data-skills behavioralists tend to use. This is particularly the case in the analysis of how institutions interact with the external context to steer processes of interest aggregation or affect policy outcomes (Lijphart 1999; Castles 1998).

These developments within political science also affected the way in which political scientists studied federalism. We would argue that what we are witnessing since the 1990s is indeed a new approach to studying federalism. However it is also *new* because – unlike what Alfred Stepan could still claim as recently as 2001 – by now the leading approaches within comparative politics are reflected in how federalism is studied (Stepan 2001: 316). Comparative politics and federalism have found each other in the new wave.

The research puzzles and approaches of the new wave

Notwithstanding the recent upsurge in comparative federalism research, the study of federalism has an intellectual lineage predating 1990. In fact, an important corpus of classics within the literature appeared during the time-period between the end of World War II and the 1980s (Livingston 1952; Duchacek 1970; Sawyer 1969; King 1982; Watts 1970; Wheare 1946; Riker 1964; Friedrich 1968). This cycle producing some of these landmark studies on federalism finished with Daniel Elazar's influential *Exploring Federalism*, first published in 1987. During this time-period, the study of federalism occasionally emerged on the radar of general comparative political scientists as well. For instance, in his first edition of *Democracies* (1984), Arend Lijphart considered the distinction between unitary and federal government as one crucial dimension of his broader typology setting out consensus vs. majoritarian democracies.

Arguably of all the authors listed above, the political scientist who cast the longest shadow on contemporary federalism research remains William H. Riker (1964). The significance of Riker as an analyst of federalism is due to his overall influence as a public choice theorist and the strength of rational choice/formal theory applications in current federalism or new institutionalist scholarship more generally (see for instance Kelemen 2004; Filippov *et al.* 2004; McKay 2004; Volden 2007; Tsebelis 2002). Yet, Rikers' contribution to federalism has also

been a highly problematic one (Erk 2006). Indeed, in a critical review of Riker's work on federalism, Alfred Stepan stated that “the world's most prestigious academic authority on federalism [also considers the object of] his scientific observation [as a] a powerless chimera” (Stepan 2001: 337). Riker is not a rational choice *institutionalist* but a rational choice theorist *pur sang*. For him, individual preferences remain the key driving force behind social choice. Therefore, “federalism is not more than a [fiction]. No matter how useful the fiction of federalism is in creating a new government ... In the study of federal governments”, so he once argued, “it is always appropriate to go behind the fiction to study the real forces in the political system” (Riker 1969: 144–145). Riker's provocative verdict was that federalism simply did not matter. Perhaps the most important scholarly task of the new wave of federalism studies has been to prove Riker wrong. By doing so, students of federalism have not only sought to demonstrate that federalism matters, but also *how* it matters, *to what extent* it matters and *what* it matters *for*. Although students of federalism bring different approaches to the forefront when addressing these questions they also share two basic characteristics.

First, showing how federalism matters necessitates a comparative approach in which different forms of federalism are compared with each other and with non-federal regimes. This increasingly comparative outlook has brought with it a concern for external validity to an area of study that used to be driven by internal validity. In addition to becoming experts of the minutiae of one federation, the new wave of federalism studies now seeks lessons that could be generalized to other cases where political authority is divided among orders of government. In this respect the study of federalism benefited from the rising prominence of comparative politics, the wider availability of international datasets (provided by international organizations such as the OECD or academe such as “The Minorities at Risk Project” at the University of Maryland) and the diffusion of data-skills among comparativists. The emphasis on external validity and the rising quality of comparative federalism research also reflects the mainstreaming of federalism into comparative politics. Conversely, comparative federalists have increasingly branched out to other fields of study. Contemporary scholarship displays an awareness of ongoing theoretical debates in other parts of the scholarly community, and a desire to enrich federalism studies by importing (and exporting) ideas across fields of study. It is this belief in finding generalizable patterns that drives contemporary scholarship.

Second, federalism studies shed much of its normative undertones during its recent boom. There now seems to be an analytic distance to the very subject under study. That is, we see more of an even-handed discussion of both the positive and negative sides of federalism. The new wave of federalism studies tends to be less driven by an underlying normative attachment to the subject – often held by the previous generation of federalism research (Elazar 1987, 1994). In fact many of these earlier studies were often built on a *federal illusion*, i.e. “federalism breeds better democracy, better bureaucracies and better markets” (Beramendi 2007: 758). According to Pablo Beramendi: “The need to bridge this

gap between theories and facts, between the federal illusion and a disappointing reality, has been the engine behind the scholarship on federalism over the last two decades” (Beramendi 2007: 763). The “better democracy” assumption derives from an understanding that federalism brings politics closer to the people, increases avenues of political representation (and thus also elections) and proliferates the number of contact points through which interest groups can make themselves heard. The “better bureaucracy and market preserving” assumptions derive from the understanding that federalism promotes factor mobility, which in turn encourages governments to be efficient, effective and innovative. “By allowing voters and factors to vote with their feet across jurisdictions, federalism facilitates a better understanding of incumbents by markets and voters” (Beramendi 2007: 762). Yet not only public choice economists, but also welfare economists have sung the praises of federalism (Musgrave 1997; Oates 1972, 1991). Their view is that federalism enables tasks to be appropriated to the most efficient level of government. On these grounds, redistribution, stabilization of monetary and fiscal policy or policies that generate significant externalities (environmental regulation for instance) should be assigned to the federal level, whereas policies that require more detailed market signals (such as education or health care) should be assigned to lower political levels.

One of the most important contributions of the new wave of federalism studies is to confront these assumptions with hard empirical evidence. At least one outcome of this approach has been a healthy detachment from the subject. By undertaking an even-handed and critical evaluation, scientific analysis can be separated more easily from a normative attachment to federalism. Accurate diagnoses should precede prescriptive license. In this context, explaining and understanding federalism should precede the blanket endorsement of its assumed benefits. It is this quest to unearth the working of federalism that would eventually result in more realistic expectations from political engineering. A set of questions that contemporary students of federalism tend to explore, for instance, promises a much richer and nuanced comprehension of the dynamics at play between federalism and democracy before the concept is endorsed and prescribed: (1) Do federal democracies effectively generate higher political participation? (2) Are citizens in a federal context capable of drawing the appropriate lines of accountability, in other words, do they know which “government” (federal, regional) to blame or credit for policy failure or success? (3) What level of government do voters keep in mind when casting a ballot in regional elections?

The quest for an even-handed and critical evaluation of federalism has led to questions tackling the assumed (macro-)economic benefits of federalism as well. And the jury is still out on whether federalism is much of a help or a hindrance in this respect. Recent studies examining the relationship between federalism and economics show the dynamics can work either way (Rodden 2006; Treisman 2007). Jonathan Rodden recently demonstrated the importance of analyzing the bargaining power of regional governments to press federal or central governments into accepting regional bailout requests (Rodden 2006). That capacity is

stronger for regional governments who can veto federal policy proposals and for regional politicians who operate in a weakly integrated party system. German *Länder* have high levels of expenditure autonomy, relatively low levels of fiscal autonomy but a strong collective input in federal decision-making through their representation in the upper house of the German Parliament, the *Bundesrat*, and through their role as implementers of (a great share of) federal legislation. Yet, most sub-national level *Land* politicians are also members of strongly integrated national parties. In this sense, the position of regional politicians is weaker than in Brazil, where the Senate can veto all legislation, where small constituent states are highly overrepresented, and where senators tend to be agents of regional party bosses due to the weakly integrated character of national parties (Samuels 2003). Hence, a key contribution of Rodden’s research is the interaction between the organization of political authority at the central and regional levels (shared and self-rule) and the vertical distribution of fiscal and expenditure powers in the state as a key explanatory force for fiscal (in)efficiency. Put differently, Rodden has brought the dynamics of federalism as a political institution into the analysis of fiscal federalism.

The observation that federalism may work in different directions is not limited to recent scholarship on fiscal federalism. This view permeates the work of scholars studying the effect of federalism on the welfare state (Pierson 1995; Obinger *et al.* 2005; Moreno and McEwen 2005), on environmental policy (Kelemen 2004; Wälti 2004), or public policy more generally (Braun 2000; Wachendorfer-Schmidt 2001). The same observations apply to scholars who have studied the extent to which federal structures are a help or a hindrance in the implementation of European Union legislation (Bursens 2007; Börzel 2002) or to the growing literature analyzing the capacity of federalism to accommodate or exacerbate ethnic conflict (Amoretti and Bermeo 2004; Anderson 2007; Brancati 2006; Erk and Anderson 2009).

In part, all these contradictory findings reflect the multifaceted nature of federalism. If federalism is defined as the method of dividing political authority in such a way that “each kind of government has some activities on which it makes final decisions” (Riker 1975: 101), then surely many different federalisms are to be found. Even well before the new wave in federalism scholarship appeared, Rufus Davis identified no fewer than 48 adjectives that had been linked to federalism in the comparative literature (Davis 1978: 24 and Erk 2006: 4 for a discussion). The multiplicity of federalism(s) is even more striking since the number of federal democracies is relatively small (albeit roughly 40 percent of the world’s population now lives in federal states).

The lack of uniform and unambiguous consequences that can be attributed to federalism has stimulated a renewed interest in seeking to explain the origins and formation as well as the development or consolidation (“stabilization”) of federal arrangements. If federalism(s) generate(s) different effects, it may well be because the conditions underpinning the formation of such arrangements may be very different. There are three major lines of enquiry here. The first – with a considerable tradition within federalism studies – considers the impact of external factors

(international security, external threats) on the formation or sustainability of federal arrangements (McKay 2004; Erk 2009). The best known argument along these lines is William Riker's interpretation of the origins of American federalism: "one immediately necessary condition for the federal bargain in 1787 was the presence of a severe external threat. Hence one of the main concerns of the framers was to improve federal control of military–diplomatic affairs. They did so by authorizing the central government" (Riker 1964: 57).

The second line of enquiry on federal origins focuses more explicitly on the impact of social cleavages and culture have on the formation of a federal arrangement (Livingstone 1952; Stepan 2001; Bartolini 2004; Burgess 2006; Erk 2007b). The third line of enquiry is probably the least connected with previous research: it explicitly focuses on the relative strength and position of the actors in a federal arrangement and the distributional concerns between them. Daniel Ziblatt (2006), for example, explains the origins of federalism on the basis of the infrastructural capacity of the territorial elites and societies who negotiate the future structure of state. Where infrastructural resources (legitimacy to command, army, educational and transport infrastructure) were relatively well proportioned among the territorial entities of the state, as in Imperial Germany, a federal structure was likely. However, where many territorial entities of the state lack a basic level of infrastructural capacity, as in the newly formed Italian state of the late nineteenth century, the unit which initiates unification had no choice but to impose a unitary format.

Moving from how federations are formed to how they develop or are sustained is only a small step but one that brings depth to scholarship. In analyzing the latter question social scientists have paid increasing attention to the interaction between federal structures and the party systems (Filippov *et al.* 2004; Hopkin and Van Houten 2009; Swenden and Maddens 2009a), or to the effect of evolving inequalities in territorial fiscal capacity on the recalibration of federal designs. These studies all raise the question as to what extent federal institutions matter in and by themselves, or whether they merely reflect the underlying preferences of political or social actors. In this sense, the findings of this literature seem to be indicating that Riker, who emphasized the role of party systems all along, was right after all.

The four dimensions of the new wave

New Directions in Federalism Studies brings together a set of papers that epitomize the new analytical and comparative approach. That is, all chapters are based on a healthy normative detachment from the subject, they are concerned with external validity and they are firmly structured within the broader context of comparative politics.

As editors of this volume, we are not only concerned with showing the multifaceted nature of federalism studies, but we also seek to build bridges between what at first sight may seem to be parallel approaches to the topic. Indeed, students of federalism often bring quite different preoccupations, premises, values

and analytical methods to their studies. Federalism may have entered the repertoire of scholars of ethnic and racial studies, constitutional politics and political economy, but federalism itself is often considered an independent variable which may (or may not) attenuate ethnic conflict, may (or may not) generate economic growth, may (or may not) inhibit the development of the welfare state. Thus, in assessing the relevance of federalism academics frequently put on their hats as constitutional scholars, students of nationalism or ethnic studies or political economists, but have not developed into "federalism scholars" to the extent that, say, "party scholars" have. This helps explain why there is very little communication across these various pockets of federalism scholarship, and why some profound theoretical disagreements even fail to relate to each other due to the different wavelengths on which scholarship is conducted. There is an identifiable surge in scholarly output, but the latent commonalities within the new wave are not yet manifest.

One of the key aims of this book is to bring these pockets of federalism research closer together, by identifying how these subfields relate to each other. To this purpose we have encouraged contributors to look beyond the *comfort zones* of their own disciplinary approaches to the topic. To facilitate this task we have identified four major benchmarks based on institutions, democracy, cleavages and public policy as potential tools to bring out the commonalities across the subfields of federalism. The contributions to the volume are structured around these dimensions, along which most of the new wave of federalism scholarship is conducted.

The first benchmark studies the *development or evolution of federal institutions across time and their role as institutional veto points*. Some questions that are raised here address the issue of endogeneity: what brings about federalism (or federal change) rather than what does federalism bring about. In doing so, these contributions also explore the relationship between the institutional and societal aspects of federalism. Federalism not only denotes the constitutional/institutional configuration of a political system, but it can also refer to the sociological set-up. One can have a "federal society" where societal differences like ethnicity, language and class tend to be territorially-based, or one could have a non-federal society where differences are nationwide and not territorially concentrated (Erk 2007b). It is the relationship between the institutional and the societal where many theoretically interesting questions for comparative federalism lie. For instance, to what extent do institutional configurations of federalism "filter", or "slow down" societal pressures for change? Or, to what extent do informal practices that are linked to societal differences provide a better explanation for intergovernmental dynamics than constitutional rules and formal procedures?

The second benchmark relates to *federalism and democratic participation, representation and accountability*. One of the most important debates about federalism is whether it helps or hinders democracy. Some see the two levels of government in a federal system as a benefit to democracy, whereas others believe that a federal system divides the general will and thus limits chances for

large scale democratic reform (and consolidation). In terms of representation, federalism is generally seen to provide democratic opportunities to territorially concentrated political interests but not to those that are territorially dispersed. There also seems to be a tension in terms of democratic accountability between federalism's role in bringing decision-making closer to the people and the accompanying possibilities for buck-shifting between the various levels of government. If we establish clear criteria on which federalism may generate a democratic surplus (multiplicity of elections, turnout, knowledge of voters with regard to who does what), does the empirical evidence stack up in its favor? Do politicians in federal states consider the general interest alongside that of regionally specific interests? Democratic federalism implies that voters and parties express their views at multiple levels. To the extent that they exist, statewide (country-wide) parties may play a key role in linking together the various levels of the multi-level party system, but in order to be successful at all levels they may have to convey different messages in statewide (general) and regional elections. How can we explain the different strategies that statewide parties wish to pursue?

The third benchmark reviews the *capacity of federalism to represent and accommodate territorially based ethnic, cultural and linguistic differences in divided societies*. Federalism seems like a "Janus-faced" institutional device in this respect: on the one hand it can quarantine ethnic conflict but at the same time it also provides territorial minorities with a voice in the politics of the centre. On the other hand, the self-rule that federalism brings strengthens the resource base of regional minorities (in political, constitutional, fiscal and informational terms, to borrow from Rhodes' (1997) typology), and thus reduces the cost of secession. For instance, federalism is generally seen to facilitate the emergence of regional parties while at the same time encouraging national parties to balance countrywide and regionally specific interests. The first element could destabilize the country, whereas the second may actually help sustain it. The scholarly literature is also divided on the causal relation between federalism and the party system (Swenden and Maddens 2009a). Some scholars argue that a properly designed federal system can yield an integrative party system, which in turn contributes to the overall stability of a political system (Chhibber and Kollman 2004). Others claim that the stability of a political system is largely the outcome of strategic decisions which party actors make (Filippov *et al.* 2004).

The final benchmark is concerned with *the effects of federal government on public policy and governmental effectiveness*. It examines some of the (unqualified) assumptions by several international economic institutions and public choice theorists who see federalism as a device for limited and effective government (Weingast 1995). This literature stresses the market-preserving and competitive virtues of federalism as well as the opportunities federalism creates to experiment and explore the benefits of variation in public policy. Policy experimentation and policy divergence may lead to positive payoffs through which regions come to share best practices, while retaining autonomy to tailor policies to specific regional or local needs. The opposing view sees federalism as a system of costly duplication of public policies and bureaucracies, generating

high costs of achieving coordination among different levels of governments. In other words, under what conditions is federalism at risk of generating a race to the bottom and when can it contribute to accomplishing a race to the top? Again, there is a need to study the effect of federalism in conjunction with other variables, most notably institutional design, the party system and interest groups.

It is not difficult to see how some of the most relevant questions of contemporary federalism research cross-cut these boundaries. For instance, the public perception of federalism as a democratic vice or a virtue (second benchmark) may depend on how the federation is designed and the conditions under which it was formed (first benchmark). Or, the theorized economic benefits of regional fiscal autonomy (fourth benchmark) may be linked to labor mobility, which is likely to be much lower in multi-nation federations, which tend to have lower levels of geographic mobility from jurisdiction to jurisdiction due to linguistic and differences (third benchmark). Or, whereas some federal designs may display a high number of veto points which can hinder policy coordination and policy change (first benchmark), reducing these veto points could upset national minorities (third benchmark) and threaten the legitimacy which these minorities still hold in the federal system (second benchmark). These examples underscore the need for integrating the findings from various subfields of federalism scholarship. While it is evident that federalism carries many potential political benefits, it is increasingly obvious that findings from one subfield only risk providing partial diagnoses which in turn can form the foundations of misleading prescriptions.

New Directions in Federalism Studies: the contributions

New Directions in Federalism Studies is structured upon the four dimensions above in order to emphasize the commonalities within contemporary federalism research – regardless of substantive foci. The first section of the volume presents four chapters dealing with *the development of federal institutions and their role as institutional veto points*. In Chapter 2, César Colino develops a two-dimensional framework to explain change within federal systems and subsequently applies this to German and Spanish federalism. Roland Sturm's contribution follows Colino's interest in explaining institutional change. His chapter unpacks this concern in the context of the 2006 reform of German federalism. Rekha Saxena and Mahendra P. Singh's contribution is the first of two chapters which focus on the role of federal institutions as veto players. They analyze the role of the Indian Supreme Court and especially its capacity (or lack thereof) to curb the prevailing policy preferences of the Indian federal (union) government and the long-time ruling Indian Congress Party. Their analysis adds to the discussion of whether in federal states supreme courts or constitutional courts merely "register" change or can actually "direct" it. The following contribution by Jorge Gordin focuses on second chambers or upper houses in federal states. Unlike the previous chapters, his chapter is less concerned with the development of federalism or federal institutions across time, and more with how

institutional design affects the quality of representation and distributional outcomes in a federation. As such Gordin's contribution provides a clear link to the next benchmark, since it implicitly asks the question, do federal second chambers that provide for equal regional representation give disproportionate influence to regional minorities within the state?

The second benchmark assesses federalism from the viewpoint of *democratic participation, representation and accountability*. Federalism opens up more avenues of electoral competition, but due to the vertical division of political authority, certain issues fall beyond the control of various orders of government, and, thus, also beyond the democratic control of all citizens in the state. Concerns about democratic accountability in federalism emerge where voters do not know which level to hold responsible, or where parties play out issues in elections that are in fact decided at different levels. Increasingly, the new wave of federalism studies addresses the role of voters and parties. A first contribution is a deductive study which tests to what extent the "balancing voting model" originating from the United States is appropriate for analyzing voting behavior in Spanish regional elections. This chapter by Carolina de Miguel Moyer exemplifies the concern with external validity that permeates all chapters of this volume. Chapter 7 by Klaus Detterbeck and Eve Hepburn is an inductive study in which the strategies of statewide parties in Western Europe are placed on a continuum based on the freedom regional party branches enjoy in organizing for elections, policy-making and (where appropriate) coalition building at the regional level.

The third dimension brings together two contributions exploring the role of federalism in *the representation and accommodation of territorially based ethnic, cultural and linguistic differences* in divided societies. In Chapter 8, Lawrence Anderson reviews the role of federalism in holding together multinational states and concludes that federalism is in fact a "paradox": it has features that are both secession-inducing and secession-preventing. Efforts to resolve this paradox tend to take federalism as monolithic and invariant, whereas Anderson argues that federalism should be taken as a diverse set of institutions with a diverse set of meanings containing a variable set of incentives. In many ways, the core puzzle that guides the following chapter by Enric Martínez-Herrera is similar, i.e. federalism's capacity to deliver a sustainable solution to the management of ethnic conflict. But the focus is on the much understudied role of public opinion in federal systems.

The final benchmark guiding our volume discusses the effects of federalism on *public policy and governmental effectiveness*. Each of the three contributions in this section follows an approach that places a strong emphasis on the external validity of their findings. That is, they are driven by an understanding that the causal inferences reached within their case-studies should hold for similar cases elsewhere. This is one of the key characteristics of the new wave of federalism studies. By extension, this also suggests a preference for diagnosis of how federalism works preceding the prescription of federalism as a one-size-fits-all solution. The chapters also speak to the contributions that have dealt more explicitly with federal institutional design. The first chapter of this section by Jan Biela and

Annika Hennl is a large-*N* comparative analysis testing the effects of federalism on policy performance as captured by a series of macroeconomic performance indicators (government size, welfare spending, inflation rates, unemployment rates, budget balance and economic growth). The second chapter of this section, by Dietmar Braun offers another comparative look at German federalism reform, albeit specifically at fiscal federalism. The book concludes with a final chapter where we take stock of the recent developments in federalism studies and make a few projections concerning our field of study.

Note

- 1 We use the term region to denote the highest tier of government *below* the level of the country or state; that tier is sometimes known by the name province (Canada), autonomous community (Spain), region or community (Belgium), canton (Switzerland), *Land* (Austria, Germany) or, indeed, state (US, Australia, India). We acknowledge that using the term region may upset some Scottish, Catalan or Québécois readers who conceive of their region as a *nation* instead. Similarly, the term state (and not nation) is used here as synonymous for country. Consequently, "statewide parties" are parties that stretch across the entire geographic areas of the country and statewide elections speak to all the voters of a country. The use of state as synonymous for country is in keeping with the European tradition and also with the concept of the nation-state, in which the state is seen as the political embodiment of (external) sovereignty.

2 Understanding federal change

Types of federalism and institutional evolution in the Spanish and German federal systems

César Colino

Introduction: the study of change in federations

Federal systems may be conceived of as a set of formal and informal institutions having as a typical goal the integration and coexistence of different territorial groups or entities. These institutions try to maintain a balance between autonomy and cooperation at the same time. This is accomplished through the institutionalized distribution of territorial power, resources and representation in order to make policies across levels of government. Like all institutions, federal institutions evolve, in the short or long term, in peculiar trajectories and at different paces. Also, despite the persistence of their basic features and even in the absence of constitutional reforms or formal changes, the institutional arrangements and the operation of federations may change considerably in an incremental way, transforming the system and its effectiveness from one decade to the next. At some points, different federal systems seem to converge in their evolution, but at other moments they seem to take diverging paths. If analyzed in detail, thus, the extent and forms of federal evolution show more variation than is usually acknowledged.

For some authors, some federal systems are especially hard to change and adapt to new socio-political circumstances and public policies (Scharpf 1988). Other authors, however, observe a remarkable capacity for adaptation in federal systems (Benz 1985). It seems obvious that some federal systems have a greater capacity to adapt than others, and that certain features of federal systems have a greater propensity to change than others. An adequate empirical theory of federalism should be able to explain why and how federations and federal institutions change and adapt to domestic or external changes as part of their capacity to survive and respond to societal or policy problems. Also, such a theory should indicate how stable a federation is and what factors make it persist or adjust (Filippov *et al.* 2004; Bednar 2008). The ability of federations to change and their capacity for adaptation may determine the extent of their effectiveness and legitimacy.

The variation found in institutional change in federations, its mechanisms, causes and consequences, thus pose several interrelated theoretical problems for the study of comparative federalism and politics. For example, what types of

change, formal or informal, do federations undergo in their normal operation? How, why, and when do they change in the way they do? What is the scope and direction of the transformation and how can we measure or compare it? What factors account for differences and similarities in the evolution of various federations in the long run?

In the context of a growing global academic and political interest in federalism and decentralization, political science has produced a number of studies on the operation, evolution and performance of federations. Most of them have treated federal change indirectly and have looked at the emergence and evolution of concrete federations, largely through historical studies of single countries or by seeking to establish the origins, direction or evolution patterns of these federations and their possible convergence with others. However, what they lack is a theory about, or an explicit concern with, the explanation of change. Traditionally, most of these studies have usually concentrated on three or four of the classic federations (see Wälti 1996; Münch 1997; Walker 2000; Lehbruch 2002; Neidhart 2002; and Watts 2002). Their conclusions are not always applicable to the evolution of other cases, and their explanatory models have not been tested elsewhere. They have mostly centered on patterns of intergovernmental relations or changes in the distribution of power among levels, thereby trying to establish different phases of evolution (Beer 1973; Simeon and Robinson 1990). Change has been mainly conceptualized in terms of growing centralization–decentralization (Lloyd-Brown 1993), cooperation–competition (Beer 1973) and symmetry–asymmetry (Beyme 2003).¹ Change has been extrapolated from one institution to another or from one policy sector to another, even though we know that this evolution may be different in different sectors of public policy (Conlan 1998). We also know that centralization and decentralization or cooperation and competition may occur at the same time in a system within different sectors of public activity and at different points in time (Benz 1985; Hesse and Benz 1990; Baldi 1998).

Generally speaking, with very few exceptions,² the study of federations seems to have remained unaware of some of the theoretical and empirical progress in the comparative study of institutions and institutional change or development (Pierson 2004; Streek and Thelen 2005). Even recent promising studies that relied on the concept of path dependency to explain change or persistence (Lehbruch 2000; Broschek and Schultze 2003) have found it difficult to decide when a new path is being taken, since the different dimensions that constitute different paths have never been subject to theoretical elucidation or been made clearly amenable to empirical measurement. As in other fields of comparative politics, the different approaches or conceptual lenses found in the treatment of federal change vary along two main dimensions: (a) the level of abstraction or *level of analysis* from which one studies the origin and the causes of federal institutional change – systemic or subsystemic, and (b) the causal relevance that is attributed to the *intentionality of the actors* in the explanation of institutional change.

Explanations of change have arguably moved between two poles. At one pole we find long-term structural or systemic explanations for change. For example,

explanations resort to the secular history or the logic of the system – ineluctably heading toward centralization or decentralization – to the presence of structural veto points or veto players, structural, demographic, socio-linguistic conditions, the political culture, or the economic heterogeneity of the federation in question (Erk 2007b). Hence, change of federations depends on the change of society and the economy, and will lead institutional systems to achieve congruence with their cultural or social bases. Also, due to the peculiar configuration of various factors in each country, persistent national paths of development will be followed (Lehmbruch 2000). In sum, federal change is pretty much an incremental and informal adaptation of different parts of the system that respond to the environment and to the very institutional logic or path dependencies (Painter 1998; Cameron and Simeon 2002). Reforms usually formalize changes already produced informally. Also, a global tendency or convergence may be observed that would explain certain features of the evolution of some individual federations. At any event, conscious or deliberate design of the system, therefore, is not feasible, since there are many systemic interrelations and many non-rational and uncontrollable factors that affect the institutional evolution.

At the opposite pole we find authors who explain change by referring to the impact of specific strategic decisions or policies adopted by concrete political actors at certain moments in time (De Figueiredo and Weingast 2005). These “actor-centered” studies emphasize the goals, the knowledge and the power of some actors and their choices and deliberate decisions at certain foundational or renegotiation moments of the constitutional pact (Riker 1964). Their main assumption is that constitutional designers know the effects of different alternatives and can foresee their effect on federal change and on future negotiation strategies. Therefore, the evolution of the federations may be steered by means of an appropriate design. Conscious or deliberate design is therefore possible and institutions matter, since they establish the rules of the game to redesign the very institutions (Filippov *et al.* 2004). In sum, from this perspective, federal change is accomplished when the system as a whole no longer corresponds with the goals that are set by the designers, and the rules of the game are changed to make structure and intent compatible.

Unfortunately, both explanations are flawed. First, they lack a correct understanding of the relationship between the system and its institutional policies, between the structures and agency or, in other words, between unintended evolution, deliberate reform, and other types of formal and informal change of all the interrelated institutional dimensions. Second, they lack a clear specification of what form of change they are trying to explain. Evidence seems to indicate that the dimensions of change are multiple and much more complex and interrelated than existing theories have assumed. None of the existing approaches has paid enough attention to the crucial issue of what the objects of change are and what direction the changes may take. We largely lack theoretical and comparative studies of federal change, its dimensions and variations that seek to define and measure federal institutional change in its entire complexity, before trying to explain its occurrence and scope. In sum, one of the main problems of all these

approaches seems to be the definition and operationalization of the dependent variable, federal change. In order to study change comparatively it seems thus useful to establish some dimensions where this change can be recognized and then, only as a second step, to speculate about what triggers it and the effects that change in one dimension may have in the other dimensions (see Colino 2001).

This chapter tries to contribute to filling this gap by providing a first step towards some conceptual clarifications and comparative empirical testing. To this purpose, it identifies and operationalizes several dimensions and mechanisms of change. The chapter proceeds as follows. First, a conceptual framework is proposed that defines and operationalizes the dimensions of federal change and lists several types of federal models with different propensities for change. Next, I briefly apply the proposed framework to two federations, Spain and Germany. The next section compares their modes and trajectories of change in the last two decades, by presenting some comparative findings and analyzing the degree of convergence between the two systems. The final section presents some concluding remarks.

Understanding the institutional dimensions of federal change

Federal institutional change may be defined according to how we define federal institutions – as rules, as organizations, as norms, as practices, or as conventions. In relation to the time perspective taken, change can be long-term or short-term. Also, change can be distinguished according to its object. It may be formal rules, institutions or organizations that change. Finally, change may be considered, measured or observed from two different levels of analysis. From a macropolitical level of analysis, looking at the system as a whole, and from a level of analysis that is concerned with a specific organization or a concrete rule or with the federal rules or interaction patterns within a specific policy sector. Since most federations are subject to similar external and internal pressures, the relative propensity to change and the mode and tempo at which their institutions change have repercussions on their problem-solving capacity, their conflict-resolution ability, and the extent of the redistribution or balance of political power they may achieve.

Following the theory of “dynamic federalism” (Benz 1984; 1985), we can assume that federations are constantly changing in the form of sectoral adjustments that respond to economic, political or ideational changes within the system, which in turn modify the resources of the various players such as economic resources, legitimacy, etc. The influence of the socio-economic environment on the federal or regional levels takes place in the form of resources, funding or legitimation. If these resources change, the federal system changes. The effects of external factors on intergovernmental relations are manifested in the form of new tensions and changing conflict lines. Economic trends, for example, lead to changes in income distribution between the two territorial levels and between regions.

Federal systems do not move toward a concrete state or situation, but their development is determined by the existence and mutual interaction of centrifugal and centripetal tendencies. Thus, according to this theory, in each federal system there are at the same time centralizing and decentralizing propensities acting at all times in different sectors, depending on various changes in the environment. Each trend tends to produce opposite trends (Münch 1997), so that the system tends to a certain equilibrium or homeostasis, as it responds to excessive decentralizing trends with centralizing ones in a process of dynamic learning. For Benz, changes in intergovernmental relations arise primarily through the adaptation of uncoordinated behavior and strategies of the various governments (Benz 1984; 1985). In addition to the socio-economic and socio-cultural developments, the direction of these changes will be influenced by the ideologies and policies of governments and by the existing institutional structures. Change in each of these dimensions is triggered by different exogenous or endogenous factors and each brings about particular strategies or modes of adaptation for actors and institutions. Some global, economic, cultural or behavioral changes may drive federal systems to change when both citizens and political elites come to see the system as failing to fulfill its basic accepted criteria of effectiveness and legitimacy (Simeon 2001). As Simeon (2001) reminds us, change in federal systems is undertaken by political actors with several instruments at their disposal to adjust to new circumstances, for example: constitutional change, judicial interpretation, formal intergovernmental agreements, conditional grants, the power to tax and spend, delegation of powers from one level to the other, opting out and de facto asymmetry.

Before trying to explain change, we have to be able to understand what the dimensions that are subject to change are. To surmount the shortcomings of existing studies of federal change, a conceptual framework is needed that allows us to analyze federal change by integrating macro *and* micro factors, formal *and* informal dimensions of change. This analytical framework should help us to a) identify a series of institutions comprising formal and informal configurations that are the object of change and can be measured empirically, b) understand federations as configurations of institutions that are constantly evolving in response to endogenous and exogenous pressures, and c) establish how different types of federations have different potential for change.

We should begin with the object of change or evolution. Political science studies have traditionally distinguished between structures and processes in federations (see Elazar 1987), or between “federalism” and “federalism in action”. Federal operation, that is to say, the political processes of decision-making, the vertical and horizontal relations among governments, administrations and politicians change more easily than the structures and reflect the essence of each federation in a more real fashion than the constitutions, which may remain unchanged for decades.³ To analyze federal change empirically one should understand the different possible configurations of institutions and processes. For this purpose, we need measurable dimensions of both concepts.

The federal subsystem: the formal federal framework and federal relations

This chapter proposes a typology of federations based on configurations of what I refer to here as the *federal subsystem* as the core of its conceptual framework. It can be defined as the group of institutions and processes or federal relations reflecting those intergovernmental structures and processes that mediate between the social, historical and structural characteristics of a society and the government and that link several tiers of territorial jurisdiction in a country (see Colino, forthcoming). This concept, conceived as an ideal type in the Weberian sense, comprises several empirically appraisable attributes of the structures and the processes of a federation. Moreover, the federal subsystem is conceived as an element of the national political system. It coexists and interacts with other subsystems in the political system such as the party subsystem, the parliamentary subsystem, the executive-administrative subsystem, the judicial subsystem, etc. Within the federal subsystem we may distinguish between dimensions and variables pertaining to the *formal institutional framework* and variables that we can group under the label of *federal relations*, reflecting the informal institutional processes and dynamics of federal systems.

Integration and centripetality of federal subsystems as main dimensions of change

The range of possibilities and directions of evolution of a federation may be usefully apprehended by studying change in both components of the federal subsystem: the formal institutional framework and the federal relations. The formal framework of a federal system includes those legal rules, rights, political organizations and basic principles that establish the power of the different territorial governmental actors for making binding collective decisions. It regulates who decides, who can veto decisions, and what has to be done by whom. The formal and informal structure of policy elaboration is established by continuous interaction among policy actors within the room for maneuver left by the constitutional rules. These institutional constraints and structures involve an incentive structure for actors to act strategically, creating a particular dynamic in the policy process, thereby affecting the substance of policies and their results, as well as the possibilities for institutional change.

The formal framework will usually show a greater or lesser *degree of integration* or disintegration. Integration will determine the system's effectiveness in making decisions and being reformed or adapted to external changes. The degree of integration of the formal framework may be measured by variables and indicators that correspond to (a) constitutional design, (b) the intergovernmental structure of decisions and resources, and (c) intergovernmental decision-making rules. Each of them may be measured through the use of several quantitative and qualitative indicators.

First, the degree of intrastateness of the constitutional design will be the result of the type of regional participation in federal decisions, the type of powers

distribution (functional vs. sectoral), the concurrency–exclusivity of legislative competencies, the presence of asymmetry in legislative competencies and the assignment of residual powers. Secondly, the degree of interdependence in intergovernmental structure of decisions and resources will reflect the degree to which spending and resources have been centralized, the revenue autonomy and fiscal responsibility of the regions, the extent of administrative centralization, the existence of vertical or horizontal intergovernmental structures for decision-making and the nature and formalization of cooperation bodies. Third, the degree of hierarchy of intergovernmental decision-making rules will be measured through the type of exiting rules of initiative in intergovernmental bodies, the binding or voluntary character of joint decisions, the aggregation rules for decision-making, the rules on conflict resolution and the general ambiguity of rules.

Constitutional design and intergovernmental policy-making structures will influence the behavior, interactions, and strategies of actors in the federal subsystem. The ensuing dynamics and political process of intergovernmental relations will then differ in their attributes across federations. Apart from the external factors that potentially affect changes in the formal framework, one of the main factors influencing its evolution is the very type of formal framework that constitutes each federal subsystem. The first assumption of our approach is that federal institutions form configurations that are interrelated with certain goals and institutional histories and, for that reason, their changes respond to typical trajectories and pathologies. One of the most relevant differences among formal frameworks that would explain the propensity for change would be their openness or rigidity,⁴ which may be determined by the configuration of the three variables of the formal framework. Some federations display closed and rigid formal frameworks combining intrastate, interdependent frameworks with hierarchical rules of decision that are also observable in their decisions about institutional change. A second hypothesis about change in the federal subsystem relates to the fact that each formal federal framework produces specific constellations of institutional interests and specific pathological tendencies in the system, which means that its typical pressures for change, its need for adaptation and its potential direction of change are somehow predetermined.

Constitutional design and rules, however, do not regulate much of the real-life practice of administrators, policy-makers, groups and citizens. Informal structures and interactions develop to compensate for the constraints posed by

Table 2.1 Summary of the dimensions and variables of the formal framework

	<i>Dimensions</i>	<i>Variables</i>
Formal framework	Constitutional design	Degree of intrastateness
	Intergovernmental structure of decisions and resources	Degree of interdependence
	Intergovernmental decision-making rules	Degree of hierarchy

constitutional design. Bureaucrats and politicians have frequent interactions and working relationships in the course of adopting and implementing policies. Actors develop informal strategies and norms within intergovernmental decision structures through administrative or partisan arenas or through personal contacts. These federal relations will show greater or lesser degrees of *centripetality* or *centrifugality*.⁵ Centrifugality/centripetality reflect the system in action, that is to say, how actors, despite the institutional set-up, adapt their strategies and formal or informal interactions to the environment, and how they occasionally decide to change institutions (formally and informally) in one direction or another or seek to preserve the *status quo*.

The three variables that allow us to measure the particular type of federal relations are (a) interaction styles, (b) the type of actors' strategies and (c) the type of intergovernmental conflict lines and coalitions.

First, the extent of collaboration–competition in interaction and joint decision styles will be a result of the type of vertical and horizontal interactions, the decision orientation of elites, the style of intergovernmental relationships, and the preferred relationships channels. Second, the solidarity–assertiveness orientation in actors' strategies can be measured by the extent of regional self-assertiveness or pragmatism, the dominating regional elite's values, the extent of central interventionism and the time orientation of regional elites or decision-makers. Third, the partisan–territorial orientation in conflict lines and coalitions should be analyzed by looking at the predominant intergovernmental issues and conflicts, the degree of politicization of those issues, the prevailing type of vertical or horizontal coalitions and the extent of horizontal conflict among units.

Apart from external factors, the nature of federal relations themselves may explain certain dimensions of long-term change, such as its direction, scope and formal or informal character. Here it is assumed that a key characteristic that would determine the extent of change of different federal subsystems is the degree to which existing federal relations are congruent with the formal framework. For example, congruent subsystems – e.g. centrifugal federal relations in unintegrated systems or centripetal relations in integrated systems – would have a different impact on change than incongruent ones, for example, those with centrifugal federal relations in integrated systems. In any case, these two dimensions represent a continuum of real possibilities with relevant implications for the

Table 2.2 Dimensions and variables of federal relations

	<i>Dimensions</i>	<i>Variables</i>
Federal relations	Interaction and joint decision styles	Degree of collaboration–competition in interaction styles
	Type of governmental actors' strategies	Degree of solidarity orientation–assertiveness
	Conflict lines and intergovernmental coalitions	Degree of party orientation–territoriality

problem-solving capacity of federations, for the type of endogenous pressures and preferred mechanisms for change and therefore for their overall capacity for change.

Ideal types of federal subsystems and change

If we keep all these variables and their typical configurations in mind, we may think of four basic ideal types of federal subsystems that may or may be not found empirically among the approximately 25 federations that exist in the world. If we cross these two proposed dynamic dimensions of the formal framework and federal relations and their possible values, four ideal types of federal subsystems are obtained in the resulting attributed space. Table 2.3 summarizes the possible values and the four ideal types according to their degree of integration and centripetality.

Type I "Balanced" federal subsystems

In the "balanced" federal subsystem type, the constitutional design is normally interstate and the intergovernmental structure of decisions and resources independent. The strategies of governmental actors tend to be self-assertive, with conflict lines and intergovernmental coalitions being more of the territorial type. Cases that in practice come closer to this ideal type, although none do so in all their dimensions and at all their developmental stages, would be the USA, Australia, Switzerland, Brazil and, partly, the EU.

Type II Unitary federal subsystems

The type of federal subsystem called unitary here shows an intrastate constitutional design in which second chambers of the council type exist and representatives of the component governments participate in federal decisions and legislation. The intergovernmental structure of decisions and resources is usually interdependent, responding to shared competencies and aimed at guaranteeing similar living conditions for all the citizens. Given the need to reach consensus in federal legislation, federal decisions are usually executed by the constituent units. The intergovernmental rules of decision are usually hierarchical, dominated by federal initiative

Table 2.3 Types of federal subsystems according to formal framework and federal relations

		Formal framework	
		Disintegrated	Integrated
Federal relations	Centripetal	"Balanced" federal subsystem	Unitary federal subsystem
	Centrifugal	Segmented federal subsystem	"Accommodation" federal subsystem

and obligatory joint decision-making. In their daily operation, interaction styles are normally collaborative and conflict lines and coalitions are partisan rather than territorial. Federations that resemble this ideal type empirically to different degrees throughout many of its phases have been Germany, Austria and South Africa.

Type III Segmented federal subsystems

The segmented subsystem type has typically a constitutional design that is interstate, in which agreements between the leaders of the culturally different communities and intergovernmental institutions prevail. The intergovernmental structure of decisions and resources is quite independent since competencies are mainly exclusive and separated. Intergovernmental decision rules are usually negotiated between the two orders of government as partners and in practice interaction styles are competitive in character. The strategies of governmental actors tend to be self-assertive, with conflict lines and intergovernmental coalitions being predominantly of the territorial type. With the necessary qualifications, the features of this ideal type have existed empirically to some extent in several phases of the evolution of Canada or Belgium.

Type IV "Accommodation" federal subsystems

The "accommodation"-type system usually has a constitutional design of the interstate type, with weak second chambers due to the origin of the system and the devolutionary process controlled by the centre, which has usually determined the rhythm and the scope of devolution. The intergovernmental structure of decisions and resources is usually characterized by the interdependence of the levels, reflected clearly in the dependence of the units on central funding. The intergovernmental decision rules are of the hierarchical type and in practice interaction styles may be either collaborative or quite competitive depending on the nature type of the constituent units. For instance, in regions with strong and mobilized regional identities, the governmental actors' type of strategy tends to be assertive, especially when it is fuelled by the presence of strong regionalist or nationalist parties. Conflict lines and intergovernmental coalitions may be both territorial and partisan. Federations that resemble this ideal type could be Spain and India during some stages of their evolution. Table 2.4 summarizes the characteristics of these four ideal types.

This typology allows us to compare countries along several dimensions and to ascertain to what extent they deviate in reality from the different theoretical dimensions of the ideal type. The assumption is that each of these configurations produces different capacities in the system to achieve a series of tasks or goals and thus propitiates different institutional evolutions or types of change. Each of these types will show varying propensities for change, will tend towards different directions of change, and will display typical mechanisms and paces of transformation. All of them can be measured using the preceding analytical approach and empirical concepts of the federal subsystem.

Table 2.4 Four ideal types of federal subsystems and their dimensions

Typical defining variables	Type I balanced	Type II unitary	Type III segmented	Type IV accommodation
Constitutional design	Interstate	Intrastate	Interstate	Interstate
Intergovernmental structure of decisions and resources	Independent	Interdependent	Independent	Interdependent
Intergovernmental decision rules	Partnership	Hierarchical	Partnership	Hierarchical
Interaction and joint decision styles	Competitive/collaborative	Collaborative/competitive	Competitive	Competitive
Governmental actors strategies	Solidarity-oriented	Solidarity-oriented	Self-assertive	Self-assertive
Conflict lines and intergovernmental coalitions	Party-oriented	Party-oriented	Territory-oriented	Territory-/party-oriented

Source: author's own elaboration.

Modes and trajectories of federal change in Spain and Germany

In order to illustrate the potential of this conceptual framework, we may apply some of its concepts to the study of federal change in two countries at different points in time. To select comparable periods under investigation in both cases, and control for the effects of several external factors, we use several hypotheses in the literature about the main triggers or determinants of change in federal systems. The first hypothesis predicts that international factors such as globalization and EU-membership influence the direction of change and its scope (Börzel 2002; Lazar *et al.* 2003). The second hypothesis argues that federal change is influenced by the predominant tasks that the intergovernmental system has to perform – tasks that we may call reproductive – political institutional reform, territorial policies, identity policies – and what we may call productive tasks – socio-economic, welfare, security, sectoral (Hesse and Benz 1990). The third hypothesis considers the effect of the party system and the type of electoral competition on the occurrence, direction and scope of change (Riker 1964; McKay 2001; Grande 2002; Filippov *et al.* 2004). The final hypothesis considers the effect of the content and application of federal reform policies and the sequence of reform, since they too can account for the long term evolution, direction and scope of federal change (Falletti 2003).

To apply the previous framework to study change longitudinally in two federations, we have identified three periods of around five years from the mid-1980s until 2004 for both Spain and Germany. These phases have distinct and well-known characteristics in those variables or factors that the literature has identified as being relevant for federal change.

The evolution of the formal framework in Spain and Germany

The autonomic state in Spain: the road toward integration?

If we look at the evolution of the three variables of the formal framework in Spain, we can observe a predominantly interstate constitutional design in the three phases, although in the second and third period this is moderated as a result of changes in the regional statutes of autonomy and of judicial interpretation by the Constitutional Court.⁶ The weak Senate model with a suspensive veto experiences some changes in its design during the second phase with some limited tendencies toward territorialization. The distribution of competencies remains both functional and sectoral in the three phases, although it shows an increasing tendency toward functional distribution and concurrent competencies. Competencies tend to evolve towards greater symmetry in the course of the three phases.

The intergovernmental structure of decisions and resources has remained interdependent in the first two phases, but has become more independent in the third phase as the result of growing expenditure decentralization and the increasing level of regional revenue autonomy. The dominance of federal spending has clearly gone down, as well as the level of regional dependence on conditional central transfers. There has been a clear increase in the share of regional employees in total public employment and intergovernmental bodies – sectoral conferences of ministers – have proliferated in the second and third phases, being mainly consultative, yet some of them show a tendency of acquiring more decision-making powers.

Something similar has happened to the intergovernmental rules of decision-making which, from being hierarchical in the first two phases, have become more partnership oriented in the third one, although the initiative usually remains central and hierarchical. The decision rules for joint decisions remain voluntary or flexible in all three phases with unanimity used as a normal decision rule. Rules on conflict resolution have been more formalized in the last two phases. In sum, it can be said that the formal framework has moved from a certain lack of integration toward greater integration, although it remains at moderate levels.

Table 2.5 Nature and evolution of the formal framework in Spain

Dimensions	1986–1992	1993–1999	2000–2003
Constitutional design	Interstate	Moderately intrastate	Moderately intrastate
Structure of intergovernmental decisions and resources	Interdependent	Interdependent	Moderately independent
Intergovernmental decision rules	Hierarchical	Hierarchical	Moderately hierarchical
Conclusions about evolution	From unintegrated to moderately integrated		

Source: author's own elaboration.

Table 2.6 Nature and evolution of the formal framework in Germany

Dimensions	1987–1991	1992–1998	1999–2004
Constitutional Design	Intrastate	Intrastate	Intrastate
Intergovernmental structure of decisions and resources	Moderately interdependent	Moderately interdependent	Interdependent
Intergovernmental decision rules	Moderately hierarchical	Moderately hierarchical	Moderately hierarchical
Conclusion about evolution	Integrated in the three phases		

Source: author's own elaboration.

The German Bundesstaat: intrastateness and interdependence

The formal framework in Germany could be described as very integrated during the three phases analyzed, as most lawyers and political scientists studying the German federation seem to agree.⁷ It clearly displays an intrastate constitutional design and an interdependent structure of resources with somewhat hierarchical decision-making and initiative rules of intergovernmental bodies, albeit with some partnership practices between levels. The distribution of competencies remains functional and symmetrical in the three phases: concurrent competencies and shared financing dominate; the federal level controls the legislative process while the *Länder* implement policies. These features have remained basically unaffected in spite of some constitutional adjustments following German unification. This continuity is manifested in the importance of the *Bundesrat*, composed of representatives of the *Länder* executives with the ability to veto about two thirds of federal legislation. The *Bund* has little administrative capacity, but makes frequent use of concurrent legislation in the first two phases. The dominance of subcentral public employees has remained stable, with a prevalence of joint decisions – sometimes binding in character for some cooperation or coordination bodies, vertical multilateral structures of negotiation, and the existence of horizontal bodies of joint decision among the *Länder*. The intergovernmental rules have been dominated by moderate hierarchy in the three phases, with rules on conflict resolution being formalized and unambiguous in the three phases.

The evolution of federal relations in Spain and Germany

Spain: towards a softening of centrifugal relations?

As a general conclusion, federal relations in Spain have become more centripetal between 1986 and 2003. While in the first two phases the interaction and joint decision styles could be described as competitive, in the last phase they can be characterized as more collaborative, despite the adversarial style of elite discourse. Vertical and horizontal interactions have gone from both multilateral and bilateral to mainly multilateral in the last phase. The decision orientation of elites moved from being bargaining oriented to problem-solving oriented, and relationships acquired more consensual and less confrontational or adversarial features.

Table 2.7 Nature and evolution of federal relations in Spain

Dimensions	1986–1992	1993–1999	2000–2003
Interaction and joint decision styles	Competitive	Competitive	Collaborative
Strategies of governmental actors	Self-assertive	Self-assertive	Moderately solidarity-oriented
Conflict lines and intergovernmental coalitions	Mainly partisan	Territorial	Mainly partisan
Conclusions about evolution	Centrifugal to moderately centripetal		

Source: author's own elaboration.

Similar changes can be detected in the type of strategies that governmental actors use. These became more solidarity oriented in the third phase compared with the two preceding stages, when they were more assertive, with both regional self-assertiveness and pragmatic strategies varying from region to region in the three phases. The predominant values of regional elites continue to be autonomy and diversity throughout the three phases. A somewhat interventionist stance of the central government can be observed in the three phases, although this is decreasing. Finally, the conflict lines and intergovernmental coalitions seem to be slightly more partisan in the first and third phases. Jurisdictional and identity affairs have been dominating intergovernmental issues and conflicts, although their relevance was decreasing toward the third phase. Intergovernmental issues have been highly politicized in the three phases, with main intergovernmental coalitions or alliances being vertical in the three phases. A high degree of horizontal conflict has been a typical feature of the three phases.

Germany: growing centrifugality and “sinatra doctrine”

In general, federal relations in Germany have evolved from overall centripetality toward greater centrifugality as the consequence of change taking place in several dimensions. On the one hand, relations developed from being collaborative in the first phase to being competitive in the third phase. We observe the persistence of multilateral interaction styles, both vertical and horizontal, in the three phases with the elites going from a problem-solving decision orientation, towards a more bargaining orientation. A consensual relationship style in the three phases in formal and informal decision-making can be seen in the three phases.

Actors' strategies seem to go in the opposite direction. Although they maintain a high degree of solidarity, they have transformed from a solidarity-oriented model to a much more assertive one. Regional elites have shown pragmatism but also increasing self-assertiveness in the third phase, especially in some of the southern *Länder*. Predominant values in each of the three phases are participation and equality, but the importance of autonomy and separation of powers has increased. The federal government has shown moderate interventionism in the three phases.

Table 2.8 Nature and evolution of federal relations in Germany

Dimensions	1987–1991	1992–1998	1999–2004
Interaction and joint decision styles	Collaborative	Collaborative	Collaborative towards competitive
Type of actors' strategies	Solidarity	Solidarity/self-assertive	Self-assertive
Conflict lines and intergovernmental coalitions	Partisan	Partisan tending to territorial	Mainly territorial
Conclusions about evolution	Centripetal tending to more centrifugal		

Source: author's own elaboration.

Finally, it can be said that conflict lines and intergovernmental coalitions have changed from a partisan character in the first phase to a progressively more territorial one in the third phase. The dominant intergovernmental issues have been socio-economic ones, with moderate to low politicization in the three phases. Intergovernmental coalitions have been both horizontal and vertical in the three phases, with increasing horizontal conflict. Due to a growing divergence of interests among *Bundesländer*, a slow change has taken place toward more and more territorial conflict during the three phases.

Comparison: toward convergence?

Evolution and persistence of the formal framework and of federal relations

As the previous section has briefly described, the changes described in the different dimensions of both federal subsystems meant an increase in the intrastate character of constitutional design in Spain and its maintenance in Germany. The interdependence of the two levels increased in Spain and persisted or even increased in Germany. As for the rules of intergovernmental decision-making, they stayed hierarchical in Spain in all the phases and more partnership-oriented but still hierarchical in Germany throughout the three phases. The gradual increase of integration in the Spanish case and their maintenance in the German case logically leads to a certain degree of convergence between the two systems with respect to their formal framework. As for federal relations, a similar degree of convergence between the two systems appears as is shown by a reduction in the level of centripetality that characterized the German case and a slight increase in the level of centripetality characterizing the Spanish federal relations.

These two dimensions – integration and centripetality – may be measured and compared over time or across countries by means of the construction of multidimensional composite indices that include the formal components and the process aspects of the federal subsystem. Table 2.9 summarizes the values of the proposed integration and centripetality indexes (see Colino, forthcoming, for detailed information on the construction of these indices and the assignment of values).

Table 2.9 Scores on the two indices

	Evolution of indices	
	Integration index	Centripetality index
Spain		
1986–1992	12	8.75
1993–1999	14	8.12
2000–2003	15.5	18.05
Germany		
1987–1991	21.5	28.8
1992–1998	21.5	23.72
1999–2004	22.5	22.47

Source: Colino (forthcoming).

The computation of these indices allows us to graphically represent the evolution of these federal systems over time, to illustrate the direction of change, and, therefore, to show their degree of convergence in a two-dimensional space. This enables us to observe the two countries and their comparative position regarding the degree of centripetality–centrifugality – *y-axis* – and the degree of integration–lack of integration – *x-axis* – in the three phases.

As shown in the following graph, Spain seemed to be slowly transforming from a very centrifugal federal subsystem with little integration toward one with moderate levels of integration and centripetality. These brought it closer to an “accommodation” type of federal subsystem in the second phase, with some features of the unitary type, although this evolution could still take many years to unfold.

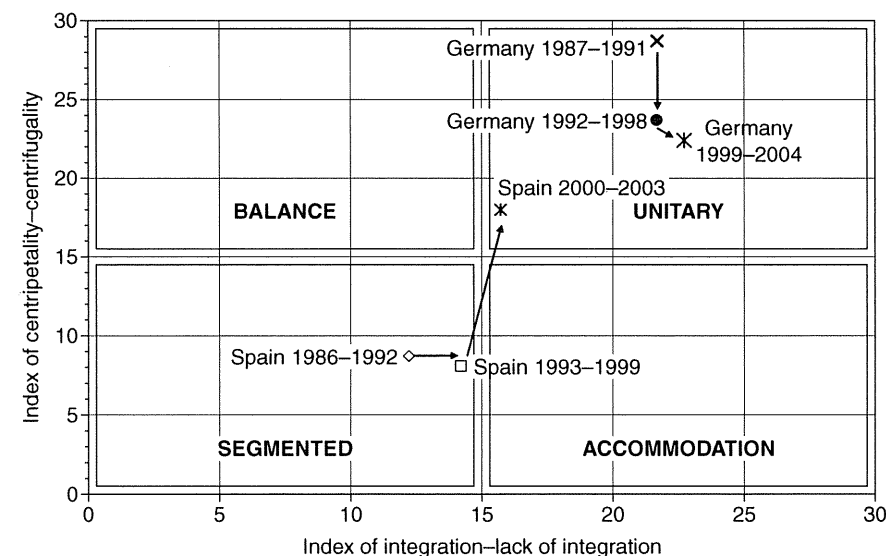


Figure 2.1 Spatial representation of the relative position and direction of change of the two countries with relation to the four ideal types of federal subsystem (source: Colino (forthcoming)).

If one observes Figure 2.1, it seems clear that the scope and pace of change or transformation of the Spanish federal subsystem has been larger than that of the German federal subsystem. Clearly, Spain, representing a mixture of traits from different ideal types, has undergone a greater transformation than Germany since the late 1980s; this was evident at first sight, but it is clearly reflected in the empirical indicators used in several concrete dimensions. The Federal Republic has stayed inside the type of unitary subsystem and has initiated a timid path downwards toward an “accommodation” type of federal subsystem.

Conclusions

This chapter has sought to contribute to the explanation of how and to what extent federations and federal institutions change. As a first step to explaining how and why they change, I proposed to measure several formal and informal dimensions of federal systems across time. On this basis we could compare different configurations and developments of federal systems and study them as dependent and independent variables. One of the central arguments of this chapter is that federations may be grouped around different configurations of formal and informal institutions, interrelated in a federal subsystem. Federal subsystems can be measured and compared along two dimensions: the integration–disintegration of the formal framework, and the centripetality–centrifugality of federal relations. The combination of these two dimensions generates a typology of four ideal dynamic configurations, each of which is bound to affect the propensity, type or scope of change and its direction or content. Furthermore, this framework allows us to identify not just the most relevant dimensions of change of federal institutions and federations but also their typical paths of evolution.

We have applied our framework to the development of the Spanish and German federal subsystems in three selected phases between 1986 and 2004. On that basis, we can highlight several features and tendencies. In the Spanish case, 25 years after the autonomy statutes for the regions were approved, the “autonomic State” experienced some gradual, albeit far-reaching, institutional change in the 1990s, some change of a constitutional character and some change generated by an unintended evolution in its practices and working relations. The outcome is a basic configuration as a functioning federation, if under a different name. In the German case, now more than 50 years old, the need for institutional redesigning after Reunification and the effect of Europeanization initiated a path of reforms in which the role of *Bundesrat*, the distribution of competencies, and the degree of policy entanglement are some of the system’s characteristics that are changing incrementally, yet within the same basic configuration.

The next step in this line of research will be to understand the determinants of change in each of the dimensions, to see whether the peculiar historical and socio-economic features that both systems display are stronger than deliberate

reform policies and therefore limit the extent of possible change. The result of this investigation will have implications for theories of comparative federalism, of institutional change, and of constitutional reform. They also allow us to assess the usefulness of current new institutionalist approaches to understanding the origins and dynamics of institutional change in federations.

Notes

- 1 See Benz 1985 for an early and sophisticated treatment of federal change and his critique of traditional static and normative analysis in the study of federal evolution.
- 2 Recent relevant contributions in the systematic study of federal change are Jeffery 1999; Simeon 2001; Ziblatt 2006; Benz 2007; Erk and Koning 2007; Broschek 2007.
- 3 Unfortunately, Elazar 1987 does not provide many useful empirical dimensions or variables that allow for a measurement of the different types of federal structure or federal process.
- 4 For a similar argument, see also Broschek 2007.
- 5 I use the admittedly inelegant terms of *centripetality* and *centrifugality* metaphorically here, for lack of better terms in political science denoting the extent to which systems tend towards attraction to the centre or move away from it.
- 6 Among the various contributions, see, for the main descriptions of the institutions and functioning of the Spanish system, Aja 2003, Solozábal 2004, Aja and Viver Pi-Sunyer 2003, Souvirón 2000, Muñoz Machado 2006. From a political science perspective, useful contributions to understanding the nature and evolution of the Spanish system are Agranoff 1996, Moreno 1997, Grau i Creus 2000, Máiz, Beramendi and Grau 2002, Colino 2003 and forthcoming, Beramendi and Máiz 2003, Blanco 2005, and Subirats 2006.
- 7 See the legal contributions of Kimminich 1987, Oeter 1998, Isensee 1999 and Sommermann 2000. From political science, the main contributions on which the following account is based are Benz 1991 and 1999, Scharpf 1994, Kilper and Lhotta 1996, Laufer and Münch 1998, Jeffery 1999, Von Beyme 1999, Münch 2000, Sturm 2001, Lehbruch 2002, Mielke and Bräuer 2002, Helms 2002, Wachendorfer-Schmidt 2003.

3 More courageous than expected?

The 2006 reform of German federalism

Roland Sturm

Introduction

It is an almost unchallenged finding of German political science that federalism in Germany is incapable of radical change. The numerous publications which support this argument refer to historical institutionalism as the most suitable theoretical context for an explanation of the relative stability of German federalism over time. Gerhard Lehbruch's historical approach to federalism is representative of his kind of research (see for example Lehbruch 2002). In line with historical institutionalist interpretations which have been used by social scientists in other contexts (Pierson 2004), Lehbruch assumes that the development of Germany's federalism is path dependent.

Path dependency implies continuity of institutional development. It does not preclude change, but filters alternatives. As Pierson (2004: 52) has argued "change continues, but it is bounded change". In other words, it is to be expected that the range of alternatives for federalism reform will be limited, at least with regard to changes affecting the substance of the federal system. If one knows the defining characteristics of the road on which German federalism travels, it should, however, be clearer which options for federalism reform, though successful in other countries, are out of context in Germany and therefore most likely to be excluded.

The 2006 reform of German federalism provokes the question whether this political initiative confirms the expectations of mainstream federalism research. Is the reform just another proof of the bounded rationality of political decision-makers in Germany, who only take into account ideas which produce continuity? To analyze the importance of "path dependency" for the development of German federalism, it is first necessary to identify the "path" of Germany's federalism. What are the key elements which in the history of German federalism defined and limited the room-for-maneuver of reformers? This historical perspective also allows us to demonstrate the explanatory power of the path dependency approach for past reforms.

Here the distinction has to be made between the stability of major (institutional) characteristics of German federalism and the social contexts which produce and legitimize this kind of stability. To understand the latter an "inter-

pretative approach" (Bevir and Rhodes 2003) will be used. The basic idea of this approach is that we can only understand the shifting patterns of political change over time by considering the intellectual narratives which feed the belief systems of the political elites. "Narratives are the way we explain human actions and practices" (Bevir and Rhodes 2004: 159). Political elites have the ability to popularize such narratives and to transform them into "public narratives" (Patterson and Monroe 1998: 325) or "social narratives". If social narratives change, what does that mean for political outcomes? Are they still path dependent? Does a new social narrative provoke a new equilibrium of political forces? A critical examination of the 2006 federalism reform should help us find answers to these questions. It should also provide us with ammunition for a critical examination of the low level of expectations a historical institutionalist interpretation of the 2006 reform implies. And finally the question will be dealt with what lessons the German case may teach us for comparative research on federalism.

The "path" of German federalism

The key characteristics of German federalism

Based on an analysis of 135 years of German history (1871–2006), what are the key characteristics of German federalism which the path dependency approach identified? Without going into detail, three observations are of special importance for an answer to this question (Lehbruch 2000):

- a In the course of German history federalism and democracy developed a positive relationship, although zero-sum games at the expense of the autonomy of the *Länder* could not be avoided. Even more than the historical evolution of representative democracy the dominant role of parties in the political process strengthened the role of the central government vis-à-vis the *Länder*. Democracy can be seen as a necessary, though in public discourse often neglected (Sturm 2004), element of path dependency with regard to German federalism. For the identification of different types of German federalism, democracy as yardstick is, however, too vague and insufficiently connected with specific elements of federalism.
- b Much more clearly has the historical path of German federalism been marked by a trend towards an ever greater dominance of the central government over the *Länder*, especially with regard to policy-making. The centralization of the core elements of policy-making was not connected with the dismantling of *Länder* institutions. *Länder* autonomy was reduced, however, by a transfer of competences (above all the control over taxation) from the *Länder* to the federal political level, by joint decision-making of the central and *Land* institutions and the acceptance of a division of work between the *Länder* and the federal government, which gave the latter the role of prime policy-maker, whereas the *Länder* took the responsibility for administering policies. The result of this strongly centralized kind of cooperative

federalism was the uniformity of policies and policy outcomes. Uniformity of policies and policy outcomes has become a key characteristic of Germany's federalism. Path dependency in this respect means that federalism reform is highly unlikely to produce constitutional change which results in a greater diversity of *Länder* policies. Of course, this does not mean that the *Länder* never differed in their policy outputs (Schäfer 2007; Frieder 2006). What the logic of the path dependency approach excludes, however, is the possibility of a systematic reform of the decision-making process of German politics which aims at an erosion of those institutional mechanisms which are of central importance for the uniformity of policy outcomes.

- c A third key characteristic of German federalism is symmetry. Every *Land* has (almost) the same rights and duties. The historical trend has been to accept in principle the formal equality of each *Land* irrespective of its geographical size and the size of its population. This was enshrined into federal law and defines the relationship of a *Land* to federal institutions. The *Bundesrat* has been a rare exception here, because it adjusts voting rights to some extent to population size. Formal symmetry of German federalism has always had to cope with geographical asymmetries, especially with regard to the economy and the political culture of the country (Sturm 1999a). Germany also has a few territorially concentrated ethnic minorities, but they never played a decisive role in debates on federalism. The path dependency approach assumes that a reform of German federalism respects the principle of institutional symmetry and this includes a symmetry of *Länder* competences.

Democracy, uniformity, symmetry – the historical record

German federalism developed its basic characteristics in opposition to the kind of federalism typical for Imperial Germany (1871–1918) (Laufer and Münch 1998). Federalism in the *Deutsche Reich* was characterized by diversity, asymmetry and opposition to democracy. Every single one of the three city states and 22 monarchies had its own state apparatus. Federalism was a kind of “dual federalism”, although the *Länder* were already responsible for the administration of the lion's share of federal laws. Federalism was based on (a) the defense of non-democratic *Land* constitutions, (b) the inability of the federal government to raise resources sufficient for making a national impact on policies on a broader scale, and (c) an extreme form of asymmetric federalism. Among the *Länder*, Prussia played a dominant role politically, not only because of its military strength, but also because it made up 65 percent of the German territory and was home to 62 percent of the German population. Of the 25 German states 19 were smaller ones. Asymmetries were also created by special privileges granted to Southern states (separate postal services, rights concerning the taxation of beer and liquor).

In the course of German history political progress and the advance of democracy became associated with the revolt against monarchical power and *Länder* autonomy. Democrats demanded more competences and financial powers for the

federal government, less diversity of policy outcomes and more symmetry with regard to *Länder* competences and with regard to the powers guaranteed to the *Länder* by the national constitution. The Weimar Republic (1918–1933) was a major step into this direction. The Weimar Republic can be described as a decentralized unitary state with certain elements of *Land* autonomy, but no efficient decision-making powers for the *Länder* in national politics. A new tax regime introduced in 1919 centralized the control over taxation and left the *Länder* with almost no sources of income of their own. The Reich now controlled the *Länder* administrations and created its own administrative capacities. Prussia's special status in the Second Chamber (*Reichsrat*) was reduced. No *Land* was allowed to claim more than two-fifth of the seats in the Reichsrat, and in addition half of the Prussian seats had to be handed over to representatives of Prussian regions. This served as an additional device to reduce the role of the Prussian central government in the Reichsrat. Federalism developed as its central elements more symmetry (of *Länder* competences) and a greater uniformity of policy outcomes.

After the Nazi dictatorship the return to democracy meant the return to federalism (a similar connection between the return to democracy and federalism can be found after the end of the Communist dictatorship in East Germany 1989). The new constitution for West Germany, the Basic Law of 1949, was the product of a situation where the *Länder* already existed. They had to agree to a new federation. This included the acceptance of the power-sharing arrangements this new federation implied. It was therefore highly unlikely that the Weimar arrangements were simply reproduced. But more importantly, the Allied powers insisted on a meaningful type of federalism with a role of the *Länder* in federal legislation and separate sources of income for the *Länder*. Both influences taken together reduced to some extent the role of the federal government, though not as radical as the Allied powers might have hoped. Weimar's decentralized unitarism was transformed into cooperative federalism, but the aim was not a total break with the past. Cooperative federalism upheld the symmetry of *Länder* rights and competences and introduced mechanisms, such as concurrent legislation, which became a door-opener for the transfer of competences to the federal government.

Why were decision-makers in 1949 so conservative in their approach to a new federalism? Why was it so convincing for them to accept the general framework of federalism that had developed in opposition to monarchical regimes of the nineteenth century? An obvious answer is that this kind of cooperative federalism was the only one most of them knew and could connect with democracy in Germany. The intellectual framing of the federalism discourse excluded less centralist alternatives, or marginalized them, as the representatives of Bavaria, who preferred more autonomy for the *Länder*, experienced on several occasions (März and Oberreuter 1999). A general belief system had developed which saw greater advantages in the efficiency of a strong central government than in a bigger role for the *Länder* in political decision-making.

This conclusion became even more convincing with the economic success of post-war Germany. The point of reference for Germany's unitary federalism

changed, however. Instead of the lessons of the Weimar Republic, modernization theory provided the arguments for a path-dependent development of German federalism. A strong central state was seen as essential for making the most of the kind of efficiency attributed to technological change, economies of scale and the growth of interdependency in modern societies in general. The literature on German federalism of the early 1960s came to the conclusion that the modernization of Germany inevitably transformed her cooperative federal post-war arrangements into instruments of a “unitary federal state” (Hesse 1962).

This paradigmatic change of the argument for a path dependent development of German federalism has so far found little attention in the research on German federalism. In itself it is, of course, not spectacular. What is important are the theoretical implications this paradigmatic change has, because it raises a question with wider implications. Did political decision-makers in Germany favor a path-dependent development of German federalism because they were guided by the logic of institutional pressures which allowed them to identify only one plausible alternative for doing business, or did they favor path dependency more or less by chance, because their analysis of the challenges for contemporary German society led them to believe that unitary federalism was the best choice? If the latter hypothesis was correct, this would seriously challenge the usefulness of path dependency as theoretical approach.

Before we discuss the relationship between institutional adaptation and societal change with regard to the two major reforms of federalism in the Federal Republic of Germany in the late 1960s and in 2006 a brief overview of the key assumptions of the path dependency approach shall be given here. This will allow us to analyze both major reforms of German federalism in this perspective.

Path dependency and the 1960s reforms of German federalism

Conceptual lenses

Path dependency, the key concept of historical institutionalism, claims that the development of German federalism has been contingent, i.e. related to historical contexts. A pattern of events exists which relates one point in history to the next one. This pattern is able to “lock in” and therefore to reproduce the characteristic elements which determine the substance of German federalism. As Pierson (2004: 52) argues: “Identifying self-reinforcing processes does help us understand why organizational and institutional practices are often extremely persistent – and this is crucial because these continuities are a striking feature of the social world.” A major element of these continuities is the set of federal institutional arrangements in a wider sense (including also constitutional and behavioral factors) which have developed over time. Once locked in, path dependency is (under normal circumstances) irreversible, but in its concrete manifestations not unchangeable.

Evolution is to be expected, but the range of possibilities for change is constrained by the formative period of the federal institutional arrangements (Peters 1999: 65). These arrangements can only be broken up at certain critical junctures of historical development. Critical junctures are caused by ruptures in the history of a country which seriously question the basic assumptions on which the national political system rests. Nevertheless there remains the collective memory of the previous path of development and a strong incentive to return to modes of decision-making embedded in national political cultures and the belief systems of the political elites. Evolutionary change is highly unlikely to challenge the organization of the policy-making process. Inertia and a lack of alternative visions of federalism are to some extent implied by the notion of path dependency. As Pierson argued: “Previously viable options may be foreclosed in the aftermath of a sustained period of positive feedback, and cumulative commitments on the existing path will often make change difficult” (Pierson 2004: 52). In this respect path dependency is one element of what Pierson calls institutional development. Institutional development refers to both institutional stability and institutional change (Pierson 2004: 166).

Some authors claim that path dependency has an additional dimension. Path dependency is plausible, because it produces increasing returns (Beyer 2006: 15f.), or, in other words, it is well placed to reduce the costs of decision-making. Once a path has been chosen, investments are made which bear fruit over time and create path loyalty. The implicit assumption here is not that the chosen path is – in comparison with all other alternative paths – always the most efficient or the most suitable one. Still, it is the path which makes optimal use of the sunk costs of previous decisions. With regard to inefficiencies one possibility is therefore definitely excluded, namely that path dependency leads to a reduction of the level of political gains secured in the past by path loyalty. Path loyalty also creates adaptive expectations for decision-makers. They “feel a need to ‘pick the right horse’ because options that fail to win broad acceptance will have drawbacks later on”. (Pierson 2000: 490).

This dimension of the path dependency argument shifts the focus to some extent from structure to actor. Whereas the historical contextualizing of the path dependency approach is part of an ex post explanation of the dimensions of social change, the idea that path dependency directly influences the rational choices of decision-makers widens the perspective. It attributes predictive powers to the path dependency approach with regard to institutional and policy preferences.

The 1960s reform of German federalism

The first substantial reform of German federalism in the late 1960s seemed to confirm the assumptions of the path dependency approach. It followed the pattern of unitary federalism in Germany, which connects, as argued above, democratic government with the symmetry of *Länder* rights and competences on the one hand, and the uniformity of policy-making and policy outputs on the other. The reform can therefore be interpreted as proof that the pattern of

German federalism had “locked in” and was able to determine the choice of political decision-makers. It deepened the cooperation between the federal government and the *Länder* even up to the point where it became difficult to differentiate this cooperation from the institutional arrangements of a unitary state. This observation was made in a number of publications. “The barely hidden unitary state” was a typical and telling title of one of the most widely read books (Abromeit 1992). The 1960s reform increased the centralization of the tax system. Many of the few still important *Land* competences were integrated into joint policy-making arrangements of the *Länder* and the federal government.

Though the 1960s reform resulted in constitutional change which matched the pattern of path dependency, the justification for the new type of cooperative federalism in Germany, for “interlocking federalism”, changed. It now referred to the generally accepted need for greater efficiency in economic policy-making. This implied a Keynesian strategy for steering the nation’s economy. Central to this strategy was the coordination of federal and *Land* interventions into the economy (Sturm 2001). The aim of the reform was to secure economic prosperity with the help of a stronger role of the federal government. In this context the federalism narrative of the 1960s was enriched and quasi-focused by the notion of uniformity of living conditions (*Einheitlichkeit der Lebensverhältnisse*). Till the 1980s when the *Länder* started some policy initiatives (for example in industrial policies) on their own, *Länder* autonomy seemed to be pre-modern and parochial. Where there was no federal competence at least the self-coordination of the *Länder* was expected.

German unification in 1990 did not challenge these basic assumptions. It confirmed the expectations of the path dependency approach, especially with respect to symmetry. There was never any doubt that the five new East German *Länder* were to be integrated into West Germany’s Basic Law with the same constitutional status as the existing West German ones. This excluded also positive discrimination. Neither were the East Germans given a special veto power to influence the radical institutional change they experienced on all levels of government and society, not even for a transitional period, nor were special institutions created to give them a voice on the federal level of government. After all, one should not forget that unification was the merger of two polities with different political norms and expectations (Sturm 1999a: 138) – a fact which troubles the German polity till the present day. For the new democracy in the East symmetry on the *Land* level was seen as the best way for East German interest representation in the new Germany, although the East Germans were in the *Bundesrat* outnumbered by the Western *Länder*.

“Punctuated equilibria” – an alternative approach?

The post-war development of German federalism seems to have developed along the lines which the path dependency approach was able to draw (democracy, symmetry, uniformity). Institutional change followed a pattern which successfully locked in, and path loyalty conditioned institutional and policy choices

made. The federalism narratives which legitimized path loyalty were, however, much less uniform than the direction into which institutions and decision-making arrangements of German federalism went. Table 3.1 identifies four social narratives which legitimized Germany’s unitarian type of federalism till the late 1980s. Of course, these were not mutually exclusive, on the contrary they reinforced each other. And the time periods for which any one of these four interpretations became viable overlap. The open question seems to be whether path dependency as such explains the development of German federalism by the mechanisms described above, or whether the development of German federalism can only be understood in connection with (changing) social narratives which were able to convince decision-maker of the advantages of path loyalty?

If social narratives are essential for understanding the development of German post-war federalism, the path dependency approach explains less than it claims. The importance of specified conditions of political change which at a certain point-in-time “locked in” and were reproduced afterwards for the explanation of the development of German federalism is greatly diminished. And, one also has to be skeptical with regard to the predictive qualities of historical institutionalism, not only because path dependency as such can only be detected by retrospect (Kay 2005: 561), but also because the contents of new social narratives cannot be predicted. In addition, the change of perspective from institution based or path characteristics-based analysis to narrative-based analysis no longer rules out reforms of German federalism which question the unitary nature or the symmetry of German federalism.

Social narratives reflect new problems societies have and to which societies respond (among other possibilities) by the adaptation of their (federal) institutions. A focus on social narratives should help us find an alternative explanation for the development of German federalism which may perhaps better be able to reconcile contingency and change. The central problem with path dependency is that it mixes contingency (the narrative) and sequence to understand the trajectories of change in federalism: “the order in which things happen affects how they happen” (Kay 2005: 553). As a consequence the paradigm becomes inflexible and insufficiently susceptible to fundamental change. It becomes deterministic, at least in the sense of constrained choices. This is not to argue that path dependency implies that “the social landscape can be permanently frozen” (Pierson 2004: 52). And it remains undisputed that “history matters”. What is disputed here is that sequence matters that much.

Table 3.1 Federalism narratives which legitimized path loyalty

<i>Period</i>	<i>Social narrative</i>
Post-war Germany	Lessons of Weimar Republic
1950s and 1960s	Modernization theory
Late 1960s to late 1970s	Keynesianism
1989/1990	German unification

Jeffrey Haydu (1998) among others has developed an alternative “process sequencing” model which conceptualizes sequence in a different way, namely as reiterated problem-solving. The central idea behind this concept is that in contrast to historical institutionalism sequencing is not *institution dependent*, but *problem dependent*. Problems provoke the development of new social narratives. Political elites adapt their priorities and find legitimacy in public discourse. This implies frequent new beginnings whenever problems to be solved acquire a fundamentally new quality. Over time instead of path dependency we observe a series of punctuated equilibria. In contrast to equilibria in historical institutionalist models, the occurrence of which can only be sufficiently explained after the fact, because they refer to a rearrangement of institutional settings (Peters 1999: 68), punctuated equilibria in process-sequencing are to be expected when a new constellation of social problems begins to dominate the social life of a society. This is reflected in new social narratives. This interpretation of punctuated equilibrium theory goes not only beyond historical institutionalism, but also beyond traditional punctuated equilibrium theory, which relied more on the perspective of decision-makers than on the contexts of social change (True *et al.* 1999: 97).

This is not to say that process sequencing excludes continuities. As Haydu (1998: 354) remarked: “continuities across temporal cases can be traced in part to enduring problems, while more or less contingent solutions to those problems are seen as reflecting and regenerating the historical individuality of each period” (Haydu 1998: 354). So the explanation of continuities is in effect close to basic assumptions of historical institutionalism. The difference is, as explained, that continuities refer back to problems and social settings and not to institutions alone. The “logic of appropriateness” for federalism reform is in this context not generated by institutional inertia, but by (changing) social environments.

The 2006 federalism reform

A new narrative

As all other steps in the development of Germany’s post-war federalism (see Table 3.1), the 2006 reform was connected with a social narrative. This differed fairly radically from all previous narratives, because it reflected a number of fundamental changes in the social environment of Germany’s federalism.

Post-war (West) German federalism was characterized by a fairly high degree of social homogeneity with some poorer *Länder* in the North and one poorer one in the South (Bavaria). Although the North–South divide was prominent in German economic debates, one could detect only a relatively modest disparity of tax income and welfare levels between the *Länder*. West Germany did not have the equivalent of the Italian *Mezzogiorno* (or of today’s East Germany). (West) Germany’s economy went through an economic miracle till the first half of the 1970s, and even after the oil shock of 1973/1974 it was plausible both in domestic politics as well as in international comparison to talk about a *Modell Deutschland*. For federalism this implied that its “locked in” features had a solid

economic base. Interlocking policy-making of the federal government and the *Länder* was greatly facilitated by the ability of central government to engage in distributive strategies. Though the public debt kept growing (West) German governments used the central budget to oil the machinery of political compromise. As long as all the *Länder* profited from a cooperative federalism, which was based on the principles of symmetry and uniformity of policy outcomes, there was no incentive to challenge its substance.

A third factor stabilizing the path of German federalism was the absence of international competition. There was no serious challenge to the social market model and the successes of *Land* economies. This changed dramatically in the 1980s, because of Japan’s new role on the world markets, because of Germany’s shakier position in the international economy, and, above all, as a result of the Single Market project of the EU. The liberalization of markets, which was accelerated after 1993, efficiently reduced the importance of nation-states for steering their economies. These developments provoked a much greater awareness of the *Länder* with respect to the competitiveness of their own economies vis-à-vis economic rivals in the European markets and worldwide. And as a consequence the *Länder* accepted new responsibilities (Sturm 1999b: 87–99).

With German unification the era of relative social, cultural and economic homogeneity in Germany ended. Germany’s budget problems no longer allowed a prominent role of distributive policy-making. Shortages inevitably shifted the focus of budgeting to redistribution. In policy-making zero-sum games have replaced win-win situations. The new economic environment is characterized by worldwide economic challenges and a deepening of the Single Market, which now works in many countries with the same currency and was oriented towards greater competitiveness by the Lisbon process. So in economic terms the regions in the European Union (in our case, the German *Länder*) more than ever before feel the pressure to define political and economic priorities in their own interests.

What does this mean for federalism reform? It means that the promises of modernity and economic welfare which provided the underpinnings of path dependency are a phenomenon of the past. The rule book for the German polity has been rewritten. This is not the kind of rupture historical institutionalism accepts as decisive factor for a revision of path dependency. It is, however, a new narrative which provided the background for the second post-war reform of German federalism. The path dependency approach expects in this context incremental change, which respects the symmetry and the unitary nature of German

Table 3.2 The new federalism narrative

<i>Period</i>	<i>Social narrative</i>
1980s to the present	End of social homogeneity; dominance of redistributive policy-making; challenge of European (Single Market, Lisbon process) and international economic competition (Japan, China)

federalism. Change in the form of “institutional layering” (Beyer 2006: 34), such as the creation of common tasks of the federal government and the *Länder* in the late 1960s, can be accommodated in the paradigm, because it only adapts institutions to changed circumstances, but does not supersede them. More radical change is, however, excluded, even if instead of producing increasing returns – as was theoretically to be expected – decision-making in German federalism produced decreasing ones. Joint decision-making of the federal government and the *Länder* led straight into the so-called joint-decision trap (Scharpf 1985), which seemed to make it systematically impossible, given the preferences of the actors involved, to overcome inefficiencies of resource allocation and decision-making in German federalism.

The punctuated equilibria approach expects change too, but does not exclude a revision of the key elements of German federalism. It argues that it is always possible that new problems find solutions which break with traditional arrangements of decision-making, especially when they are not successful (Howlett and Rayner 2006). The 2006 reform of German federalism reacted to the new social narrative which had developed since the 1980s and had continuously gained importance. It created a new equilibrium of those social interests which had to be brought into balance. The need for a new equilibrium had already been reflected in five judgments of the Federal Constitutional Court. These judgments of 2002, 2004 and 2005 supported the idea of diversity both with regard to *Länder* constitutional autonomy and with regard to *Länder* control over their own resources. They were major contributions to the new federalism narrative in Germany. The role of the Federal Constitutional Court was of great significance for changes in the belief systems of the political elite.

The 2006 federalism reform tried to find a new stable relationship between the preferences of government and opposition, of *Länder* governed by Christian Democrats or Social Democrats, of the poor and the rich *Länder* and of the *Länder* and the federal government. Though the reform (Holtschneider and Schön 2007) was modest, and was therefore often criticized for its lack of vision (Benz 2008) and its inability to live up to the expectations politicians had created when they started the process of reform (Sturm 2007), it is remarkable, because it deviated from the historical path of German federalism. It modified in principle one of the “pillars” of path dependency, namely the unitary character of federalism. This is more than one could have expected, if one relied on predictions the path dependency approach was able to offer.

The 2006 reform in greater detail

With the 2006 reform of German federalism the unitary character of German federalism was challenged. Diversity of *Länder* policy-making and policy outcomes became accepted concepts. Diversity was to be achieved above all by the separation of competences of the *Länder* and the federal government. The reform eliminated framework legislation and reduced joint decision-making of the *Länder* and the federal government in the context of the three common tasks.

Joint-decision making with regard to one of these tasks (the building of universities and university hospitals) was given up. There used to be planning committees with representatives of the *Länder* and the federal government for the common tasks, which made decisions by three quarter majorities (de facto: unanimously). They are no longer mandatory. In addition a number of competences in the field of concurrent legislation have been re-allocated either to the federal or to the *Land* level.

The *Länder* now have the right to deviate from federal legislation if they choose to do so, though the number of policies affected is still very small. Here, as in all other aspects of the 2006 reform, the conceptual change with regard to path dependency is more important than the immediate effects of the reform. The number of competences for which the new rules apply is very small, and environmental law-making which is at the centre of the competences affected, was already at the time of the reform no longer a strictly German responsibility. The EU is an important agenda-setter here, and EU law supersedes national law. Whenever a *Land* decides to deviate from federal law this does not mean that the policy-making role of the federal level ends. *Land* law takes precedence, but whenever the federal government makes a new law, this will then take precedence over the existing *Land* law. Of course, the *Land* has the right to pass legislation which deviates once again. Instead of a transfer of power to the *Länder* the right to deviate is an exercise in ping-pong legislation which does not fix diversity for ever. The right to deviate from existing federal laws will for most of those laws only be possible from 2010 (with the exception of the rules for admission to universities for which this is permitted from 2008).

The *Länder* also have the right to deviate from federal rules for the implementation of federal laws or federal rules for the establishment of institutions designed to administrate federal laws in parallel to the above said. It was expected that the federal government would accept the autonomy of the *Länder* when they are implementing federal law, because this reduces the need for joint legislation and by implication the veto power of the *Länder* in the *Bundesrat*, the “second chamber” for law-making in Germany. After one year of reform there seems to be evidence for this effect, although its quality is contested (Risse 2007; Höreth 2007).

Table 3.3 illustrates the three elements of diversity of policy-making of German federalism after the 2006 reform which are at the core of the break with the uniformity expectations of the path dependency approach: the right of the *Länder* to deviate from federal laws and their implementation (*Abweichungsgesetzgebung*), new competences for the *Länder*, and less involvement in joint decision-making.

Diversity in German federalism is above all to be expected as a result of the new exclusive powers of the *Länder*, especially with regard to their almost exclusive role in education. In this field they now also have the constitutionally guaranteed right to speak for Germany on the EU level. Almost immediately after federalism reform had been passed a debate in the *Länder* started on shop opening hours. Overnight Germany produced a wide variety of models. There was suddenly a public interest in decisions of *Land* parliaments which surprised most *Land* MPs. A similarly heated debate followed on smoking in restaurants. One reason

Table 3.3 Diversity in German federalism after 2006

Rights to deviate from federal norms	Greater autonomy for the <i>Länder</i>
Right to deviate from federal laws: hunting (hunting licenses are excluded), protection of nature and landscape (general principles and the protection of species and of the maritime habitat are excluded), real estate and development planning, water supplies (some regulatory powers are excluded), access to universities and university degrees.	New competences (right to make laws) for the <i>Länder</i> : execution of judgments (prisons etc.), public meetings, nursing homes, opening hours of shops, pubs and restaurants, game halls, fairs, exhibitions, markets, housing (some aspects), agricultural estates and land lease, sound pollution caused by social events (sports events etc.), salaries of <i>Land</i> civil servants and <i>Land</i> judges, universities and the construction of universities, regulation of print media.
Right to deviate from federal rules for the implementation of federal laws and federal rules for the establishment of institutions with the task of administrating federal laws.	Reduction of uniformity: (a) end of “framework” legislation (b) reduction of the number of common tasks (building of universities and university hospitals now a <i>Land</i> responsibility) (c) reduction of some of the items of concurrent legislation (d) more independence for the <i>Länder</i> when they implement federal laws (e) right of the <i>Länder</i> to speak for Germany in the EU councils of ministers (topics: education at schools, electronic media and culture)

was that the federal government had overlooked that it was no longer responsible for the relevant legislation and had drafted a bill for legislation in the federal parliament. The *Länder* only hesitantly made use of their new freedoms, not least because the general public had some difficulty with policies which questioned the unitary nature of German federalism. Without hesitation diversity was welcomed by all *Länder* governments whenever they spotted new financial freedoms. For example, the *Länder* are no longer bound by federal law with regard to the salaries of their civil servants, they are free to opt for or against the introduction of student fees at their universities and with regard to the organization of their prison administrations (Carstens 2007).

The punctuated equilibria approach and the reform of German federalism 2006

The interpretation of the second major post-war reform of German federalism offered here comes to the conclusion that the 2006 reform was more courageous than expected. The reform was a complicated political compromise which pro-

duced on the surface only incremental change. Still, we witnessed what can be described as a general change of direction, which the path dependency approach proved unable to predict or to explain *ex post*. Of the three elements of path dependency of German federalism, namely democracy, symmetry and uniformity of policy-making and policy outputs, the latter was fundamentally challenged. This happened in times of “business as usual”, not at a critical juncture of German history. Even if we allow for a broad spectrum of downstream consequences of institutional choices, it remains difficult to fit the 2006 reform into a path dependency logic. Paul Pierson has loosened up this logic. He stresses “the need to determine plausible sequences of paths of institutional revisions” and includes as “critical junctures” “big, slow-moving social processes”. This insight comes very close to the argument made here.

The logical consequence of the above-said is that we should critically examine what has so far been described in the literature as path-dependent development of German post-war federalism. If we focus our attention on social narratives as contexts of punctuated equilibria, we can see that for the period up to the 2006 reform different social narratives supported in sum what historical institutionalism defined as path dependency. Only in the context of the 2006 reform the continuity of the social narratives as defined by the path dependency approach ended, at least partially. The new social narrative which started to develop in the 1980s and grew in importance because of the social and economic asymmetries created by German unification, the Single Market and global economic pressures made this kind of continuity impossible. No new equilibrium of political forces along the lines of the path dependency approach was established.

The path dependency approach proved to be unable to predict and even to explain *ex post* the direction which the 2006 federalism reform took. It is therefore suggested here that a sequencing of events which is problem dependent instead of institution dependent allows us much better than the path dependency approach to understand (and predict the need for) paradigm changes of German federalism. This does not exclude contingency as explanatory factor, but avoids the lack of sensitivity of the traditional path dependency models for downstream consequences of paradigmatic social, cultural and economic change.

The “historical individuality” of the new federal arrangement in 2006 had to reflect the changed social, political and economic environment of German federalism. In this context it was a compromise which respected the protection of the interests and resources of the major actors. The newly established federal equilibrium reduced the role of the federal government in a number of policy areas and increased *Länder* autonomy. For some of the *Länder*, especially the poorer ones, which preferred both federal subsidies and the umbrella of the federal government in the EU to autonomy, it will be more difficult to fully exploit the new opportunities created by the reform of federalism than for the richer ones. The latter aim at becoming fairly autonomous economic players on the Single Market and even worldwide.

The exact timing, however, of the 2006 reform can neither be “explained” by the path dependency approach (Kay 2005) nor by the punctuated equilibria

approach (Robinson *et al.* 2007). As so often in historical analysis we need to distinguish between the causes of reform and the triggering event. In December 2004 a first reform proposal of a joint commission of the *Bundestag* and the *Bundesrat* failed. Almost the same politicians dealt with the problem again after the red–green coalition in Berlin had lost office in 2005 and a grand coalition of Christian Democrats and Social Democrats had come into power. The politicians now in charge had to decide in the broader context of coalition-building and the fixing of ground rules for a new government program. Public support for the grand coalition and party cohesion in the two coalition parties could not be taken for granted after the bitter electoral fight which had preceded coalition-building. In other words, the grand coalition needed early successes. Federalism reform seemed to be a good candidate for demonstrating the vitality of the grand coalition, because it did not fundamentally divide the coalition partners and could build on encompassing consultation and a fairly long period of preparation. The window of opportunity was therefore easy to open, and a new federalism narrative could find expression in a reform of Germany's constitution. With regard to the second stage of federalism reform, which was supposed to deal with the financial arrangements of German federalism, this window of opportunity was only briefly open and has been closed now by an informal coalition of almost everyone involved (perhaps with the exception of the *Länder* who are net payers into the financial equalization fund). Federalism reform stage II (2009) dealt with the topics of better public administration and balanced budgets, topics which are only of marginal significance for the substance of *Bund–Land* relations.

Some final thoughts on the punctuated equilibria approach in comparative research

The punctuated equilibrium approach has some potential for explaining pressures for federalism reform in other countries, too. Here only some examples, which may illustrate what could be an agenda for further research. The starting point for all comparisons is social narratives. In this context an important distinction has to be made. When we compare federalism reform in countries such as Spain, Belgium or Canada, for example, with reform efforts in Germany, Austria and even Russia, we observe that social narratives in the former group of countries are very much based on regional identities. They are a permanent feature of the social fabric of these societies. It may even be the case that we find two (or more) social narratives in one country concerning the same manifestation of social change, but told from different perspectives. And whatever else can be said about social narratives in ethnically divided countries, the ethnic divisions and their consequences are the dominant social narrative over time. So it is expected that any kind of federalism reform always has an important element which reflects ethnic divisions. The pressures for federalism reform arise more from narratives which have their origins in unresolved ethnic conflicts than from social change in general.

In Germany or Austria federalism is more or less divorced from ethnic conflict. Here we can expect an unfiltered confrontation of federal institutions and

policy-making with the challenges of a new interpretation of social realities. If these challenges can be accommodated in the dominant federalism paradigm not much change in the federal order will be visible. In the Austrian case we see less constitutional adaptation than in Germany. But the pressure for change became visible, too, when in the context of Austria's entry into the European Union in 1995 the social narrative changed. Though the 1994 federalism reform failed, the changed narrative found expression in the growth of importance of the heads of the Austrian *Länder* (*Landeshauptmännerkonferenz*) (Bußjäger 2003). Surprisingly Russia, though a country with many ethnic divisions, belongs at the moment to the same group of countries as Germany and Austria. The reason is that in Russia social narratives on federalism have been "hijacked" by the political elite, or to put it less provocatively, they have been robbed of their democratic character. Interpretations are constructed top-down (which does not necessarily imply success). Federalism reform under President Putin gave expression to the new federalism narrative invented in the Kremlin (Heinemann-Grüder 2004).

4 The role of the federal judiciary in union–state relations in India

Rekha Saxena and Mahendra P. Singh

Introduction

India was the first country in the Afro-Asian world to adopt a parliamentary and a federal type government. This meant two important departures from the tradition of government in the Indian history. First, pre-British as well as British India, which primarily followed the common law system, opted to join a comprehensively codified system of a written parliamentary federal constitution and a corpus of positive law, barring a few exceptions. Second, the Indian Constitution also incorporated a strong institution of judicial review predicated on (a) a limited separation of powers between various organs of government (limited due to the fusion of powers between the parliament and the executive), (b) the vertical distribution of political authority, due to the adoption of federalism and (c) the constitutional entrenchment of fundamental rights of citizens.

Federalism and the adoption of a written, supreme constitution necessitated the presence of a judicial umpire. Between two types of constitutional courts, namely supreme courts such as found in common law countries (e.g. the USA, Canada, and Australia, etc.) and constitutional courts like those that emerged in continental European parliamentary or federal democracies (e.g. Austria, Germany, Belgium, France, etc.) – India belongs to the former. In the common law tradition, there is no separate institution of appointed constitutional courts dealing exclusively with constitutional disputes. By contrast, in the European political tradition, constitutional courts are set apart from the regular courts and their members are elected or appointed by a process in which the Parliament plays an important role (Stone Sweet 2002).

The main purpose of this chapter is to demonstrate what has been the role of the federal judiciary, and in particular the Indian Supreme Court in balancing federal–(union)–state relations. In general, Indian federalism has evolved in a zig-zag direction (i.e. first centralizing, then decentralizing). By the 1970s, Indian government was often characterized as highly union-centered (i.e. centralized) and executive-driven. The federal judiciary was initially accommodative of the views and policies of the union executive in the first two decades following Indian independence. However, since then the judiciary has repeatedly sought to curb the power of the executive and parliament in order to safeguard

fundamental rights and prevent the enactment of constitutional amendments that could undermine the federal and democratic nature of India. Therefore, and particularly since the 1980s, Indian federalism has been referred to as a judiciary-driven affair, and the federation as a whole developed in a decentralizing direction. In this trajectory of federal evolution, two factors have played a very significant role, both of them operating in tandem: the transformation from a one-party dominant system to a multi-party system at the level of the union and the States, which in turn increased the scope for judicial review. These two factors together, and with it, the advent of coalition governments, especially at the federal level have reinforced the process of what Prime Minister Manmohan Singh called “judicial overreach” while addressing a national conference of Chief Justices of the Supreme Court and High Courts of India last year.

As this chapter will illustrate, the courts have used various techniques of judicial empowerment to increase their authority and foster the gradual decentralization of the Indian federation. For example, they declared the preamble to the constitution an integral part of it, they made constitutional amendments (in addition to laws and executive orders) subject to judicial review, they invoked supra legal principles such as natural justice, they changed the procedure of *locus standi* to allow Public Interest Litigation (PIL), and they stepped in the power vacuum created by a decline in authority of the federal Parliament and the intractability of the federal executive. The Indian Supreme Court has taken recourse to all these mechanisms of judicial statesmanship and empowerment with large public approval and the acquiescence of other organs of the government.

This chapter will illustrate and explain how the role of the judiciary has evolved in influencing federal-state relations. In general, we argue that the role of the judiciary in this regard has increased (and the Court has become more receptive to the position of regional actors), but also that the scope for judicial activism is not uniform across each of the five areas in which the Supreme Court has specifically granted or implied jurisdiction as the judicial forum of original, appellate and advisory jurisdictions. These five areas (each of which are discussed in turn) are (1) relations between the union and the states with special reference to the powers of the President and the governor of a State; (2) the judicial arbitration of major Union–State disputes (3) the interpretation by the Supreme Court of the power of constitutional amendment and the jurisprudential theory of the “basic structure” of the Constitution, which professedly includes the federal features, (4) frictions from externalities that arise from the exercise of federal or state authority *within* their designated competence areas, and (5), inter-state river water disputes as a further concrete example of such interactions. An introductory section, setting out the basic tenets of Indian federalism and its judicial architecture precedes the analysis of these five areas, whereas a concluding section summarizes the role of the federal judiciary in Union–State relations in India (Scheppele 2002).

Indian federalism: basic features and judicial architecture

India is a legislative union of citizens and communities who live in a federal union made up of 28 states and 8 territories. The Indian Constitution incorporates a limited separation of powers between the executive, legislature and judiciary at the union and state levels. The separation of powers is limited, because India is a parliamentary federation and therefore is based on the principle of a fusion of powers between the legislature and the executive. The separation of powers does find expression, however, in the independence of judiciary. Furthermore, the makers of the Constitution and the Supreme Court of India have regarded the separation of powers as an important principle of government, next to the protection of fundamental rights, and the federal division of powers. Jointly, they prepare the ground for judicial review and hence, judicial activism.

In contrast to these parliamentary and federal features that make the judiciary an inevitable umpire of the entire process of governance, India is a common law country whose legal system originally derived from the British legal system. Chief Justice K.G. Balakrishnan has observed that:

[T]here exists a uniform system of justice dispensation with the Supreme Court at the apex and High Courts in the States..., as well as numerous other subordinate courts. Thus, in the strict sense, the Indian judicial system does not operate on wholly federal lines, as may be seen in the United States. It does not have a dual system of courts and the judiciary is an integrated whole. There are no federal courts as such to decide federal questions exclusively.

(Balakrishnan 2008: 1)

This interpretative point made by the Chief Justice of India is in fact in line with the classical characterization of the Indian Constitution as “quasi-federal” by K.C. Wheare (Wheare 1964). It must, however, be pointed out that by now the Government of India, if not the text of the Constitution, has become federal in its actual working (Singh and Saxena 2008; Saxena 2006; Arora and Verney 1995). In fact in the opinion of at least one observer, it has become “quasi-confederal” (Verney 2003: 171).

The effect of judicial review on union–state relations has also changed throughout the years, as the superior courts have played at times a centralizing as well as a decentralizing role in their interpretation of the Constitution. As will be seen below, the courts have initially, by and large, been more centrist in their judgments, especially during the Nehru era. In that period as well as subsequently, going by the sheer number of cases decided, the protection of fundamental rights figured more prominently than upholding state rights. The fundamental rights partake in the parliamentary feature of the Constitution, as they are supposed to be enjoyed by the citizens uniformly across state boundaries. The relatively smaller number of cases relating to state rights (compared to fundamental rights) may also be indicative of the fact that union–state relations

in India have predominantly been guided by the spirit of cooperative federalism. This has been so not only in the phase of one-party Congress dominance but also since the advent of a multi-party system and federal coalition governments. There have, of course, been cases all along relating to union–state and inter-state disputes. Yet the anticipated increase in jurisdictional conflicts since the economic liberalization and political federalization has not been as numerous as might have been expected (Saez 2002). The reason for this should not be found in the uncertainty of the outcomes of judicial proceedings or the assumption of judicial partiality; rather patterns of cooperative federalism that were established in the past have remained largely intact or even intensified.

The Supreme Court and President’s Rule

The constitutional heads of the federal and provincial states are the President and the governors, respectively. The President is always expected to work on the advice of the union council of ministers (the equivalent of a federal parliamentary cabinet) whereas the governor normally acts in a similar manner but is constitutionally empowered to act at individual discretion in some respects in normal and emergency circumstances. For example, the governor can reserve a bill for consideration by the President (union executive), which may or may not be allowed. Furthermore, the governors of states with scheduled areas (Fifth Schedule) and tribal areas (Sixth Schedule) are also empowered to act in their discretion in administration of tribal communities and areas. These matters have not become subject of litigation, although the reservation and disallowance of state legislation by the union has caused a great deal of disquiet and protest (as was documented in a large scale review of the operation of the Indian federal system, commissioned by former Prime Minister Indira Gandhi, partly under pressure by party politically hostile parties and state governments. This Sarkaria Commission on Centre State Relations, produced its final report in 1988 (hereafter Sarkaria 1988).

The power of the President of India to take over the administration of a state in case of breakdown of the constitutional machinery there under the emergency provision (Article 356 of the Indian constitution) has persistently been a bone of contention between the union and the states. It is commonly argued by commentators that this emergency power, that was supposed to be used only sparingly during genuine emergencies has been grossly misused by union governments irrespective of the party in power. However, for a long time, the judiciary followed a hands-off policy in such disputes taking shelter under the plea that determining the breakdown of the constitutional machinery in a state is a political question left by the constitution to the union executive. For example, in *State of Rajasthan vs. Union of India* (1977), Justices P.N. Bhagwati and A.C. Gupta categorically ruled:

The court cannot, in these circumstances, go into the question of correctness or adequacy of the facts and circumstances on which the satisfaction of the

Central Government is based. That would be a dangerous exercise for the court, both because it is not a fit instrument for determining a question of this kind and also because the court would thereby usurp the function of the Central Government and in doing so, enter the "political thicket", which it must avoid if it is to retain its legitimacy with the people. In fact, it would not be possible for the court to undertake this exercise, apart from total lack of jurisdiction to do so.

(State of Rajasthan vs. Union of India 1977: 603)

However, this position of judicial restraint has undergone gradual change. To some extent this increase in judicial activism was preceded by an important change in the national party landscape, with Congress temporarily losing power in 1977–1978 to a non-Congress Party (albeit fragile) parliamentary majority. Following the national elections of 1978, the Janata Party came to power on the crust of a strong extra parliamentary mass movement led by the former Socialist-turned-Gandhian Jayaprakash Narayan. As a result, Clause 5 of Article 356 was repealed by the 44th Amendment, thereby preventing the partisan and authoritarian misuse of the Emergency provisions. The earlier wording of Clause 5 which the 44th Amendment (1978) deleted read as follows: "Notwithstanding anything in this constitution, the satisfaction of the President mentioned in clause (1) shall be final and conclusive and shall not be questioned in any court on any ground" (inserted by Constitution 38th Amendment Act 1975). The 44th Amendment replaced this clause by the present provision, as a result of which a state of emergency would automatically lapse or cease to exist at the expiration of two months unless approved by the federal Parliament. Furthermore, parliamentary approval is permissible only under two conditions: (a) when there is a national emergency under Article 352 in operation, and (b) If the Election Commission certifies that under the prevailing conditions assembly elections cannot be held in the state concerned. Clause 4 of this article also makes provision for the extension of a state emergency for a further period of six months, but only after federal parliamentary approval. In sum, the 44th Amendment symbolized an effort to constitutionalize the emergency powers of the union government by incorporating additional safeguards.

As a result of this amendment, the Supreme Court, in *A.K. Roy vs. Union of India* (1982), pointed out that after the repeal of Clause 5 of Article 356 by the 44th Constitutional Amendment, the constitutional position under which the Rajasthan case was decided, "cannot any longer hold good".

A more definitive judicial stamp on this interpretation came in the Supreme Court landmark ruling in *S.R. Bommai vs. Union of India* (1994: 1918). The Bommai judgment represents a paradigm shift in the judicial interpretation of Article 356. Since this judgment was delivered, the frequency of presidential takeovers of state administrations has markedly declined. Examining a number of pending cases of president's rule in several states, the Supreme Court ruled that democracy, federalism and secularism were "basic features" of the Constitution that must be upheld by the Court in any interpretation of Article 356. Justice

P.B. Sawant (speaking for himself and Justice Kuldeep Singh with whom Justice S.R. Pandiyan was also in concurrence) observed:

The exercise of power by the President under Article 356 (1) to issue proclamation is subject to the judicial review at least to the extent of examining whether the conditions precedent to the issuance of the proclamation have been satisfied or not. This examination will necessarily involve the scrutiny as to whether there existed material for the satisfaction of the President that a situation had arisen in which the Government of the State could not be carried out in accordance with the provisions of the constitution.

(Ibid.: 1931)

The *volte face* on the part of the Supreme Court between *Sajjan Singh vs. State of Rajasthan* and *S.R. Bommai vs. Union of India* may be understood and explained in terms of a number of reasons. There was, first, a growing concern about the unabated partisan use of Article 356 by the parties in power at the center at various points in time to topple state governments controlled by parties in federal opposition. Such a practice was widely disapproved by the Sarkaria Commission Report on Center–State Relations (1987–1988). Second, growing electoral volatility and the gradual decline of the Congress Party resulted into a much more fragmented national party system, in which the political victors of the past turned into the victims at the time of reference. The emergence of a national multi-party system following the 1989 union elections has brought with it a wide diffusion of federal coalition and minority governments as well as the continuous oppositional control of the federal second chamber, the Rajya Sabha. Although by comparative standards a relatively weak second chamber, it can delay (and in constitutional and emergency matters also veto) government legislation and policy. Unsurprisingly, the oppositional majority in the Rajya Sabha has repeatedly demanded that the union government should seek its consensus on federal legislation, constitutional amendments as well the approval of President's rule.

At the time of Supreme Court hearing on the Bommai cases, the Congress Party minority government led by P.V. Narasimha Rao was in power in New Delhi but was very unsure of being returned in the ensuing union elections. Hence neither this government nor, ironically, any other government in India opposed the Supreme Court's review of President's rule in the states. All parties to the dispute sought safety in the judicialization of this power which the Constitution had originally conceived as a political thicket within the jurisdiction of the union or federal executive alone. Justice K. Ramaswamy underlined the procedural part of the presidential decision and remarked "judicial review of the Presidential Proclamation is not concerned with the merits of the decisions but with the manner in which the decision had been reached" (ibid.: 1935). He went on to emphasize the substantive part of the decision as well, saying, "The action of the President under Article 356 is a constitutional function and the same is subject to judicial review" (ibid.: 1939). Justice P.B. Jeevan Reddy (speaking for himself

and for Justice S.C. Aggarwal) observed: "The power conferred by Article 356 upon the President is a conditional power. It is not an absolute power. The existence of material which may comprise of or include the report of the governor is a pre-condition. The satisfaction must be formed on relevant material" (ibid: 1939–1940).

The political conditions that made such a judicial interpretation legitimate are likely to persist. The national party system is likely to remain fragmented for a long time to come and the consolidation of coalition/minority governments in New Delhi means that the government of India survives on the support of powerful regional parties who control some states as well as some partners in the federal coalition government. For instance, in the more recent case of the Presidential dissolution of the Bihar Legislative Assembly, following state elections there in 2005, the Supreme Court once more considered the use of Emergency powers unconstitutional. Shortly after these elections, the governor triggered an Emergency for political purposes, namely to forestall the formation of a non-Congress government. In this sense he acted against the spirit of the constitution.

The Supreme Court and union–state disputes

The Indian Constitution (much like the Canadian which contains two) incorporates three lists – union, state and concurrent – that serve as the basis of the federal division of powers. It allocates the residuary powers to the union, again like the Canadian constitution. This illustrates that the founders of the Indian federation had a rather centralized federal state in mind.

A number of jurisdictional conflicts have arisen between the union and states over the years. An examination of some important cases suggests that the superior courts have settled competing claims of the Parliament and the state legislatures as well as crystallized the principles of interpretation of constitutional provisions relating to union–state relations. Among the earliest cases decided include two suits related to the state of West Bengal. In *State of West Bengal vs. Union of India* (1963), the state challenged the constitutionality of the Coal Bearing Areas (Acquisition and Development) Act (1957) enacted by the Parliament on the ground that the ownership of the land was vested in the state government. The Supreme Court ruled that the state right in the matter was subject to the union right and national interest under the Constitution. Another important case related to the Parliament's competence to levy wealth tax on agricultural land in view of the fact that agriculture is a state subject. In the *Union of India vs. H.S. Dhillon* (1972) the Supreme Court affirmed the Parliament's power in the matter as a residuary subject. By contrast, in a subsequent case, *International Tourism Corporation vs. State of Haryana* (1981) the Supreme Court decided not to lean too heavily on residuary power of the Parliament under entry 97 of the union list, and thought it desirable to give a "broad and plentiful interpretation" to the entries in the state list so as not a "whittle down the power of the state" to the detriment of the federal principle

(Bhatia 2003). Again, what we see here is a shift from an interpretation favoring the centre (based on a wide reading of the residuary powers) to one that is more sensitive to the position of the states.

A few additional cases dealing especially with industries may be sampled here. In *B. Vishwanathiah vs. State of Karnataka* (1991) the Supreme Court ruled that the legislative power of the state regarding industries other than those falling under the union list is exclusive. However, in the case of mines that figure in union as well as state list in their different aspects, if their regulation and development by the union is declared by the Parliament in "the public interest", the field is abstracted from legislative competence of the state legislature (*Baijnath vs. State of Bihar*, Supreme Court 1970; *State of Tamil Nadu vs. Hind Stone*, Supreme Court 1981; and *Naniyanayaka vs. State of Karnataka*, Karnataka High Court 1990; all discussed in Bakshi 2007: 223). Laying down a broad principle of constitutional interpretation, the Supreme Court in *Ujagar Prints (II) vs. Union of India* (1989) observed:

Entries in legislative lists, it may be recalled, are not sources of legislative power, but are merely topics or fields of legislation and must receive a liberal construction inspired by a broad and generous spirit and not in a narrow pedantic sense. The expression with respect of article 246 [the article delineating the potential reach of union and state legislation and the division of authority between the union and states in this regard] brings in the doctrine of pith and substance in the understanding of the exertion of the legislative power and wherever the question of legislative competence is raised, the test is whether the legislation looked at as a whole is substantially with respect to the particular topic of legislation. If the legislation has a substantial and not merely a remote connection with the entry, the matter may well be taken to be legislation on the topic.

(cited in Bakshi 2007: 222)

In a more recent case, *State of West Bengal vs. Keshoram Industries Ltd.* (plus a group of similar cases) (2004), the Supreme Court examined the constitutional allocation of legislative *and* taxation powers between the union and the states at great length. A bench of five judges chaired by Chief Justice V.N. Khare delivered a 4:1 verdict. The matter related to coal, tea, brick-field and minor minerals in which entries in the state list are subject to the union's power of regulation and development in public or national interest. Again, the court's interpretation has been favorable to the interests of the states. Some important points of interpretation that emerged from this judgment are:

- 1 "The various entries in the three lists are not 'powers' of legislation, but 'fields' of legislation ... *taxation is regarded as a distinct matter and is separately set out. The power to tax cannot be deduced from a general legislative entry as an ancillary power* (*State of West Bengal vs. Kesoram Industries Ltd.* 2004: 206–207; emphasis in the source).

- 2 “The Union’s power to regulate and control does not result in depriving the States of their power to levy tax or fee within their legislative competence without trenching upon the field of regulation and control” (ibid.: 207).
- 3 “Every effort should be made as far as possible to reconcile the seeming conflict between the provisions of the state legislation and the union legislation. Unless the court forms an opinion that the extent of the alleged invasion by a State Legislature into the field of the Union Legislature is so great as would justify the view that in pith and substance the impugned tax is a tax within the domain of the Union Legislature, the levy of tax would not be liable to be struck down” (ibid.: 214).

The Supreme Court and the constitutional amendment power

Next to its involvement in delineating union-state powers and policing the use of President’s Rule, the Supreme Court has also played an important role in interpreting the amendment power of the federal constitution. The process of amendment of the Constitution, especially, those parts that can change the nature of federalism, has been one of the most contested terrains in which next to the Supreme Court also the union parliament, and increasingly the state governments have been involved. In the course of this evolving conflict, the custody over the Constitution originally granted to the federal Parliament alone has come to be shared between the aggregate legislatures (i.e. union and state legislatures) and the superior courts.

The conflict first came to the fore in *Golak Nath vs. State of Punjab* decided by the Supreme Court in 1967 (*Golak Nath vs. State of Punjab* 1967: 1643). The *Golak Nath* bench contended that the makers of the constitution intended to give permanence to fundamental rights so they were *beyond* the amending power of the Parliament. The court also ruled that Article 368 only laid down the process rather than the power of amendment; the latter is given in Article 246 dealing with the legislative competencies of the Parliament and state legislatures, Article 248 dealing with residuary powers, and the seventh schedule outlining the union, state and concurrent lists. Confronted by a constitutional amendment challenging these contentions, the Supreme Court in *Keshavananda Bharati vs. State of Kerala* (1973) partly retreated by agreeing that the parliament has the power to amend any part of the Constitution including the fundamental Rights. However, it retaliated asserting that the power to amend is not an absolute power over the Constitution. Hence, it does not include the power to alter the basic features of the Constitution such as the parliamentary *and* federal form of government.

Since then, several rulings of the court, especially the *Minerva Mills vs. Union of India* (1980) and *S.R. Bommai vs. Union of India* (1994), reiterated this constitutional position, illustrating federalism, secularism and judicial review as important constituents of what has come to be known as the judicial theory of the “basic structure” of the Constitution. As such there is a parallel here with the German Basic Law, which in Article 79, paragraph 3 declares

inadmissible amendments to the Basic Law which affect human rights and the division of the federation into *Länder* or their participation in principle in the legislative process, or more generally alter Germany’s nature as a democratic, social and federal state. The difference then seems to be that in Germany the robustness of federalism is clearly enshrined in the constitution, whereas in India its establishment required judicial interpretation.

Although judicial activism in India is commonly dated to the post-internal emergency decade of the 1980s, the involvement of the Supreme Court in interpreting the constitutional amendment power can be traced back to its ruling in *Golak Nath vs. State of Punjab* (1967) and *Keshavananda Bharati vs. State of Kerala* (1973). With the deluge of Public Interest Litigation (PIL) since the 1980s, the Indian political system has indeed become virtually judiciary-driven in the opinion of a leading legal scholar (Dhavan 2007: Chapter 2) This is a sea change from the era of Congress-dominance when India was practically driven by a prime ministerial executive (Singh and Saxena 2008: Chapter 6).

As stipulated above, the transformation of the one-party dominant system into a multi-party system since 1989, the fragmentation and diminution of national parties, coupled with the rise of regional parties, the advent of federal coalition governments, the lack of a federal government majority in the federal second chamber, the diversification of the national and state party systems, and the rise of judicial activism contributed to making the Indian Constitution one of the most difficult to amend. This is so, notwithstanding the founders’ intention to turn it into one of the most flexible constitutions.

Limited judicial impetus in policing the functional interaction of various policy areas

Earlier union–state litigation that rests on a different reading by the federal or state governments of the constitutional distribution of legislative competencies was discussed. However, the interests of the two orders of government (or of two or more states) can also conflict if governments exercise authority *within* their constitutionally designated areas of competence. The problem arises due to externalities or spill-over effects of policy-making by one (level) of government on the capacity for policy-making of another (level) of government. In this section, we discuss this problem more generally, before turning to inter-state water disputes, a very concrete and highly significant area of contention in the contemporary Indian intergovernmental relations. Arguably, the Indian Supreme Court has always retained a hands-off approach, preferring such matters to be dealt with through political or administrative channels of intergovernmental coordination rather than through judicial adjudication.

Viewed from below, a persistent perception, sometimes amounting to conflict and commonly articulated by the state governments formed by regional and communist parties has been that the division of revenue resources in the constitution is heavily skewed in favor of the center. This imbalance is particularly distressing in view of the fact that most demanding social sector and development

responsibilities (e.g. education, public health, local community and infrastructural development, agriculture, irrigation, etc.) are assigned to the states, while the most elastic tax bases (e.g. income tax, foreign trade, central excise, etc.) are allocated to the union.

The result is that the union, by virtue of its spending power even in areas of exclusive state jurisdiction, has made expansive encroachments on state powers. However, disputes on the use of the federal spending power have seldom gone to the courts. One of the key reasons is that (revenue poor) states often welcome such centrally sponsored schemes of development, where they are based on the practice of cooperative federalism. Similarly, while some states complained about the deployment of central paramilitary or police forces on law and order duty in the states, others have welcomed such federal intrusion with open arms, or at worst, after initial opposition. Although law and order is a state subject, state police forces are woefully insufficient and ill-equipped across the board. In contrast, central police forces are more professional and are less involved in local inter-communal conflicts. This tendency is reinforced by the reluctance of state governments to mobilize their own tax bases such as agriculture and sales tax in order to placate significant voting blocs of farmers/peasants and traders.

Another factor contributing to the lack of litigation on these issues was, of course, the earlier dominance of the Indian National Congress in New Delhi in all or most states of the Indian Union in the first two decades after independence. During that phase, intergovernmental coordination took the form of “intra-party” coordination as the union and state executive heads reconciled their differences during key party gatherings. This was indeed the golden period of what in comparative federal theory and practice has come to be known as “cooperative federalism”.

Subsequent decades have seen three important developments with an impact on India’s cooperative federalism. Next to the already mentioned regionalization of the party system and the formation of federal coalition governments, these are the introduction of neoliberal capitalist reforms (gradually replacing a centrally steered and state controlled economy), and the emergence of cross-border terrorist attacks practically all over the country. The first two factors have contributed to greater autonomy for the state governments and for the private sector (corporate governance). Consequently intergovernmental relations took on a different character: they have become more open (since they now involve representatives of different parties), and sometimes required the participation of private partners, for instance due to the emergence of PPPs (public–private partnerships). Therefore, intergovernmental relations shifted from a mode of cooperative to collaborative federalism (Painter 1998). Whilst the decay of the Congress Party and the advent of regional parties strengthened the role of state governments, the greater concern with internal and external security had the opposite effect. The role of the union government in law and order increased due to the need to fight terrorism, arguably a residuary subject assigned by the Constitution to the Parliament of the Union of India.

Each of these three developments are fraught with the likelihood of greater jurisdictional conflict between the union and states since collaborative federalism

and PPPs are relatively unchartered waters in India. However, thus far, the involvement of the Supreme Court has remained rather limited. Supreme Court involvement occurred in the wake of the signing of the World Trade Organization Treaty by India in 1995, when four states (Punjab, Tamil Nadu, Rajasthan, and Orissa) filed a case, complaining that the federal government took them for a ride without any consultation or participation which infringed on state rights in agriculture, one of their exclusive competencies (Saxena, 2007). Another example – in which the Supreme Court has not yet played a role – relates to attempts by the BJP-led National Democratic Alliance and the Congress-led Progressive Alliance governments to set up a federal investigative agency to deal with crime and corruption with inter-state and international connections. The Central Bureau of Investigation (CBI) set up under Delhi Special Police Establishment Act (1946 with subsequent amendments) only has jurisdiction over union list concerns; extending its scope to the states would require the consent of the state governments concerned. After repeated attempts in the past decades by the Chief Ministers’ conferences, chaired by the Union Prime Minister, failed to gather the necessary support, the Union Parliament unilaterally enacted the National Investigation Agency (NIA) Act and amended the Unlawful Activities (Prevention) Act in December 2008. The NIA was established under the concurrent list co-extensive over the union and states. Its creation happened in the aftermath of the terror attacks on the Taj Palace Hotel and other spots in Mumbai by operators with Pakistani connections on 26–28 November 2008. These enactments could also be seen as a response to the eighth report of the second administrative reforms commission (“Combating Terrorism: Protecting by Righteousness”) chaired by Veerappa Moily (2008). The statutes did not implement some of its recommendations (e.g. providing finances for terror activities be included in the definition of terrorism, confessions before police officers be made admissible in courts, etc.). The commission’s recommendations in some other respects have been incorporated (e.g. inclusion of assassination of important public functionaries in the definition of terrorism, increase in the period of detention without charges, tightening the bail provisions, higher burden of proof on the accused, special courts for prosecution of terror-related cases, etc.; Mint 2008: 20; Singh 2007). Again, the Mumbai attacks may have provided the necessary impetus to establish such a long overdue agency with a capacity to act in state matters, but members of some regional parties, especially from Tamil Nadu and the minority communities expressed concerns about the possible infringement of rights of states and citizens during the parliamentary debates on the bill. Yet, the Home Minister, P. Chidambaram, allayed their apprehensions justifying the stringent measures as precautions against abuses on the other end (*The Hindu* 2008: 1).

Limited judicial review in sorting out inter-state river water disputes

The involvement of the Supreme or subordinate courts has also remained relatively limited in sorting out inter-state river water disputes, even if some of them

have been ongoing for decades. This is because, externalities of this type (just as other issues of policy contagion or the matter of vertical fiscal imbalances that was discussed above) are meant to be dealt with by political negotiations and arbitration by specialist tribunals rather than by judicial recourse (as will become clear, the Supreme Court can only step in after all other political alternatives have been exhausted first). Article 262 of the Constitution empowers the federal parliament to make laws to “provide for the adjudication of any dispute or complaint with respect to the use, distribution or control of the waters of, or in, any inter-state river or river valley”. This article contains a clause that “notwithstanding anything in this constitution” the parliamentary law may exclude the jurisdiction of the Supreme Court or any other court in these disputes. According to entry 17 of the state list, water is a state subject, but it is also subject to entry 56 of the union list according to which the union Parliament can legislate on the “regulation and development” of inter-state rivers and river valleys to the extent that the Parliament considers this as “expedient in the public interest”. The Inter-State Water Disputes Act, 1956, enacted by the Parliament under Article 262 excludes the jurisdiction of courts in respect of a water dispute referred to a tribunal by the union government on the request of state government(s). However, under Section 4 of the Act the Supreme Court can direct the union government to fulfill its statutory obligation, which is mandatory. The mandatory nature of this directive, notwithstanding the exclusion of the court’s jurisdiction in inter-state water disputes, has been confirmed by case law in *T.N. Cauvery Sangam vs. Union of India* (1990) decided by the Supreme Court (Bakshi 2007: 127, 299).

The first effort of post-independence India at developing a river valley was the Damodar Valley Corporation in eastern India. It was modeled on the Tennessee Valley Authority of the U.S.A. This ambitious project did not really get off the ground due to differences among the riparian states and the autonomous regional river valley corporation was aborted. In subsequent years the union government was prompted by states in other regions to set up tribunals to arbitrate inter-state disputes. So far, the tribunals that have been set up under the Inter-State River Water Disputes Act are the Narmada Tribunal, the Krishna Tribunal, the Godavari Tribunal, the Cauvery Tribunals and the Ravi-Beas Tribunals. The Supreme Court has only been involved in the settling of the latter two inter-state river disputes.

The Narmada Tribunal was set up in October 1969 to settle differences among Gujarat, Maharashtra, Madhya Pradesh and Rajasthan after attempts at a negotiated settlement failed. An agreement among the four states mediated by the Prime Minister in July 1972 came to nothing. Two years later the states reached a partial agreement and requested the tribunal to decide the remaining contentious issues. The tribunal’s award of August 1978 settled the matter (Sarkaria Commission 1988: 489–490). The Krishna Water Disputes involved Karnataka, Maharashtra, Andhra Pradesh, Madhya Pradesh and Orissa. The Krishna Tribunal, constituted in April 1969, gave its award in December 1973 and was published in the official Gazette of India in May 1976, settling the dis-

putes at rest (*ibid.*: 490). The Godavari dispute between Karnataka, Maharashtra, Andhra Pradesh, Madhya Pradesh and Orissa arose out of a conference between the Planning Commission of India in July 1951 with some of the state governments of the region, on the one hand, and a scheme for reallocating the Godavari Waters formulated by the central water and Power Commission on the other. The latter commission convened after the States Reorganization Act (1956) changed the territorial boundaries between the affected states. Inter-state differences remained unsettled by negotiations and intermediation by the union government. This led to the reference of the matter to a tribunal in 1968. The award, granted in November 1979 was published in the official Gazette of India in July 1980 (*ibid.*: 490).

The Cauvery dispute among the riparian states of Tamil Nadu, Karnataka and Kerala, and the union territory of Puducherry turned out to be more intractable than others. It dragged on for 17 years, and the matter provisionally invited emergency intervention of the Supreme Court, especially in years of sparse rains. Such emergency rulings are occasioned when the riparian states fail to settle the matter by political negotiation, and when the arbitration award by an authority appointed by the center remains unacceptable to the concerned state governments. The tribunal, constituted in June 1990, gave an interim award in June 1991 and the final award in February 2007. The unanimous award apportioned Tamil Nadu’s share to the tune of 419 million cubic feet (tmc ft), followed by Karnataka’s 270 tmc ft, Kerala’s 30 tmc ft, and Puducherry’s 7 tmc ft, out of the total availability of the water determined in the Cauvery basin at 740 tmc ft at the Lower Coleroon Anicut site on the basis of 50 percent dependability. The escapage to the sea is supposed to be 4 tmc ft. (*The Hindu Business Line*, 2007). The award was followed by some protests in Tamil Nadu and Karnataka. Its formal acceptance by the riparian states and publication in the official Gazette of India is probably in the offing.

The Ravi-Beas dispute between the riparian states of Punjab and Haryana, and to some degree Rajasthan, has proved to be the longest standing inter-state river water dispute of India and is still pending, even if it has not caused the same degree of conflict and alarm as the Cauvery dispute. The 1955 inter-state agreement for the sharing of waters of Ravi and Beas intermediated by the center functioned for over a decade. The trifurcation of Punjab into Haryana and Himachal (a non-riparian state) in 1966 unsettled the matter. Furthermore, water became more vital after the modernization of agriculture (Green Revolution) in the late 1960s. The Indus streams of Ravi, Beas, Sutluj and Jamuna flow through both the states, and Rajasthan is a canal beneficiary. The agreements between Punjab, Haryana and Rajasthan reached in 1976 and 1981 through the intermediations of the union governments have turned out to be provisional stop-gap arrangements. The political negotiations having failed, the center appointed a tribunal in 1986. Punjab and Haryana asked for clarifications about aspects of the award that were not available. The award was not published in the official Gazette of India (and therefore not enacted), due to the lack of agreement of two states (Richards and Singh 2001: 10–11). Two more commissions were

appointed by the center during the 1980s and early 1990s. Their reports too were rejected by the two states. Following the state elections of 2004, the Congress Chief Minister of Punjab, Amarinder Singh, brokered a resolution that met with unanimous support in the Punjab legislative Assembly and affirmed Punjab's rejection of all the existing agreements brokered during the 1980s for sharing the concerned river waters. The Congress-led United Progressive Alliance government headed by Manmohan Singh made a presidential reference of the matter to the Supreme Court of India for its advisory opinion (according to Article 143 of the Indian Constitution). The matter stands *subjudis* (with non-binding effect).

The foregoing analysis suggests that the record of Indian federalism in relation to inter-state river water disputes is mixed in terms of success and failure. Political negotiations are slow and circular and entangled with wider processes in state and federal politics. Such delays lead to a need for arbitration and adjudication, even if the arbitration by specialist tribunals does not generate legally binding outcomes. Even the constitution expects that these disputes are better resolved at the political level in the background of these inadequacies, the Government of India has responded in an administrative way. Under the National Water Policy of 1987 the Union Ministry of Water Resources (earlier Ministry of Irrigation) is made responsible for "overall planning, policy formulation, coordination and guidance in respect of the water resources sector as a whole". Another important organization is the Central Water Commission chaired by one of the senior-most bureaucrats in the Ministry. It serves as a technical adviser to the government and the Planning Commission. Other allied organizations include the Central Groundwater Board, and the National Institute of Hydrology. The involvement of a multiplicity of authorities and the ambiguity or conflicting opinions that emerge from them are now core features of the institutional water management regime (Fredericksen *et al.* 1993). This organizational response smacks of what may be called "administrative federalism", which in any case lends technocratic weight to the voice of the Government of India. A more federative institutional framework involving a hierarchy of authorities and organizations such as governments, water users associations and other stakeholders is called for. Such a framework of multi-level governance would be consistent with the intents and purposes of the constitution and the overall tendency towards a stronger role for the states in the Indian political system since the 1990s. Furthermore, the current phase of India's federalization process no longer involves the state governments and the center alone, but also farmers and peasant organizations as well as other civil society institutions.

The Sarkaria Commission Report on Centre-State Relations (1988) has specifically recommended a series of amendments to the Inter-State River Waters Disputes Act (1956) to mend its present infirmities. These include the obligation of the union government to constitute a tribunal within a period not exceeding one year on receipt of a request from state(s), and the power to do so *suo motu*, if necessary. The tribunal ought to give its award within five years, barring only compelling valid reasons. A national data bank with adequate machinery is also suggested. The tribunal must have the powers of a court to order data from

governments, and its award must have binding effect (Sarkaria Commission 1988: 492–493). The Sarkaria Commission Report also refers, without including it in its set of recommendations, to the observation of the Helsinki Conference of the International Law Association:

The great member of variables involved, the possibility of future changes in the conditions of the waterways, the necessity of providing affirmative conduct of the basin states, and the enormous complexity of a river basin make cooperative management of the basin greatly preferably to adjudication of each source of friction between the basin states.

(Ibid.: 492)

India could learn here from the experience of other federal states. Alan Richards and Nirvikar Singh draw attention to the Murray River Commission (MRC) in Australia in which the federal and state governments have equal representation. The federal contingent consists of senior civil servants, whereas the representatives from the states are typically drawn from major rural water management authorities. Richards and Singh endorse the idea of a hierarchy of specialized water management associations at various levels of the federation and suggest strengthening their involvement in intergovernmental water management (Richards and Singh 2001: 28–29).

In the context of ecological protection and climate change due to global warming, the (federal) management of inter-state rivers and river basins will become an increasingly important issue. The progress so far on this issue, beginning with the Damodar Valley Corporation, has not been very promising. With so many multi-state river basins in the country, there is not yet an autonomous federative river valley corporation or authority comparable to the Murray River Commission in Australia or the Tennessee Valley Corporation in the U.S.A. There is a need also to associate civil society associations active in the field of water usage in the hierarchy of federative authorities suggested by Richards and Nirvikar Singh above. Recent efforts in that direction are the regional roundtables on Indian federalism organized by the Inter-State Council Secretariat and the Canadian Forum of Federations in 2007. They brought together common forums (e.g. the Chandi Prasad Bhatt-led group in Uttarakhand), several governmental (e.g. National Disaster Commission), and non-governmental organizations and research institutes (e.g. TERI, New Delhi) in Guwahati, Nainital, Kochi and Goa to debate ecological federalism and climate change. In other words, they form first steps towards the creation of integrated multi-level governance networks in water management which India so badly needs.

Conclusion: increasing judicial activism, but within limits

The foregoing discussion shows that even though India belongs to the tradition of Westminster-inspired parliamentary federal systems like Canada and Australia which are marked by judicial restraint rather than activism, India has

gradually moved in the direction of judicial activism reminiscent of the US federal system based on a separation of powers and checks and balances and bill of rights. However, the analysis also revealed that such activism has been largely confined to specifying the conditions under which the central government can take over state administrations, to settling disputes on union–state relations that have a direct grounding in different interpretations of the constitutional distribution of legislative competencies or in identifying the contours of the constitutional amendment procedure. In these areas at least, the trend has been of greater and greater reliance on judicial review and arbitration to make up for either the excessive centralization of competencies or the abuse of the amending power by the Union Parliament.

At the same time, important political changes paved the way for judicial interpretations that were more favorable to state interests. Suffice here to mention the advent of federal coalition governments, the emergence of “discordant” bicameralism and the presence of powerful regional parties. Paradoxically, however, these party political changes also *reduced* the need for judicial intervention, at least as far as disputes on the use of emergency powers and the constitutional amendment power are concerned. For instance, the Supreme Court seems to have settled the procedural conditions under which the Emergency Powers can be used (thus creating certainty), whereas the political situation has made constitutional amendments extremely difficult to bring about. As such the probability of union–state conflicts and judicial recourse on such issues has been reduced. Yet, the advent of federal coalition governments has greatly transformed the executive dominance of the system into a judiciary-dominated one in areas *other* than union–state relations; an issue that falls beyond the scope of this chapter.

On the other hand, the courts have retained a low profile in settling inter-water disputes or addressing (other) externalities that derive from the lawful exercise of union or state competencies. Here the assumption is that appropriate intergovernmental bodies are set up, which bring together relevant public and private stakeholders, as in the case of water management. Arguably, the question could be raised whether a stronger judicial stick in this area could not be helpful in bringing together the relevant structures of multi-level governance.

It is often argued that there is an uneasy tension between federalism (the vertical distribution of political and legal authority) and parliamentarism (understood as “responsible” and accountable government). The Indian Supreme Court (by no means acting alone) has played its role in strengthening the role of the states. Major changes in the party system provided the court with the necessary legitimacy to act accordingly. Yet, it is difficult not to feel that since the 1990s, Indian federal politics may have become overly decentralized to the extent that federal features trump the need for parliamentary accountability. For example, the collective responsibility of the union cabinet to the parliament and the Prime Ministers’ pre-eminent position in the council of ministers have become hollowed out and decentralized to powerful chief ministers and partners of the leading coalition party in the union government. These chief ministers often resort to “empire building” in federal ministries that are parceled out to them. As

a result, the voice of the union has not only become more fragmented but also more answerable to particular state/regional interests, rather than to concerns of the union as a whole. In other areas of union–state relations the pattern of cooperative and collaborative federalism has by and large continued. Taking major challenges such as climate change, combating terrorism and sustainable development seriously will require more not less collaborative federalism in the spirit of equal partnership and effective multi-level governance.

5 Patronage-preserving federalism?

Legislative malapportionment and subnational fiscal policies

Jorge P. Gordin

Introduction

Under what conditions are territorial legislative designs decisive in shaping intergovernmental fiscal relations? As decentralization became more widespread in the developing world in the 1980s and 1990s, it ignited a great deal of scholarly attention on the economic viability of federalism. One of the most salient, mostly unchallenged, theses about this question traces the superiority of decentralization to normative economic thinking on federalism. Drawing on Charles Tiebout's (1956) work, it is argued that decentralization limits the ability of government officials to supply local goods on political grounds. In this light, Barry Weingast (1995) developed the concept of market-preserving federalism to connote systems in which decentralized control over the economy by subnational governments within a common market precludes the central government from encroaching on the political and economic rights of its citizens. This arrangement, the argument goes, underpins fiscal responsibility, providing no incentives for the constituent parts to overuse the common pool of federal economic resources. In recent years, however, as the "desirability" of federalism has burst upon the scene as a subject of interest to scholars and policy-makers, Weingast's assumptions have come under criticism (Rodden and Ackerman 1997). Perhaps the most important common thread running through these works is that normative public choice theories largely ignore the role of bureaucracy and the political framework in which intergovernmental decisions are taken. Put differently, Weingast's theoretical roadmap fails to account for the poor fiscal performance of many federal states such as India and the large Latin American federal states of Argentina, Brazil and Mexico, let alone the Russian experience which kindled a cacophony of epithets such as *market-distorting* federalism (Slider 1997) and *market-hampering* federalism (Zhuravskaya 2000).

The major alternative approach to assessing the putative advantages of federalism through a political economy framework has been that of normative studies on the concept of representation. Early normative approaches, such as that to be found in the seminal works of Moffet (1895) and Merriam (1931), tended to view the institutional underpinnings of federalism as decisive in guaranteeing fair legislative decision-making in multi-tiered polities. Extolling the virtues of

the US *Great Compromise* (i.e. the decision to grant each state equal representation in the Senate), this scholarship has emphasized that particular principles or structures of government are necessary conditions to be present in any federal system. Namely, every federation must have a second chamber in the legislature representing the regions and this chamber should be safeguarded against the potential hegemony of the larger subnational units in the federation. Advocates of this perspective praise equal representation in the second (i.e. upper, territorial) chamber as a check on the tyranny of the majority, drawing on the spirit of *The Federalist Papers* and suggesting that legislative overrepresentation reinforces pluralism (Elazar 1987: 102–104; Morley 1959). However, as Burgess (2006: 205) claims, overrepresentation in the territorial chamber is the exception rather than the rule in modern federations (excluding the highly overrepresented Senates in Argentina, Brazil and, to a much lesser extent, Australia), let alone that studies on US federalism cast doubt on the benefits of Senate overrepresentation in terms of low levels of party competition in many states, inequitable distribution of state transportation and education funds, and a failure to adopt or expand social welfare programs, among others (Lee and Oppenheimer 1999: 4). More critically, as I will seek to show in this chapter, most scholarship of a normative nature has failed to provide empirical grounds to support their advocacy of non-proportional legislative representation.

The analytical challenge, then, is to develop a theory of comparative federal fiscal performance based on how the institutional structure of federalism provides incentives for political officials at all levels of government. Surprisingly, few scholars have focused on this central question in the study of comparative federalism. The first notable exception is the research undertaken by Wibbels (2005), showing that intergovernmental partisan harmony achieved via coattails is the most important factor to extend market reform to the subnational governments in the developing world. This situation arises when the national government can rely on copartisans at the regional level not as a result of centralized control or the use of sticks and carrots, but rather as the basis for intergovernmental coordination of policies. Another study addressing the subject matter even more directly is Braun *et al.*'s (2002) analysis of the influence of federalism on fiscal policy making. They conclude that intergovernmental veto powers, namely whether the federal or subnational governments have the upper hand in the design of fiscal policies, are decisive to explain policy outputs such as budget deficits. Third, Rodden (2006)'s study on the perils of fiscal federalism shows that subnational governments can spend well beyond their means because the structure of federalism shifts bailout decisions away from bank regulators and technocrats and turns national legislatures into king-makers when it comes to the control of subnational fiscal profligacy. Stressing the role of electoral externalities, Rodden claims that state politicians will only ponder about the national consequences of their fiscal policies when their electoral fate is tied to that of their federal-level counterparts.

Persuasive as the above-mentioned works are, they fall short of theorizing institutional complexity in federal systems as a result of their omission of the theoretically unwieldy topic of legislative malapportionment. As suggested above, beyond

the normative issue of whether this built-in overrepresentation in federal systems is necessary, an extensive empirical literature confirms that legislative malapportionment has not only a decisive effect on the coalition-building efforts of executives at the central and subnational level but also substantial and direct consequences on public policy (USA: Ansolabehere *et al.* 2002; Atlas *et al.* 1995; Argentina: Gibson and Calvo 2000; Germany: Pitlik *et al.* 2005; European Union: Rodden 2002a). The logic is simple: because overrepresented, sparsely populated, economically vulnerable jurisdictions can be co-opted in the legislative process at the least cost and hence offer more “political bang for the buck”, public spending and distributive politics will be biased in favor of said entities.

While there is no shortage of empirical evidence to establish that malapportionment “matters”, this chapter argues that the major challenge is to develop, or refine existing, theoretical tools to map out the precise institutional incentives at play. Above all, if malapportionment is to have a causal effect on fiscal policies, it is of essence to unravel its dynamic relationship with its most proximate correlates, namely socio-demographic and economic conditions, electoral rules and party politics. How does malapportionment affect the regional disparities that politicize the federal budgetary process? By increasing the number of small, overrepresented jurisdictions, do malapportioned electoral rules induce federal partisan biases? These questions indicate how difficult it is to disentangle federalism from other institutional variables such as the electoral and party systems and the importance of analyzing federalism within the broader political system in which it is embedded. As a central parameter in the design of federal institutions, the biased apportionment of seats to national legislative bodies highlights the tension between the empowerment of subnational actors (and the concomitant enhancement of democratic accountability) and the accompanying possibilities for clientelistic and rent-seeking behavior. Put differently, the unintended consequence of compensating underpopulated, oftentimes poorer, jurisdictions for their disadvantaged position is their over-empowerment to tilt federal policies beyond social welfare criteria. Thus, I claim that a *progressive*, normative-laden, overrepresentation of small jurisdictions often results in *regressive*, social welfare-detrimental, pork barrel fiscal policies.

Aside from this chapter’s contribution to the intergovernmental fiscal relations literature, I seek to engage in the broad theoretical debate in comparative politics about the role of institutions in shaping political and economic outcomes. Particularly, this research aims to underscore how federal institutions may at times undermine the normative purposes for which they were designed in the first place. The overrepresentation of the smallest units, which is the cornerstone of the US *Great Compromise*, not only empowers the legislators of these units to coalesce in demanding policy concessions at the expense of the populous states, but may also generate sub-optimal outcomes in terms of fair economic distribution and performance. Consequently, instead of taking federal institutions as given, I show that whether they help effective policy-making to accommodate territorially based political and economic differences is ultimately an empirical question. In this regard, one common theme throughout this chapter

is that while institutions themselves become loci of political contestation, the power asymmetries documented in this study are not likely to disappear unless reforms of Senate apportionment take effect. Considering the multiplicity of entrenched interests hindering institutional reforms and thus in light of the apparent endurance of legislative overrepresentation, the failure to elaborate a systematic understanding of its effects has more than academic implications.

In what follows, I discuss these topics analytically, hoping to highlight heretofore largely unforeseen and counter-intuitive aspects of the impact of legislative overrepresentation on intergovernmental fiscal relations. This discussion is complemented with preliminary evidence from Argentina, a federation exhibiting one of the most decentralized fiscal systems in the world and featuring severe imbalances in the territorial distribution of legislative and economic resources.

“When effect becomes cause”: malapportionment¹ and its consequences

It is already well documented that in federal systems, where territorial representation is juxtaposed to population representation, unequal representation of subnational units is commonplace. Partly as a “built-in” feature of federalism aimed at redressing economic and demographic vulnerability of smaller jurisdictions, these are deliberately (i.e. constitutionally) overrepresented in the Senate. As Rodden (2002a) cogently shows, this arrangement has substantial effects on public policy because state representatives are well aware of the distributional consequences of intergovernmental bargains, particularly when the center is beholden to certain fiscally troubled, overrepresented subnational governments and thus unable to change the political institutions that create bad incentives.

I am not the first to argue that legislative overrepresentation is particularly ubiquitous in federations. While malapportionment does affect lower chambers as well (Samuels and Snyder 2001),² there is a greater tendency for upper houses to be malapportioned; considering that all current federal systems are bicameral, it is within such systems where we shall find the critical opportunity structure for intergovernmental fiscal tensions. In this regard, Linz and Stepan (2000:13) employ an aggregate malapportionment index whose figure for federal systems is 4.5 times higher than that of unitary systems. Ideally, proportional representation in the lower chamber offsets the resulting malapportionment in bicameral systems. However, this still remains an open question to be sorted out.

What difference does malapportionment make with respect to the apportionment of federal transfers? Senate apportionment is central for distributive politics because “senate coalitions are likely to prefer to distribute funds in ways that disproportionately benefit constituents in less populous states *even in the absence of conflict between large and small states*” (Lee and Oppenheimer 1999: 161, italics in original). From the standpoint of the structure of incentives of subnational governments, malapportionment decisively conditions the nature of intergovernmental exchanges insofar as it makes, as argued above, overrepresented provinces more attractive for coalition building and hence it may play a tie-breaker role

when the center is unable to steer majority support in the legislature. More concretely, when a highly institutionalized political structure of territorial representation is adjacent to exceedingly malapportioned rules, it will perpetuate existing pathologies in distributive policy. The experiences of Argentina, Russia and Venezuela provide preliminary evidence to the connection between senate overrepresentation and setbacks in fiscal decentralization policies. While windfall resources from oil in the latter case offset, to some extent, fiscal distress, subnational assertiveness in the legislature amounted to co-optative, patronage-ridden intergovernmental relations in most cases (Gordin 2006; Treisman 1999). All else equal, peripheral, transfer-dependent jurisdictions in these countries have clearly signaled their preference for a centralized fiscal system mostly based on transfers from the central government. The resulting outcome is increasing potential for subnational overspending and fiscal crisis.

The correlates of malapportionment: theoretical and empirical issues

So far, we have argued that the voting power of overrepresented areas leads directly to their disproportionate influence over fiscal policy. However, what enables some overrepresented jurisdictions to exploit their influence more effectively than others? While overrepresentation is a relatively permanent feature in many federal polities, it is possible to point out some parameters affecting not only degrees of malapportionment but also the manner in which ostensible losers in fiscal decentralization programs can block policy changes. I address this question in this section through an analysis of the independent variables seen as crucial in relevant research and a critical assessment of some complex issues related to the explanatory power of said variables.

Socio-economic and demographic conditions

Typically, research on malapportionment and its effects analyses and estimates the impact of socio-economic and demographic influences separately (Mattila 2006; Rodden 2002a). This includes variables such as population, GDP per capita, geographical GDP, agricultural share of workforce and unemployment, among others. Little attention, however, is paid to the mutually reinforcing effect of these factors. For instance, in poorer jurisdictions (generally underpopulated) people move gradually to areas where they expect to earn higher wages, exacerbating the malapportionment gap. Likewise, indicators such as gross income or earnings should be used cautiously because they cannot be fully disentangled from the degree of malapportionment within a country. Namely, overrepresented areas do not only generate less revenue due to their economic disadvantages but they can also exploit their representational political power in the legislature to cut down their revenue contribution to the federation. This suggests that unless we incorporate these caveats into empirical analysis it is quite likely that our research would suffer from an endogenous bias problem. One important step in

this direction is taken by Horiuchi (2004), who tackles the above-mentioned shortcomings by using the Gini index of income inequality based on data after income taxation. Second, considering that overrepresented subnational units are favored frequently in the apportionment of federal transfers (Mattila 2006) or not penalized for incurring into hefty fiscal deficits (Rodden 2002b), it is plausible that they may subsequently improve their overall economic situation. That being the case, levels of malapportionment in said areas would decline gradually as people who left these jurisdictions would choose to return or, alternatively, people from others areas may “vote with their feet” to said jurisdictions. As a result, a problem of reciprocal causality may well be at play.

Relatedly, if the above-mentioned putative connection between economic conditions and malapportionment is correct, federal countries experiencing economic stability and without significant regional development gaps will have a more predictable pattern of coalition politics in the senate. Evidence for this scenario is provided by Lee and Oppenheimer (1999: 161–162), who illustrate this point by showing the quasi-structural advantage of small states in the US Senate. Beyond the effect of reapportionment, the resulting balance is very telling: the number of overrepresented states is almost 2.5 times higher than underrepresented states. This means that the senators representing the former group may potentially form a majority of 62 votes on their own without including any other senators.³ While admitting this is a fairly extreme case, partly due to the high number of states comprising the US polity compared to other federations, research on the effect of changes in economic conditions on territorial legislative representation may well be necessary to shed light on the political economy of federations in a more fine-grained manner than extant studies on the topic do.

Electoral and party system variables

In what perhaps amounts to the most systematic cross-national study on malapportionment to date, Samuels and Snyder (2001: 663–666) found that district magnitude does not have significant effects on levels of upper-chamber malapportionment. This finding challenges conventional wisdom considering, as these authors claim, that single-member district (SMD) systems

should have more malapportionment than multi-member district (MMD) systems because, *ceteris paribus*, legislators in SMD systems have higher stakes *as individuals* in reapportionment decisions. Legislators in SMD systems face a far greater probability than legislators in MMD systems that “their” district will be targeted for elimination or redesign in reapportionment process.

(Samuels and Snyder 2001: 663–666)

In the same vein, local leaders find it easier to form regional coalitions in the legislature through SMD than through district or nationwide proportional representation.

Measurement errors notwithstanding, the major theoretical deficiency of focusing exclusively on electoral attributes such as district magnitude and structure is that it neglects Giovanni Sartori's (1976; 1994) dictum that research on electoral systems cannot be separated from its consequences on, and influence from, party systems. Taking as our empirical point of departure Lijphart (1999: 168–169)'s finding that electoral malapportionment and the effective number of parliamentary parties are negatively correlated, we argue that there are several constellations whereby electoral designs affect the manner in which party competition exacerbates the impact of malapportionment on fiscal policy. To illustrate this point, let us briefly compare the effect of the structure of party ballot in Argentina and Brazil, both federal systems having significant population differences among subnational units and a PR system used for legislative elections. While there is evidence that the effect of senate malapportionment in Brazilian fiscal transfers is significant (Diaz-Cayeros 2006: 225), its open-party list PR system makes the entrenchment of partisan enclaves at the subnational level less likely. Conversely, mainly as a result of the PR closed-party list in Argentina, the number of political parties with legislative representation ranges from six in the capital city of Buenos Aires to close to one in overrepresented provinces such as La Rioja and Santa Cruz (Gordin 2006: 261). Then, our argument goes, a smaller number of parties in the most overrepresented provinces receives far more seats per vote than a greater number of parties competing in underrepresented provinces. What is the policy implication of all this? Put simply, governors from overrepresented areas are more shielded from local challengers and hence better equipped, all else equal, than underrepresented jurisdictions to influence the moves of the national senators. Let us remember that until very recently national senators in Argentina were appointed through a binomial election system by the provincial-level legislatures, which are conspicuously controlled by the governors.⁴ This lower level of electoral competitiveness in less populated provinces is causally related to higher levels of re-election to the senate in these jurisdictions and bears no connection to the office or professional experience held by senators before they get elected.⁵

The relationship between governors and senators in Argentina is rooted in the pivotal role played by the former in the Argentine political system. Having historically loomed large as springboards to attain the national presidency, governorships have enjoyed a privileged position in federal politics based on high re-election scores and governors' latitude on the legislators representing their districts in Congress to acquire preferential policy concessions from the political center.⁶ Calvo and Murillo (2004) show that this influence stems largely from the almost unchallenged electoral advantage of the Peronist party at the subnational level. The greater political stability of Peronist incumbents, their argument goes, allows them to keep their legislative and provincial dominance even when they lose presidential elections. This "iron law of Argentine politics" is reinforced by the support base of the Radical Civic Union, the other leading electoral force. This party traditionally draws on voters from relatively

wealthier constituencies, who are geographically concentrated in the most populated provinces and, as argued above, politically disadvantaged provinces in federal fiscal politics. Adding to the configuration of party machines is the effect of the provincial-level reforms of electoral laws, which in most cases had reduced the number of effective parties and strengthened the role played by governors in the legislature. This asymmetric relationship is further bolstered by the above-mentioned re-election of governors that hinders serious challenges to the provincial ruling party in Congress.

Argentina as a "most-likely case": federalism, political spending and fiscal crises

Argentina in the early years of the twentieth century was one of the most affluent nations in the world. The per capita income was on a par with West European countries such as France and Germany and matched those of Australia and Canada. In contrast, while many economies experienced exceptional growth after World War II, Argentina has grown erratically, with long periods of stagnation and recession. This weak economic performance reached dramatic proportions when in the early 1990s unprecedented hyperinflation turned Argentina into one of the worst cases of macroeconomic meltdown in recent history. While the economic literature has attributed this economic decay to populist macroeconomic policies and abusive expansion of state capacities (Dornbusch and Edwards 1991), the emerging consensus among many researchers is that the fiscal crisis was precipitated by the maintenance of subnational patronage networks and was determined by the varying capacities of provincial governments to adjust their public finances (Jones *et al.* 2000; Remmer and Wibbels 2000).⁷

While its policies of economic adjustment in the early 1990s have won it international acclaim, the Argentine financial crisis in 1995 had a profound impact on the evolution of the provincial public sector. Out of 24 provinces, only 4 generated savings to finance investment; the few capital investments made were financed partly by earmarked transfers (43 percent) and partly by borrowing (World Bank 1996: I). More specifically, the extreme fiscal conditions faced by the provinces were aggravated by the convergence of three dramatic financial crises, beginning with the demise of the Convertibility Plan,⁸ the Mexican Crisis in late 1994,⁹ and the lagging effects of the 1992 and 1993 Fiscal Pacts.¹⁰ Within this context, the historic pork-barreling potential of Argentine federalism was severely curtailed.

Fiscal parameters apart, Argentine political parties have been relatively well institutionalized and, for more than 50 years, the two main partisan competitors have been the Peronist party and the Radical party, which combined amount to almost the 80 percent of the gubernatorial vote. Insofar as governorships are by far the most important office at the subnational level, there is oftentimes an inherent tension between the strength of national party stick and carrots and the patronage networks available to provincial party bosses (Remmer 2007). In Argentina, political careers are generally based at the provincial level and

the base of political support for politicians and parties is concentrated at the provincial level. The regionalization of the Argentine party system is exacerbated by the influence of the governors of both the Peronist and Radical Parties in shaping provincial branches of parties, generating an uncompetitive provincial politics whereby governors have unlimited political resources to remain in power (De Luca *et al.* 2002; Gibson and Calvo 2000). Furthermore, the influence of Argentine provincial bosses has been historically far reaching because, as said above, national senators were chosen by provincial legislatures, not by popular vote.

Aside from the prominence of regional party bosses, Argentina stands out as one of the federations with the world's highest level of malapportionment. The Stepan-Swenden federal data bank scores the Argentine Senate with a Gini Index of Inequality of 61 percent, nearly doubling the scores of Germany and Canada and well above decentralized federations such as the USA and Brazil (Stepan 2001: 344). With regards to the policy scope of the territorial chamber, Argentine bicameralism is highly symmetrical, furnishing the Senate with authority to approve presidential nominees and advisors, authorize the president to declare a emergency rule in case of foreign military attack and appoint judges that assess federal expenditures. More crucially from the perspective of this chapter, all revenue-sharing bills (including federal transfers) must originate in the Senate. While normally the lower house has greater authority in originating money bills, general tax laws, troop recruitment and others, revenue-sharing bills (including federal transfers) are controlled by the Senate. This perception of the policy-making scope of the Senate is also confirmed by a recent cross-national survey of bicameralism in nine Latin American countries, concluding that Argentina ranks as the most symmetrical bicameral system in the region and thus "the senate is constitutionally equipped to act as an actual *'veto player'* insofar as it can delay lower house legislation at ease and eventually generate legislative paralysis" (Llanos 2002: 21). Additional senatorial prerogatives can be cited at length, but the encapsulation of fiscal decentralization issues at the upper chamber level suffice to highlight why this house is the institutional point of reference to uncover the politicization of these issues.

Additionally, our focus on the Senate stems from the fact that Argentina resorts to the *navette* system, which gives the originating house the decisive voice in case of inter-house discrepancy (Tsebelis and Money 1997: 54–55). Specifically, the originating house (i.e. the Argentine Senate) must meet absolute or two-thirds majorities, depending on the vote in the reviewing house. However, the consistent and almost unchallenged Peronist majority in the provinces enables the attainment of such majorities in the Argentine Senate. To conclude, the important policy-making role of the senate, its extremely high level of malapportionment and the provincially oriented party career patterns, therefore, make Argentina an ideal laboratory for exploring the role of multifaceted institutional variables in the political economy of federalism.

Analysis

To examine whether overrepresented provinces are more rewarded than provinces with higher fiscal capacity, we will use cross-section analysis of federal transfers to provinces in 1995. This year is chosen because it epitomizes the beginning of a period in which provincial administrations were pushed to modernize their public administrations systems, reform the structure of provincial taxes, and, more importantly, improve their own-resource mobilization.

This analysis offers an interesting case to examine the extent to which overrepresented (mostly economically disadvantaged) provinces can tilt their share of transfers at a time when financial imperatives were expected to reduce subnational fiscal autonomy. This year amounts to a "critical juncture" that was expected to reduce the leverage margin of poor provinces to retain the lion's share of federal transfers, providing a useful testing ground of extreme fiscal conditions.

What kind of province, then, succeeded in attracting a larger share of federal transfers? In order to respond to this question, we investigate the distribution of FEDEI (*Fondo de Desarrollo Eléctrico del Interior*, Electricity Investment Development Fund) transfers to provinces in said year. This transfers program is chosen because it was put through intense media and oversight scrutiny based on its salient capital-intensive character throughout the selected time period. Malapportionment is employed here as an explanatory factor. Based on our previous claim linking malapportionment and gubernatorial influence, this independent variable consists in the interaction term of provincial overrepresentation and governorships held by parties that oppose the incumbent national executive. The rationale behind looking at opposition governorships is that previous research shows that coalition-building goals drive presidents in Argentina to reach out to legislators of opposition parties by means of allocating larger shares of federal transfers to the provinces that are controlled by governors of (federal) opposition parties (Gordin 2004). This, in turn, will be our approach to uncover the extent of politicization in the distribution of transfers and our main independent variable. Drawing on Porto and Sanguinetti (2001), we calculate malapportionment by dividing the fixed number of senators per province (which during the period analysed here is equal to two) by population. Based on the argument presented above, we expect this factor to be positively associated with federal transfers, which is to say, overrepresented provinces will receive a higher share of funds. To control for the impact of transfer dependency, we will use an indicator of provincial financial capacity, which is the revenue/expenditure flexibility variable and operationalized as the provincially generated revenue as a percentage of total revenue. As for the socio-economic and demographic influences, we include population and provincial unemployment. The political variables are partisan disharmony (dummy variable indicating whether the provincial governor belongs to a party that is different of that of the president) and provincial party governor (dummy variable indicating whether the provincial executive is controlled by a provincial party). Thus we estimate the following model¹¹:

$$\text{FEDEI} = B_0 + b_1 \text{Population} + b_2 \text{Unemployment} + b_3 \text{Revenue/Expenditure Flexibility} + b_4 \text{Partisan Disharmony} + b_5 \text{Overrepresented Provinces ruled by Opposition Governor} + b_6 \text{Provincial Party Governor} + e$$

The results are reported in Table 5.1. The support in favor of the malapportionment variable is strong and its coefficient is robust and carries the expected sign. This trend is further illustrated in Figure 5.1, where it becomes apparent that the actual inter-provincial distribution fits the regression line. Figure 5.2 presents a scatter plot where it is clear that La Rioja looms large as the outlier.¹² This province not only ranks as one of the most overrepresented provinces in Argentina but its political dynamics also stand out as a crucial parameter. The political trajectory of Carlos Menem, its three-times governor, subsequently elected president in 1989 and re-elected to the presidency in 1995, accounts for the sheer increase in grant apportionment to this province. This patronage-ridden context was gaining increasing institutional sustainability since the 1987 electoral reform that introduced a PR-D'Hont formula and increased the number of seats distributed in the rural districts of La Rioja, which were mostly Peronist strongholds (Calvo and Micozzi 2005).

These preliminary findings are consistent with historical records about the secondary (i.e. between provinces) distribution of intergovernmental transfers. Rezk (1998: 225, 231) shows that ever since revenue-sharing was implemented for the first time in 1935 a gradual trend in favor of the overrepresented, mostly poor provinces, with the singular exception of oil-producing Santa Cruz, is conspicuous. While underrepresented and high-revenue provinces like Buenos Aires, Santa Fé, and Córdoba experienced a decrease of 24 percent, low-revenue provinces were benefited with an increase of 21 percent. Likewise, Sawers (1996) argues that:

[I]n 1900, when federal assistance was minimal, the most advanced provinces (Buenos Aires, Córdoba, Santa Fé, and Mendoza) spent five times per capita what the most backward provinces spent (La Rioja, Catamarca,

Table 5.1 Determinants of *Fondo de Desarrollo Eléctrico del Interior* transfers

Independent variables	Coefficient	t
Intercept	1.458	4.988
Population	0.376	1.636
Unemployment	-0.076	-0.289
Revenue/Expenditure Flexibility	-0.301	-1.241
Partisan Disharmony	0.091	0.247
Overrepresented (Opposition) Province	0.560**	2.159
Provincial Party Governor	0.206	0.486

Source: Ministry of Economy (Buenos Aires, Argentina), Molinelli *et al.* (1999), and own calculations.

Notes

Analysis is by OLS regression analysis. The dependent variable is yearly changes in the distribution of FEDEI transfers to provinces in 1995. $N = 24$. $R^2 = 0.47$. Entries are standardized coefficients. ** Significant at the 0.05 level (2-tailed test)

Corrientes, Jujuy, Misiones, Chaco, Santiago, and Formosa). By 1960, they were spending roughly the same amount per capita. By the mid-1980s, the poorest provinces were spending almost twice what the most prosperous provinces spent on each citizen.

(Sawers 1996: 245)

The political correlate of this redirecting of economic resources toward the development of backward provinces is the historical alliance among elites from poor provinces and a strong and autonomous central government to prevent one province (i.e. Buenos Aires) dominating the others in Argentina. This intersection of interests was formalized through the creation of institutions such as the senate and the electoral college that elected the president. More crucially, provincial governments moved to the institutional centre stage, playing an important role in deciding who gets sent to Congress, especially as a result of the appointment of senators by provincial legislatures until 2001. Thus, control over provincial governments meant control over the national senate and veto power over fiscal decentralization legislation (Botana 1993: 243).

While it is beyond the scope of this paper, senate malapportionment has not been the unique institutional underpinning of the reallocative nature of federalism in Argentina. Despite the fact that the Argentine Constitution of 1856

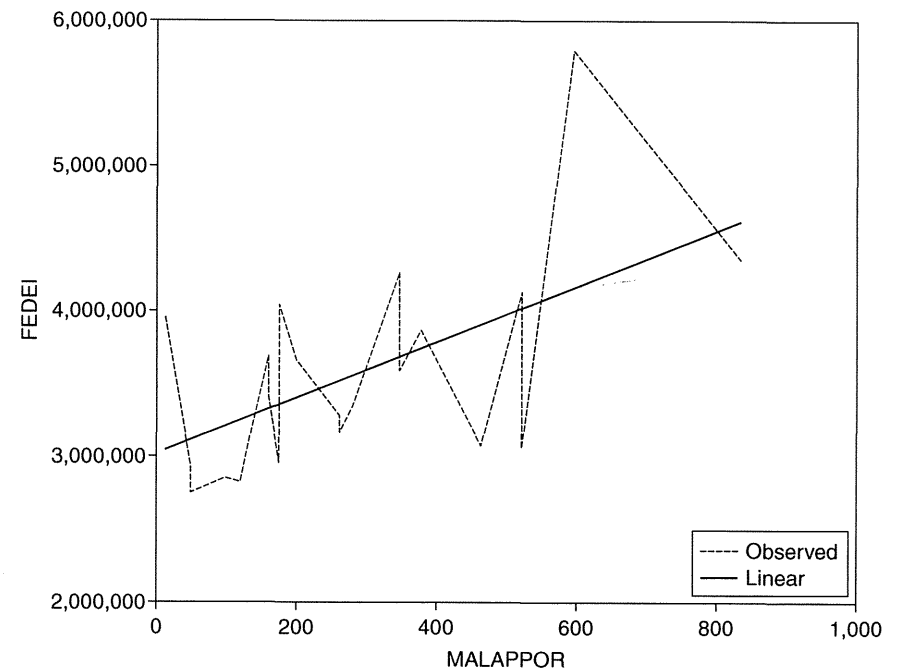


Figure 5.1 Regression-line fit (source: The data come from the Ministry of Economy (NDEC, Buenos Aires, Argentina), Molinelli *et al.* (1999), and own calculations).

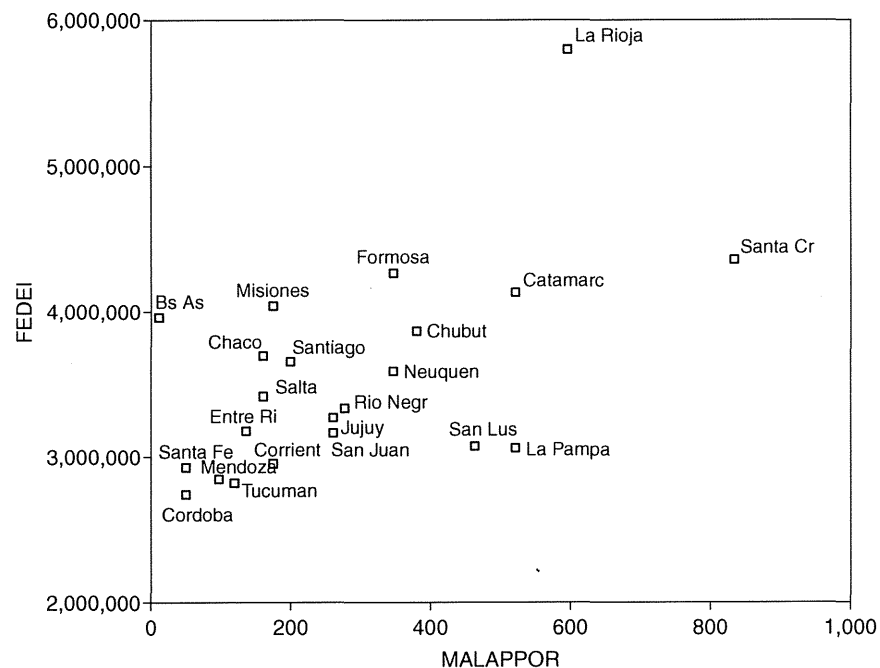


Figure 5.2 Relationship between *Fondo de Desarrollo Eléctrico del Interior* allocations and malapportionment (source: The data come from the Ministry of Economy (Buenos Aires, Argentina), Molinelli *et al.* (1999), and own calculations).

had established that seats in the lower chamber would be allocated proportionally to district population, subsequent amendments were introduced by both Peronist and military governments to bolster the representation of the traditionally conservative peripheral regions in the lower chamber. For instance, when Peron took power in the 1940s a minimum of two deputies per province was established. This threshold was subsequently increased to five by the departing military government of General Reynaldo Bignone in 1983 (Gibson *et al.* 1998: 13). Therefore, and more tentatively, it can be argued that malapportionment has introduced a conservative bias into the Argentine political system, which has played in favor of the Peronist party's coalition-building with provincial conservatives parties. These parties, while negligible at the national level, play an important role in local politics and some of their leaders were co-opted during several Peronist administrations, occupying high government positions.¹³

Conclusion

Our findings inform our understanding of the distributive and fiscal consequences of legislative malapportionment and its implications for the political economy of federal governance. The tension between the territorial distribution

of political resources and the territorial distribution of fiscal costs is perhaps the aspect that poses more daunting challenges to the fiscal federalism literature. In this study, I seek to provide evidence that the political framework in which inter-governmental fiscal relations occur is an endogenous influence that may well account for subnational variation in fiscal decentralization policy outputs. Despite federalism's ostensible "market-preserving" quality, malfunctioning institutions can lead to sub-optimal fiscal results and even to economic catastrophes, as the experience of several federal developing countries makes apparent. Our incursion into the workings of federalism in Argentina highlights the "distributive" rather than the "redistributive" nature of federal fiscal policies, given particular institutional conditions.

This analysis rejoins the existing literature on federalism and decentralization, while at the same time highlights more unforeseen and counter-intuitive aspects of the subject theme and thus provides more precise insights. Having established logically and empirically that executives prefer to co-opt the legislative support of overrepresented areas, I also show that opposition forces are co-opted to secure policy coalitions in the legislature. However, favoring opposition forces over co-partisan forces may have the unexpected effect of damaging partisan interests because targeting greater transfers to opposition bulwarks bolsters their political bases and their capacity to more effectively challenge the ruling party in future elections. This finding suggests that short-term policy coalitions based on territorial politics may hurt mid- and long-term partisan concerns. At the same time, this conclusion indicates that an alternative model of "rationality" to address intergovernmental partisan concerns may be at play, in which case we need to rethink the theories of party systems in multitiered systems.

In closing, my overall argument implies that when the sorting out of subnational fiscal relations takes place in malapportioned legislative institutions it is possible to see a mutually reinforcing relationship between decentralization and regionalized patronage, as transpires from the Argentine experience. That is, the policy of transferring revenue and revenue authority to subnational governments not only renders possible the entrenchment of patronage-ridden regional enclaves but, also, the latter can exploit institutional and political opportunities to sabotage fiscal decentralization projects. While this chapter has not sought to offer policy advice, let us say that some of the issues raised here may well serve as points of reference in future reapportionment and fiscal reforms.

Notes

- 1 While malapportionment is more commonly used at the micro level (i.e. the votes of some citizens weigh more than the votes of other citizens), overrepresentation is employed to denote institutional apportionment. Some scholars prefer the latter term, because the term malapportionment, which is also used to denote underrepresentation, carries a more distinctive negative connotation (Gibson *et al.* 1998: 2). I, however, will use both terms interchangeably.
- 2 Further, lower chamber and Senate malapportionment may reinforce each other, exacerbating distributive biases in fiscal policies (Ansolabehere *et al.* 2002).

- 3 Of course, this scenario is hypothetical, considering that US small states vary in wealth and political colour. This comment denotes that, while senators from the 14 underrepresented states must seek out senators from the overrepresented states to form a minimum winning coalition, senators representing the overrepresented states can form such coalition on their own without including other senators. I thank the editors of this book for reminding me of this point.
- 4 Senators were elected by provincial legislatures between 1853 and 2001, hence we still lack sufficient electoral cycles to assess systematically the way in which this reform has affected the relationship between senators and provincial party machines.
- 5 For more details and data on this argument, see the research project on "Bicameralism and Senates in Latin America" from the German Institute of Global and Area Studies (Llanos 2003; Sanchez *et al.* 2005).
- 6 For instance, almost 60 percent of the provinces have re-elected their governors in the 2003 and 2007 elections.
- 7 The fiscal sway of provincial governments is bolstered by the constitutional prerogative that allows provinces to borrow abroad and set up their own official banks.
- 8 Seen as the only remedy to curb hyperinflation, the 1991 Convertibility Law forbids the Central bank from using the money supply to finance the public deficit. While the national impact of said plan was fairly positive, poor provinces could not bring down deficits and frequently resorted to financing operations such as borrowing from their official banks and issuing "coupons" in lieu of wage payments.
- 9 The so-called "Tequila" effect led to a shrinking of the Argentine monetary base by 20 percent (a reduction comparable to that experienced by the United States in the 1929 crisis), resulting in numerous deposit losses that threatened to bankrupt the provincial banks.
- 10 Touted as potential watersheds in the reform of fiscal federalism, the Fiscal Pacts were bilateral negotiations between President Menem and provincial governors aimed at reducing provincial revenue shares and the transfer of key expenditures (education, health and housing) to the provinces without the corresponding revenue resources. While Menem sought to offset this concession by guaranteeing a minimum transfer amount, defiant provinces were not only deprived from this benefit but also from debt relief and federal infrastructure investments.
- 11 We exclude geographical GDP because it is strongly correlated (about 60 percent and statistically significant) with the revenue/expenditure factor and thus induces to multicollinearity.
- 12 To test whether the OLS results in Table 5.1, which are based on a relatively limited N , are biased due to the presence of outliers, we run the same OLS regression including La Rioja as dummy variable and obtained similar results with regard to significance and sign direction. Put differently, omitting the extreme case of La Rioja does not change the overall results and the substantive findings.
- 13 An additional scenario, as suggested by Samuels and Snyder (2001: 659), arises when the same territorial units may not be overrepresented and underrepresented equally in each chamber. While Argentine rural peripheral areas are overrepresented in both chambers, it may well be that urban populations (or other cleavages for that matter) are not equally underrepresented in both chambers, leading to *cross-cutting* malapportionment.

6 Electoral patterns in federal countries

Moderating in the case of Spain

Carolina G. de Miguel Moyer

Introduction¹

The literature on federalism has become increasingly interested in political parties, elections and voting behavior. It has also become more empirically grounded. This recent focus represents a change with respect to early work on federalism, which was mainly concerned with normative questions and with the broader constitutional features of federations rather than with their internal political and electoral dynamics. Today, explanations of *how* and *why* federalism matters for political and policy outcomes focus on the role of other institutions such as courts, upper chambers, political parties and ultimately citizens. Scholarship is moving beyond a dichotomous definition of federal versus unitary countries and into more fine-grained distinctions since understanding the institutional and political differences between federations is key to answering questions about the conditions under which such systems affect accountability, representation and efficiency in policy-making, among other topics.

Federations are polities in which power is vertically divided into two levels of government: the national level (also known as federal level) and the regional level that divides the country into two or more regional governments that are constitutionally protected.² These regional governments have some law-making authority and are directly elected by the people of their respective regions rather than appointed by the national government.³ This division of power creates an inherent tension in many federations (Erikson and Filippov 2001) and recent scholarship suggests that voters and parties can help tamper (or exacerbate) this tension. Therefore, understanding how voters behave when confronted with the task of electing two separate sources of authority becomes crucial to explaining the functioning (and stability) of many federations.

Research conducted in Germany suggests that voters vote for different parties across levels of government. One of the most consistent empirical findings in terms of aggregate patterns of voting is that the party governing at the national level (the incumbent) suffers systematic electoral losses in regional elections; whereas the parties in the opposition experience gains in those same regional contests (Lohmann *et al.* 1997; Gaines and Crombez 2004). The most frequent explanation of this empirical regularity in Germany is that voters use the federal

institutional structure to engage in a balancing act: they vote for different parties at different levels of government in order to obtain overall moderate policy outcomes (Kedar 2006).

In this chapter I argue that the institutional make-up of Germany fits quite well the assumptions of moderating or balancing theories since the regional level has substantial input into national-level policy-making (especially through the appointment of *Bundesrat* representatives). However, not all federations have the same institutional structure, which begs the question of whether we find similar incumbent losses in other federations, and whether those vote losses can be explained by theories of balancing. Surprisingly, there has been little work done outside of Germany on these questions, so I use the case of Spain to further our comparative understanding of the institutional conditions that lead to moderating behavior in federal countries.

In order to explore electoral patterns in Spain and more specifically to test the moderating elections theory I created a cross-sectional time series dataset of vote share and seat share results for all political parties that obtained more than 0.1 percent of the vote in all national and regional elections in Spain. The dataset spans the period of 1982 to 2007,⁴ which includes all elections in Spain's recent democratic history with the exception of the early elections of 1979 and 1982.⁵ The dataset includes 17 regions⁶ and between six or seven elections per region, which results in a total of 117 data points. Table 6.1 summarizes the elections included in the dataset. Each column A–G is an “electoral cycle”, which comprises a national

Table 6.1 Years of national and regional elections in Spain (1982–2007)

Electoral cycle	A	B	C	D	E	F	G
National elections	1982 ¹	1986 ²	1989 ³	1993 ⁴	1996 ⁵	2000 ⁶	2004 ⁷
Regional elections ⁸							
Basque Country	1984	1986	1990	1994	1998	2001	2005
Galicia	1985	–	1989	1993	1997	2001	2005
Andalusia	–	1986*	1990	1994	1996*	2000*	2004*
Catalonia	1984	1988	1992	1995	1999	2003	2006
Rest of regions	1983	1987	1991	1995	1999	2003	2007

Sources: See Appendix.

Notes

1 Election held 28 October 1982.

2 Election held 22 June 1986.

3 Election held 29 October 1989.

4 Election held 6 June 1993.

5 Election held 3 March 1996.

6 Election held 12 March 2000.

7 Election held 14 March 2004.

8 Historic regions (Basque Country, Galicia, Andalusia and Catalonia) are in bold. These are regions with an initial greater degree of autonomy. The rest of regions are known as “common regime regions” and they initially had less autonomy under the Spanish Constitution. These regions are grouped together because they hold elections at the same time. The common regime regions are Aragon, Asturias, Canary Islands, Cantabria, Castile-La Mancha, Castile and Leon, Ceuta, Madrid, Valencia, Extremadura, Balearic Islands, La Rioja, Melilla, Navarre, and Murcia.

*: regional elections that are concurrent with the national elections (i.e. were held the same day).

election (first row) and a series of regional elections that take place after that national election. There are seven national electoral cycles: 1982–1985, 1986–1989, 1989–1993, 1993–1996, 1996–2000, 2000–2003 and 2004–2007.

The chapter is structured as follows. The first section reviews the origin of the literature on moderating behavior and balancing theories and how they are applied to voting in federations, and more concretely to the case of Germany. The second section offers a general picture of electoral discrepancies between levels of government in Spain for the two main national parties: PSOE and PP. This section shows that incumbent parties in Spain suffer more losses in regional elections than opposition parties. The third section tests whether these losses can be attributed to a moderating behavior from the part of voters, or whether they are the product of other considerations such as turnout differentials, “regression towards the mean” effects or retrospective economic voting. This section concludes that there is little support for moderating behavior in Spain. In the fourth section I suggest interpretations for the patterns observed and the results of the analysis conducted in the two previous empirical sections. I offer some suggestions for future avenues of research and then conclude.

The state of the literature on moderating behavior

There is a well-developed body of literature that argues that “middle-of-the-road voters” want to moderate policy outcomes and that they use the institutional setting to engage in this moderating behavior. This theory was initially developed to explain specific voting patterns observed in the US such as the “midterm loss” phenomenon and split ticket voting (Fiorina 1992; Alesina and Rosenthal 1995) that resulted in frequent situations of divided government at the national level. The explanation given by the moderating elections hypothesis is that voters who prefer some policy that lies between the two main party's platforms use “the checks-and-balances structure” (Alesina and Rosenthal 1995) in the US system to generate these moderate policies, and so they vote for one party at the Presidential election and for a different party at the Congressional election (Lohmann *et al.* 1997: 421).

In the article “Party Identification, Retrospective Voting, and Moderating Elections in a Federal System” (1997), Lohmann *et al.* show that similar midterm losses and divided government exists between levels of government in Germany. The authors argue that the federal structure in Germany (the existence of two levels of government with independent elections) allows German voters to engage in policy balancing, using elections for the German constituent states, i.e. the *Länder*, to moderate the composition of the federal government in order to obtain a middle-ground policy outcome (Lohmann *et al.* 1997: 424; Kedar 2006). In support of this moderating elections hypothesis, Lohmann *et al.* uncover the empirical regularity that “the senior partner of the governing coalition at the national level tends to lose votes in *Land* elections” (Lohmann *et al.* 1997: 444). In addition, they find that the main opposition party gains votes and that there is often divided government between regional and national levels of government.

There have been several replications and refinements applying the moderating elections framework to the case of Germany (Gaines and Crombez 2004; Kedar 2006). Scholars have continued to find that the governing parties in the *Bundestag* (the parties in the majority government coalition at the national level) lose votes in subsequent regional elections, even when controlling for alternative explanations such as differences in turnout between elections at the two levels of government and retrospective economic voting.

In their work, Lutz and Hainmueller (2006) argue that the incumbent loss in regional elections in Germany is conditional on whether there is unified or divided government at the national level. This argument is based on two institutional features of German federalism: (a) policy in Germany is the product of legislation passed by both the *Bundestag* (lower house) and the *Bundesrat* (upper house or senate) and; (b) the *Bundesrat* is composed of representatives appointed by the regions (instead of elected directly by the people). Therefore if the same party controls both the upper and lower houses (unified government), moderate voters have an incentive to vote against the incumbent in regional elections since it will very likely lead to divided government at the national level. The prediction therefore is that we only observe “a strong and robust midterm loss” (Lutz and Hainmueller 2006: 139) if both the *Bundesrat* and *Bundestag* are controlled by the same party.

The institutional make-up of Germany fits quite well the assumptions of the moderating elections theory, since national and regional elections are staggered and since the regional level has substantial input into national-level policy-making (especially through the appointment of *Bundesrat* representatives). However, not all federations have the same institutional structure, which begs two questions: (a) do we find similar incumbent losses in other federations? And (b) are those incumbent losses explained by voters engaging in balancing?

Electoral patterns in Spain: the incumbency effect

In Germany one of the most consistent empirical findings is that the incumbent party at the national level loses votes in almost all subsequent regional elections. Figure 6.1 presents the vote change between national and regional elections for the party that is incumbent at the national level in Spain in each electoral cycle. Only two major national parties alternate in government in Spain: the PP which is the main center-right party in Spain and the PSOE which is the main center-left party. There are seven different panels in Figure 6.1 corresponding to the seven electoral cycles presented earlier in Table 6.1. Each panel shows losses for either the PP or the PSOE, depending on which party is in power at the national level in a particular electoral cycle. The vertical axis in these panels represents the vote share difference of the party that is incumbent at the national level in a particular electoral cycle. The horizontal axis presents the different regions in Spain.

These panels show that for the most part, the incumbent party loses votes in subsequent regional elections. However, this vote loss pattern is not as system-

atic across regions and time as it is in Germany (see Kedar 2006; Lohmann *et al.* 1997; Gains and Crombez 2004). Three of the panels (corresponding to electoral cycles 1982–1985, 1989–1992 and 1996–1999) show that incumbents actually experience electoral gains in some regions.

Figure 6.2 represents the incumbent loss for all regional elections in Spain from 1983 to 2007, so it is basically an aggregation of the seven panels in Figure 6.1. The vertical axis represents the national incumbent vote share loss in regional elections. Following Kedar (2006) the horizontal axis presents the different regional elections ordered as a function of the fraction of time elapsed since the previous national election. The length of time has been normalized to one, so moving towards the right on the horizontal axis means that more time has elapsed between the national election of reference and the subsequent regional elections.⁷ This figure shows a pretty consistent pattern of vote loss for national incumbents (with the exceptions pointed out earlier in Figure 6.1). The average magnitude of the incumbent vote loss ranges from –0.51 percent to –7.7 percent, and the later part of this range (–7.7 percent) is similar to the vote loss experienced by the SPD or the CDU parties in Germany when they are in power at the national level (Lohmann *et al.* 1997).

The second consistent empirical finding in Germany is that the opposition party tends to gain votes in regional elections and the magnitude of this gain is similar to the magnitude of the incumbent loss which suggests that there is a transfer of votes between the two main parties. This is in line with the moderating elections theory (Lohmann *et al.* 1997). In Spain this apparent transfer of

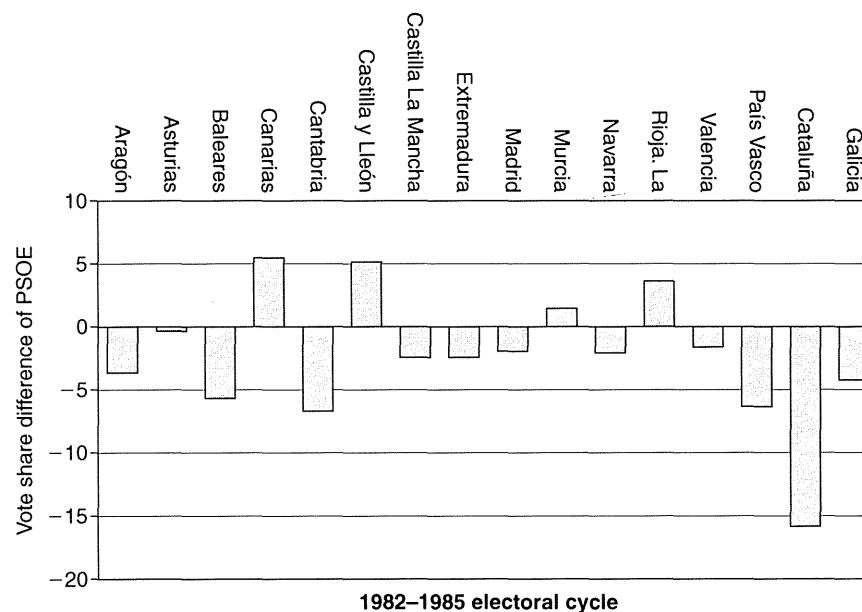


Figure 6.1 Vote share differences for national incumbent party.

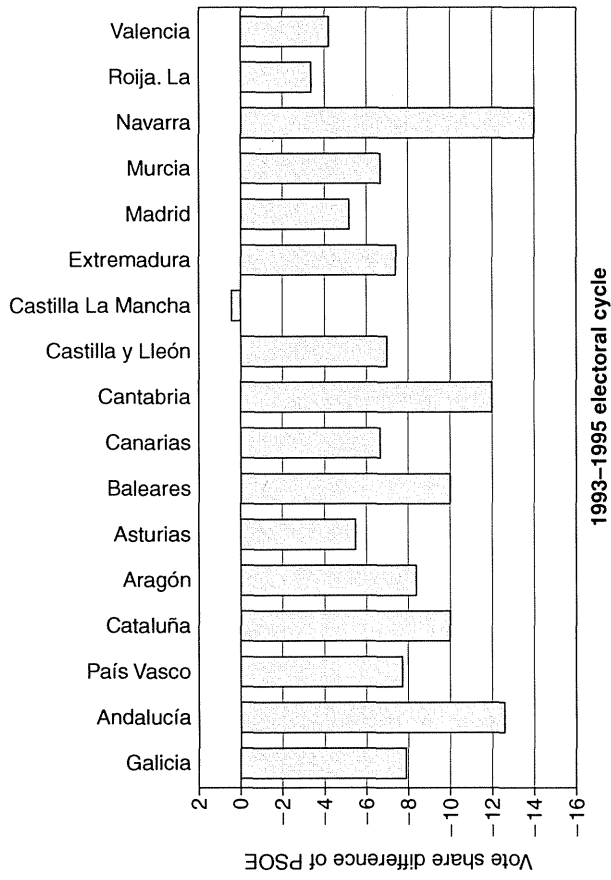


Figure 6.1 continued

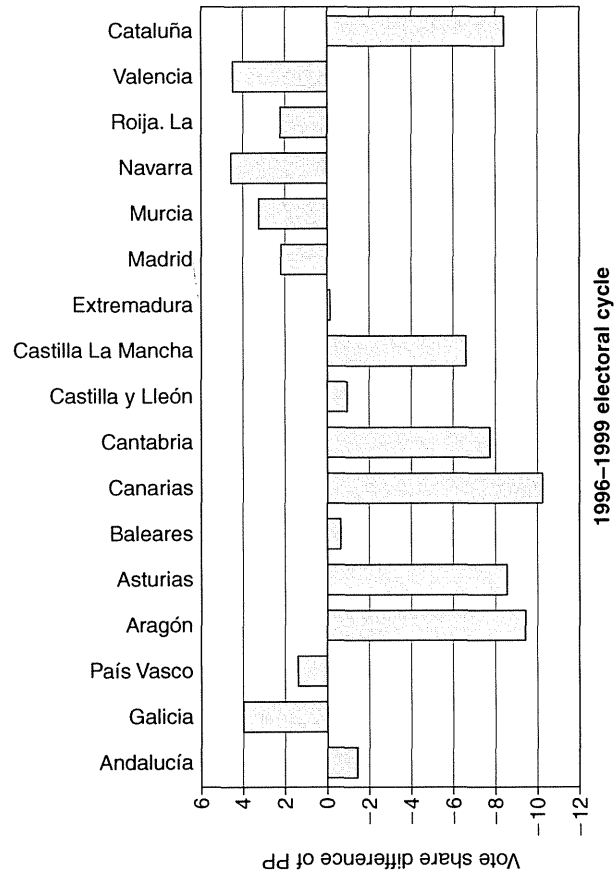


Figure 6.1 continued

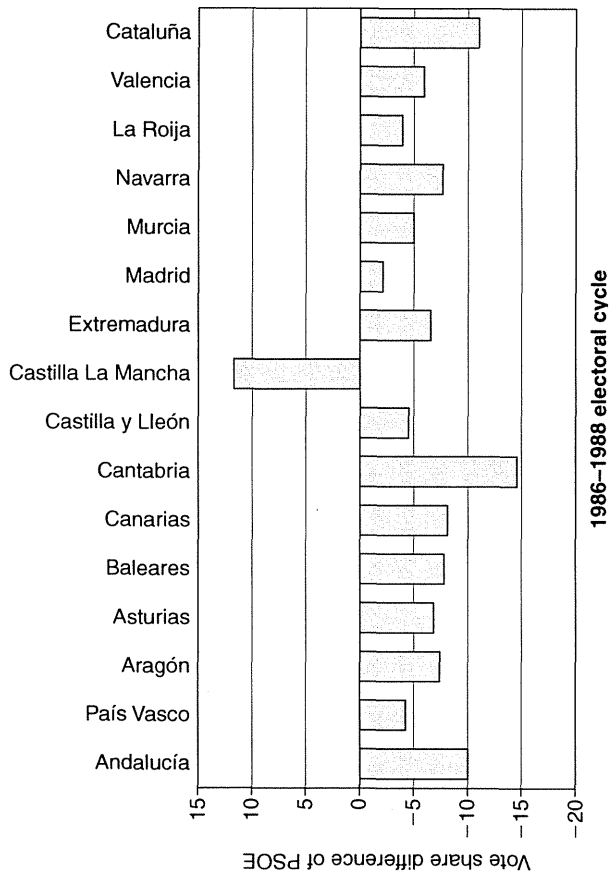


Figure 6.1 continued

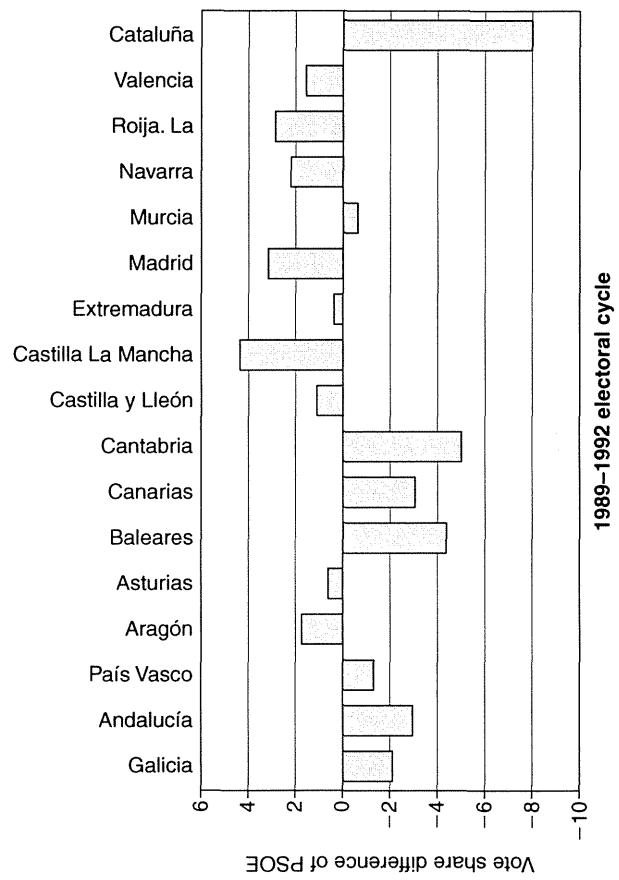


Figure 6.1 continued

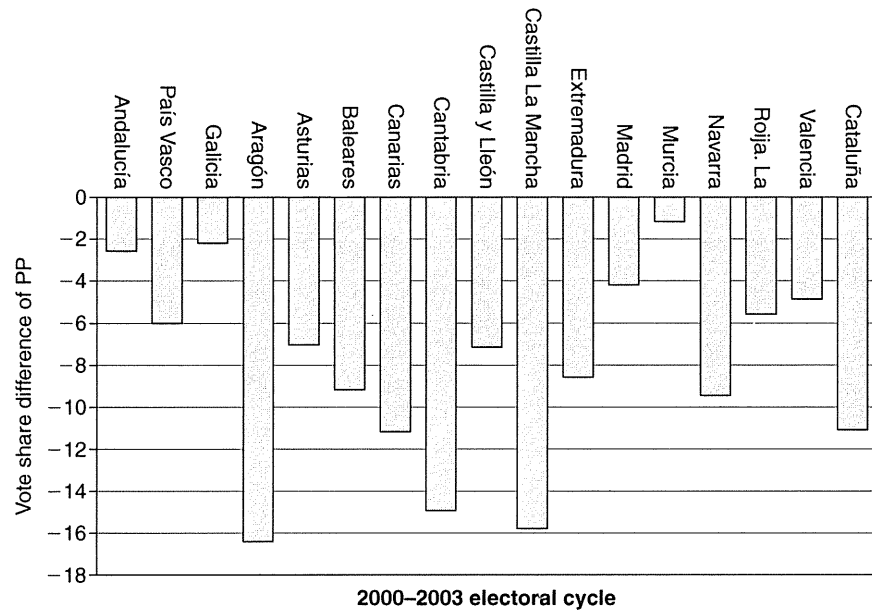


Figure 6.1 continued

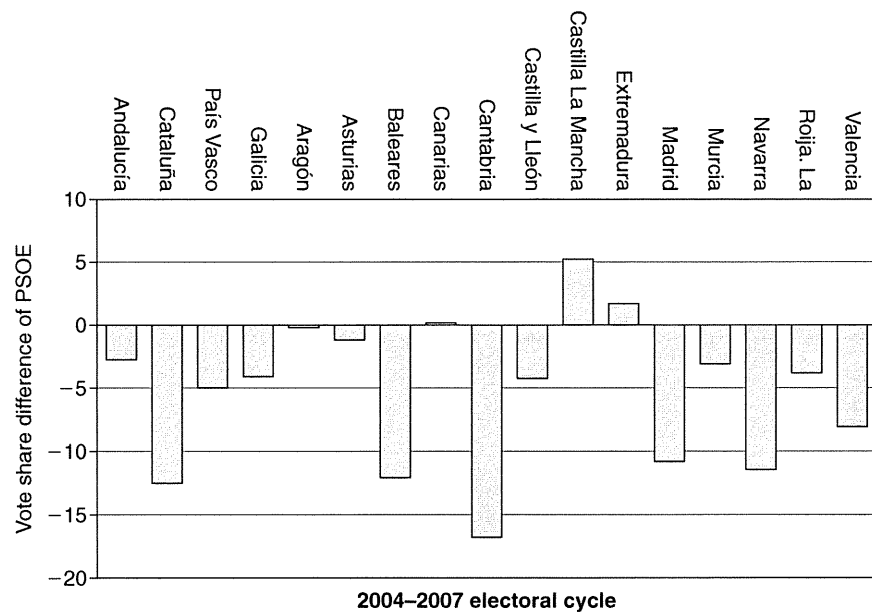


Figure 6.1 continued

votes is not as clear. Contrary to what happens in Germany, the major opposition party in Spain does not always gain votes in regional elections. Figure 6.3 presents the vote share change experienced by the opposition party in each regional election between 1982 and 2007. If there was a transfer of votes from incumbent parties to opposition parties (as happens in Germany), Figure 6.3 would be a mirror image of Figure 6.2, but this does not seem to be the case in Spain.

In sum, both incumbents and opposition suffer electoral losses in regional elections. However, there seems to be something unique about being an incumbent that exacerbates vote loss in regional elections compared to opposition parties. In order to test this intuition rigorously, I run a regression model where the dependent variable is vote share change for the two main parties (PSOE and PP), and the main independent variable is national incumbency, which records whether the party is incumbent at the national level or whether it is an opposition party. I expect the national incumbency coefficient to be negative and significant, which would mean that being a national incumbent increases vote losses in regional elections (compared to not being incumbent).

I test two alternative explanations of why parties might lose votes in regional elections: (a) differential turnout; and (b) "regression towards the mean" effects. According to the second-order elections framework one should expect lower levels of participation in regional elections because these elections are less important than national contests. Scholars in this tradition argue that voters perceive regional elections to have "less at stake" and thus are more likely to abstain. Furthermore, they argue that this abstention affects all major political parties in a country, whereas it does not affect minor parties that much. In Spain the average

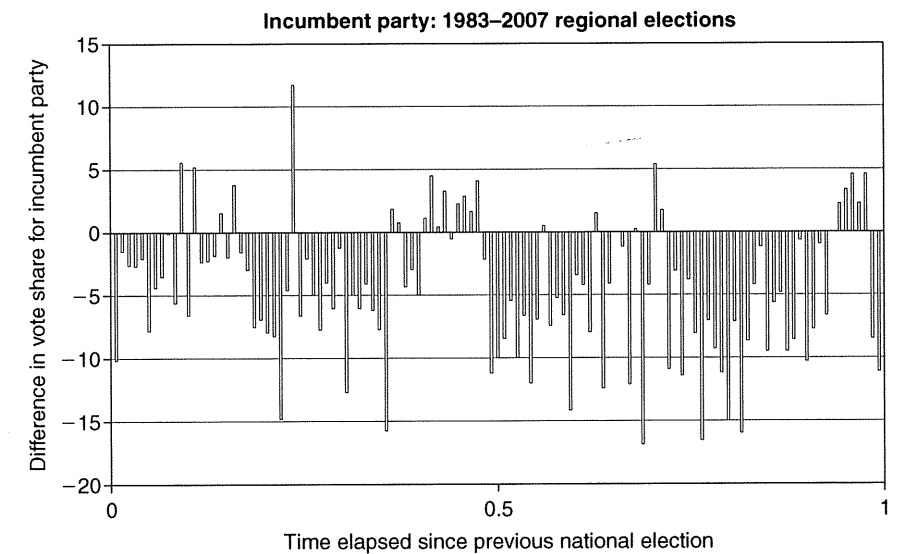


Figure 6.2 Vote share differences for national incumbent party in all regional elections.

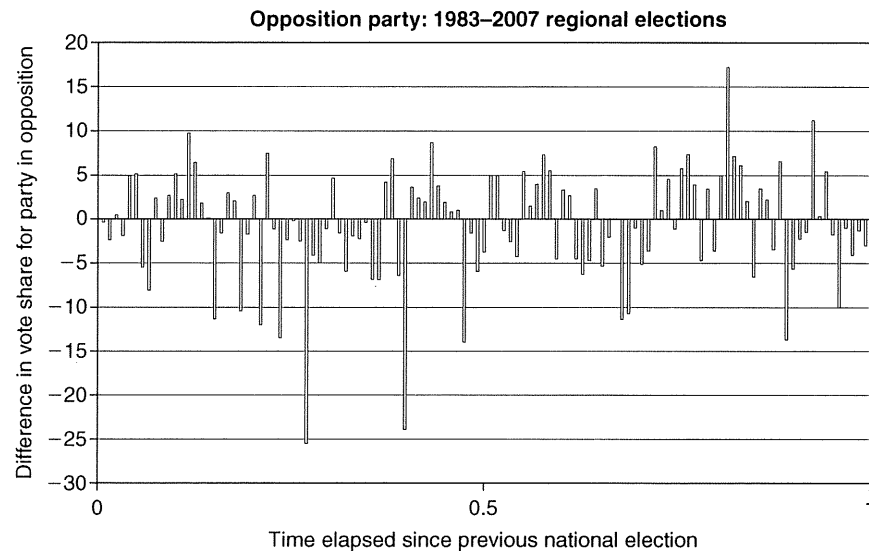


Figure 6.3 Vote share differences for national opposition party in all regional elections.

turnout for the period 1982 to 2007 in national elections is 74.8 percent, while the average turnout in regional elections is 68.4 percent. Abstention levels are higher in regional elections, which is consistent with the second order notion (Pallarés and Keating 2003). For the purpose of my analysis, I measure the difference in turnout between the national election and the subsequent regional elections. According to the second-order elections framework, the expected effect of this variable should be negative: the higher the turnout differential, the more likely a party is to lose votes in regional elections.

The second alternative hypothesis is derived from theories of surge-and-decline. According to these theories, a party that does exceptionally well in a national election is more likely to lose some of its advantage in the next election (in this case the following regional election) (Lohmann *et al.* 1997; Lutz and Hainmueller 2006). In order to control for this “regression towards the mean” effect (and following Lutz and Hainmueller 2006) the model includes the vote share obtained by each party in the previous national election. The coefficient of this variable should have a negative effect, since “a party is more likely to lose some percentage of the vote when it garnered a large share of the vote in the preceding election (Oppenheimer *et al.* 1996)” (Lutz and Hainmueller 2006: 135).

The general specification of the model is presented below. In their study of moderating behavior in Canada, Erikson and Filippov (2003) run a very similar model but only for one party: the Liberal Party. The analysis presented in this chapter includes the two major national parties in Spain (PSOE and PP) since they are the only two parties that have alternated in government at the national level. I do not consider other parties that have obtained representation in Parlia-

ment, but have not been part of the government. I run a separate regression for PSOE and PP in order to control for ideology or for uncontrolled factors linked to the type of party, but none of the three hypotheses that I test in this section predicts differences on the basis of ideology.

$$\Delta VS_{r,t}^j = \beta_r + \beta_1 \text{Incumbency}_t^j + \beta_2 \text{DifferentialTurnout}_t + \beta_3 \text{PreviousNationalVote}_t^j + \varepsilon_{r,t}$$

The dependent variable in each regression ($\Delta VS_{r,t}^j$) is the vote share change for party j in each region r . More precisely, it is the difference between the vote share obtained by party j in a regional election r and the vote share obtained by party j in the previous national election in that same region. So we have, $\Delta VS_{r,t}^j = vs_r^j(N_{t-a}) - vs_r^j(R_t)$ where vs_r^j is the vote share for party j in each region r . N denotes the national election at time $t-a$ and R the subsequent regional election at time t , so a is the time elapsed between a regional election and the previous national election.⁸ This operationalization of the dependent variable has been commonly used in the literature on moderating behavior (Erikson and Filippov 2003; Lohmann *et al.* 1997). The main independent variable is national incumbency, which is a dummy variable that takes the value of 1 if party j is an incumbent at the national level and 0 otherwise. The vote share obtained for each party in the previous national election does not vary across regions whereas differential turnout does.

The model includes fixed effects. This is the best modeling option since I am mainly interested in cross-time variation instead of cross-section variation (or differences between regions). There is significant cross-regional variation in vote losses for PP and PSOE (see Figures 6.1, 6.2 and 6.3), so it is most certain that regional or local factors play a role in explaining voting patterns (see Pallarés and Keating 2003). However, in this chapter I am interested in capturing common strategic behavior at each election (holding regional variations constant). In order to control for these regional factors I use the fixed effects option which virtually creates an intercept for each region. I do not include time dummies because they are highly correlated with the national incumbency variable, which only varies across time.

Table 6.2 presents the results of this regression model. I present two different model specifications: one with only national incumbency as a control variable, and the other one with the complete set of independent variables. The coefficient for national incumbency has the expected negative sign and is statistically significant for both PP and PSOE. The coefficient on “previous national vote” is negative as expected, which means that independently of whether the party is incumbent or not, the more votes it obtains in the previous national election the greater the vote loss in the following regional election. This “regression towards the mean” effect is significant for the PSOE only. On the other hand, differential turnout has the expected negative effect as well but is only significant for the PP and not the PSOE, which means that the PP is more susceptible to having its voters demobilized in regional elections.

Table 6.2 Explaining regional vote differences

Dependent variable	Regional vote minus prior national vote			
	Model 1		Model 2	
	PSOE	PP	PSOE	PP
Intercept	-0.39 (0.616)	-0.98 (0.115)	8.61 (0.034)	0.57 (0.863)
National incumbent	-3.93 (0.000)	-4.07 (0.001)	-2.39 (0.038)	-2.60 (0.088)
Previous national vote	-	-	-0.27 (0.022)	-0.10 (0.280)
Turnout differential	-	-	-0.06 (0.472)	-0.28 (0.005)
Overall (within) R ²	0.09 (0.155)	0.078 (0.114)	0.013 (0.20)	0.080 (0.20)
Fixed Effects	Yes	Yes	Yes	Yes
N	117	117	117	117

Note

Significant coefficients are in bold and t-test is in parentheses.

The main takeover point from Table 6.2 is that the incumbency effect holds despite the two control variables: the coefficient for national incumbency is negative and significant for both PP and PSOE when controlling for “regression towards the mean” effects and turnout effects. In addition, the magnitude of this incumbency effect is quite substantial compared to the effect of the two other controls. This result hints to the possibility of a moderating behavior from the part of voters.

Is there moderating behavior in Spain?

According to Lohmann *et al.* (1997), the federal institutional set-up of vertically divided government and staggered elections is sufficient to encourage moderate voters to balance across levels of government. This results in the incumbent party at the national level having greater vote share losses than the opposition party (as we have seen in the case of Spain in the previous section). Furthermore, Lohmann *et al.* (1997) and Gaines and Crombez (2003) argue that this incumbency effect should be particularly important when the same party holds both the national and regional governments since there is a bigger incentive to create divided government. Based on this reasoning, I present a stronger test of the moderating elections theory for the case of Spain.

The previous section demonstrated that being the incumbent party in Spain leads to greater regional electoral losses than being the main opposition party (controlling for a set of alternative theories). In this section I argue that if voters are moderating in Spain, we should observe a greater vote loss for the incumbent party when it is also an incumbent at the regional level (compared to when it is not incumbent at the regional level). Conversely, we should observe the reverse effect for the opposition party, which should gain more votes when the incumbent party is also incumbent at the regional level rather than when it is not. In sum:

H1: Incumbent parties will lose more votes in regional elections if they are also incumbents at the regional level.

H2: Opposition parties will gain more votes in regional elections if incumbent parties at the national level are also incumbents at the regional level.

The effect of regional incumbency should be independent of other factors that might influence the magnitude of incumbent vote loss. Several scholars argue that incumbents are particularly vulnerable to differential turnout compared to parties that are in the opposition. The previous section finds weak support in favor of the differential turnout hypothesis to explain the general pattern of regional vote loss for the two major national parties. However, the theory of Second Order Elections suggests that differential turnout might have a stronger effect if interacted with national incumbency, since those who are particularly demobilized in regional elections are the supporters of incumbent parties (and not the supporters of opposition or other minor parties or regional parties). Therefore a larger differential turnout should lead to more losses for incumbents, but have no effect in explaining the performance of the opposition in regional elections. This leads to the following two hypotheses:

H3: Incumbent parties will lose more votes in regional elections as turnout differential increases.

H4: Opposition parties' performance in regional elections will not be affected by turnout differentials.

Similarly, theories of surge-and-decline point to a unique effect on incumbents. These theories predict a greater loss of the vote for incumbents since they often obtain an unusually large share of the vote in the previous national election. On the other hand, the effect of this variable should be much smaller (or in-existent) among opposition parties.

H5: The larger the previous national vote share for incumbent parties, the more votes they will lose in regional elections.

H6: Previous national vote share of opposition parties will not affect their vote loss (or vote gain) in regional elections.

Finally, theories of retrospective economic voting explain incumbent losses across levels of government as the result of a punishment effect for bad economic performance. Based on the second-order elections framework, some scholars argue that in federal countries, regional elections are less important or have “less at stake”. What matters are the policies of the national government,

therefore voters use the regional elections to punish (or reward) the performance of the national incumbent. If this theory holds true, the economic performance of a country should explain the magnitude of incumbency loss: if the economy is doing badly the incumbent loss is larger than if the economy is doing well. The state of the economy, however, should have a positive effect (or no effect) on the magnitude of vote change for the party in the opposition since voters are not likely to hold opposition parties responsible for good or bad economic performance.

H7: As the economy worsens, incumbent parties will lose more votes in regional elections.

H8: The state of the economy will not affect the opposition performance in regional elections.

The model specification to test these hypotheses is presented below. I run two separate regression models with the same independent variables but with different dependent variables. The dependent variable in the first regression model is the vote share change experienced by the party that is incumbent in each electoral cycle (either PP or PSOE). The dependent variable in the second regression model is the vote share change experienced by the party that is in the opposition in each electoral cycle (either PP or PSOE).⁹

$$\text{Incumbent}\Delta VS_{r,t} = \beta_r + \beta_1 \text{RegionalIncumbency}_{r,t} + \beta_2 \text{PreviousNationalVote}_t + \beta_3 \text{DifferentialTurnout}_{r,t} + \beta_4 \text{Inflation}_t + \beta_5 X_{r,t} + \varepsilon_{r,t}$$

$$\text{Opposition}\Delta VS_{r,t} = \beta_r + \beta_1 \text{RegionalIncumbency}_{r,t} + \beta_2 \text{PreviousNationalVote}_t + \beta_3 \text{DifferentialTurnout}_{r,t} + \beta_4 \text{Inflation}_t + \beta_5 X_{r,t} + \varepsilon_{r,t}$$

The main independent variable is regional incumbency, which takes the value of 1 if the incumbent party at the national level is also incumbent at the regional level, and takes the value of 0 when the incumbent party is in the opposition at the regional level or a minority partner of the party holding the government (divided government). I expect the coefficient of this variable to be negative and significant since that would mean that there is intent to create divided government between the two levels of government. In order to control for “surge-and-decline” and “differential turnout”, the model includes the vote share obtained by each party in the previous national election and the difference in turnout for each party in each election. The general state of the economy is proxied in the model by a variable that records the variation in national inflation rates between time t (date of the regional election) and time $t-a$ (date of the immediately prior national election) for each regional election.

The covariates $X_{r,t}$ include a series of controls. Ideology is coded 1 = PSOE and 0 = PP. There are two measures of the time elapsed between the regional and

national election (based on Kedar 2006). One of them is a simple linear time variable (normalized from 0 to 1) measuring the time elapsed between a regional election and the most recent prior national election. In addition, the model includes a quadratic term of this time variable since some studies argue that there is usually a non-linear relationship between the magnitude of incumbent vote loss and the time elapsed since the last national election (Kedar 2006 citing Marsh and Franklin 1996). In addition, the covariates include a dichotomous variable for geography, which is coded as 1 = historic regions (Catalonia, Galicia, Basque Country and Andalusia), and 0 = the rest of regions. Historic regions have greater levels of autonomy and competencies and most of them are culturally and/or linguistically distinct. This variable aims at capturing whether this regional divide is significant in explaining the magnitude of incumbent losses.

Tables 6.3 and 6.4 present the results of the two different regression models. Each model has five different specifications in order to show the robustness of the results. All specifications include fixed effects (which is the same modeling option used in the previous section in the regression presented in Table 6.2) with the exception of the last specification (5). This is because the last specification includes the variable “historic regions”, which only varies across regions (not time).

The most important conclusion from these two tables refers to the “regional incumbency” variable. Hypothesis H1 predicted a negative effect for regional incumbency in the first regression model (Table 6.3). Contrary to this expectation, the sign on the regional incumbency coefficient in Table 6.3 is positive, significant and has a substantial effect compared to the other variables in the model. This suggests that there is no moderating behavior, but quite the opposite: the fact of controlling the regional government (in addition to the national government) gives the incumbent better electoral results in subsequent regional elections than if it did not control the regional government. In Table 6.4, the effect is the reverse: opposition parties are negatively affected by the fact that they do not control the regional level. Voters in Spain are not inclined to create vertically divided government, but quite the opposite. These results confirm the work and findings of Pallarés and Keating (2003: 248), who argue that in Spain “[...] there has not been ‘divided government’, with different parties predominating at each level. On the contrary, the same party has tended to dominate [...]”.

Aside from regional incumbency, three factors have an effect on the magnitude of incumbency loss: turnout differential, previous national vote and ideology. Table 6.3 shows that turnout differential has a negative and significant effect for incumbents across all model specifications: this means that the greater the difference in turnout between the regional and national election the greater the magnitude of the incumbent loss. In Table 6.4, turnout differential is not significant. Although this is aggregate data and it is hard to draw individual-level conclusions, these results suggest that a great part of the incumbency loss is due to the fact that voters from the incumbent party are especially demobilized in regional elections.

Table 6.3 Explaining vote difference for national incumbent parties

Dependent variable	Incumbent regional vote minus prior national vote				
	1	2	3	4	5
Regional incumbency	4.42 (0.000)	6.89 (0.000)	6.42 (0.000)	6.57 (0.000)	6.56 (0.000)
Previous national vote	–	–0.39 (0.000)	–0.40 (0.000)	–0.42 (0.000)	–0.33 (0.000)
Turnout differential	–	–0.24 (0.001)	–0.26 (0.001)	–0.27 (0.000)	–0.23 (0.003)
Inflation	–	–0.13 (0.103)	–0.06 (0.488)	–0.03 (0.747)	0.02 (0.775)
Ideology: PSOE	–	–0.59 (0.491)	–2.56 (0.114)	–4.34 (0.036)	–5.96 (0.006)
Time elapsed	–	–	–4.27 (0.152)	4.96 (0.493)	–0.59 (0.937)
Time elapsed ²	–	–	–	–10.99 (0.164)	–8.56 (0.315)
Historic regions	–	–	–	–	–3.64 (0.006)
Fixed effects	yes	yes	yes	yes	no
Intercept	–6.13 (0.000)	9.94 (0.002)	13.13 (0.001)	13.57 (0.001)	12.87 (0.001)
N	117	101	101	101	101
Overall R ² (within R ²)	0.26 (0.15)	0.38 (0.47)	0.30 (0.28)	0.38 (0.50)	0.45

Note

Significant coefficients in bold and t-test in parenthesis.

Table 6.4 Explaining vote difference for national opposition parties

Dependent variable	Opposition regional vote minus prior national vote				
	1	2	3	4	5
Regional incumbency	–3.57 (0.009)	–4.55 (0.018)	–4.22 (0.034)	–4.49 (0.023)	–0.60 (0.733)
Previous national vote	–	0.06 (0.569)	0.07 (0.543)	0.10 (0.396)	0.13 (0.195)
Turnout differential	–	–0.09 (0.414)	–0.08 (0.491)	–0.05 (0.635)	–0.04 (0.750)
Inflation	–	0.19 (0.116)	0.15 (0.302)	0.09 (0.541)	0.07 (0.669)
Ideology: PSOE	–	–0.39 (0.769)	0.99 (0.697)	4.14 (0.199)	3.74 (0.266)
Time elapsed	–	–	2.98 (0.525)	–13.41 (0.239)	–10.63 (0.369)
Time elapsed ²	–	–	–	19.50 (0.116)	15.73 (0.240)
Historic regions	–	–	–	–	–0.82 (0.690)
Fixed effects	Yes	Yes	Yes	Yes	No
Intercept	0.48 (0.511)	–3.63 (0.455)	–5.85 (0.331)	–6.64 (0.267)	–9.08 (0.135)
N	117	101	101	101	101
Overall R ² (within R ²)	0.00 (0.06)	0.00 (0.10)	0.00 (0.11)	0.01 (0.14)	0.07

Note

Significant coefficients in bold and t-test in parenthesis.

Previous national vote has a negative and significant effect as well in Table 6.3, but no effect in Table 6.4. This is as expected and means that “regression towards the mean” affects incumbents in particular. Regarding ideology, Table 6.3 suggests that the magnitude of the vote loss is larger if the incumbent party is the PSOE (rather than the PP). The coefficient is quite unstable across different model specifications in Table 6.3, so it is hard to make any strong claims about the role of ideology. Finally, the variable “historic regions” has a negative effect both in Table 6.3 and 6.4, but it is only significant for incumbent parties (see Table 6.3), which leads to conclude that incumbent parties have a harder time in regional elections that take place in regions that have more autonomy (or are culturally distinct).

One of the interesting non-findings from this analysis refers to retrospective economic voting. Table 6.3 shows that the variable “inflation” affects the magnitude of incumbent loss in the expected direction (the higher the inflation rates, then the more the incumbent loses), but it is not a significant effect. Similarly, Table 6.4 shows the “inflation variable” to have the expected positive effect, but again it is not significant. In Germany, Lohmann *et al.* find mixed results regarding the effect of the state of the economy on vote losses for different parties, but it is surprising that there are no effects in Spain.

Re-evaluating the moderating elections framework in Spain

As in many other federal countries, the lives of citizens in Spain are affected by decisions taken by both the national and regional governments. The Spanish federal system (as the German one) is also one of staggered national and regional elections, which would allow for divided government between the national and regional levels as the result of moderating behavior. Despite these general institutional similarities between Germany and Spain, the analysis presented in the previous section casts serious doubt on the existence of moderating behavior in Spain.

Unlike Spain, Germany has a set of formal institutions where regional and national governments convene to produce joint policy. Probably the most important institutional feature allowing this is the *Bundesrat* (national upper house), which is composed of representatives elected by the regions and has considerable authority. Unlike the case of Germany, in Spain there are no formal institutions that enable this joint decision-making between the national and regional governments. The upper house (*Senado*) does not have much power and it does not represent the regions (neither directly nor indirectly), so it does not make much sense for voters to use regional elections to moderate policy outcomes at the national level as voters do in Germany (Lutz and Hainmueller 2006). In Spain, joint policy-making often happens through more informal mechanisms such as *ad-hoc* bilateral conferences between the national government and each regional government, or through intra-party elite bargaining. This lack of formal procedures and institutions that guarantee joint policy-making might explain why voters are unable (or unwilling) to engage in vertical balancing.

The pattern of incumbent losses in Spain is explained rather by “turnout differentials” and “regression towards the mean” effects, and cannot be attributed to a desire to create vertically divided government. Quite the contrary, it seems that voters in Spain have a desire to have the same party governing at both the national and regional level, which is puzzling from the perspective of earlier work on the German case.

One of the possible explanations for this pattern of behavior might have to do with how voters in Spain conceive of the federal structure, and especially of regional governments. Regions in Spain have considerable authority and decision-making power, but they lack a formal institutional voice at the national level. There is a very distinct separation of purpose between the regional and national arenas as well as between national and regional problems and interests (which does not seem to be the case in Germany). Voters in Spain seem concerned with the right balance between regional and national interests on top of the usual left–right ideological considerations. Balancing or moderating theories try to explain discrepancies in voting based on choices over the left–right ideological dimension, and this is generally appropriate in countries (or federations) that are fairly centralized and/or where the regional question is not very salient. However, this approach seems limited to understand the case of Spain. As Lancaster and Lewis-Beck argue, this dimension of choice (choosing between national and regional parties and between national and regional interests) has been somewhat neglected in the literature (Lancaster and Lewis-Beck 1989: 40).

Pallarés and Keating (2003) point out that one of the most distinctive electoral patterns in Spain (which is not analyzed in this chapter) is that voters tend to vote more for regional parties in regional elections, than they do in national elections. Table 6.5 presents the aggregated vote share loss (or gain) for all national parties on the one hand and for all regional parties on the other. It shows that there is a systematic vote loss for national parties in all regions in all electoral cycles.

A more graphical illustration of this electoral pattern is presented in Figure 6.4. The bars represent the vote loss “suffered” by national parties in each regional election for the period from 1982 to 2003. Regional elections are ordered chronologically as a function of the time elapsed since the previous national election. The figure shows the empirical regularity that in Spain national parties always lose votes in regional level elections (with some very few exceptions). Conversely, regional parties systematically win votes in regional elections which produces a mirror image of Figure 6.4 (not presented here).

Although national parties (and especially the national incumbent party) tend to dominate regional governments, regional parties gain much more support in regional elections (than they do in national elections). This is probably due to “differential turnout” as well as to a transfer votes from national incumbents and opposition parties to regional parties (see Pallarés and Keating 2003). The question remains whether votes are actually being transferred from left-wing national parties to right-wing regional parties or vice versa. If the PSOE holds power at the national level, at the subsequent regional election are left-wing regional

Table 6.5 Change in vote share (% points) with respect to previous national election

Electoral cycle	1989–1993 ¹		1993–1996 ²		1996–2000 ³		2000–2003 ⁴	
	R	N	R	N	R	N	R	N
Type of party ⁵								
Galicia	6.28	-6.59	11.51	-10.14	3.7	-3.47	6.82	-4.37
Andalusia	4.54	-4.67	2.03	-1.88	12.23	-9.06	2.64	-2.19
Basque Country	7.8	-7.8	7.44	-7.97	8.18	-8.06	12.7	-12.54
Aragon	16.36	-16.2	15.57	-15.46	18.53	-18.26	9.56	-9.41
Asturias	3	-2.83	6.03	-5.81	8.4	-8.43	2.14	-2
Balearic Islands	12.8	-10.33	2.23	-1.98	17.34	-17.06	12.62	-12.45
Canary Islands	11.67	-11.8	1.84	-12.88	17.4	-17.36	8.19	-8.34
Cantabria	40.97	-40.81	10.85	-10.73	17.93	-17.87	21.36	-21.11
Castile and Leon	2.99	-2.97	18.93	-18.72	5.79	-5.51	3.1	-2.89
Castile-La Mancha	0.7	-0.57	4.86	-4.97	0.16	-0.15	0.32	-0.44
Extremadura	2.22	-2.13	0.62	-0.61	2.54	-2.3	0.55	-0.24
Madrid	0.4	-0.36	4.49	-3.58	0.1	-0.22	1.09	0.12
Murcia	3.63	-3.64	1.18	-1.29	0.44	-0.48	24.91	-24.66
Navarre	4.25	-4.1	1.21	-1.09	14.89	-10.99	3.24	-2.78
La Rioja	5.47	-5.48	20.8	-20.6	2.45	-2.45	3.26	-2.85
Valencia	5.73	-5.49	3.18	-3.11	5.23	-5.19	0.23	-0.09
Catalonia	17.14	-17.09	3.72	-3.36	8.33	-8.46	16.56	-16.57
Mean	8.59	-8.40	6.85	-7.30	8.45	-7.96	7.61	-7.22
Std. Dev.	9.47	9.40	6.23	6.22	6.51	6.23	7.42	7.53

Appendix: Data sources

Notes

- 1 National incumbent: PSOE (majority government)
- 2 National incumbent: PSOE (minority government)
- 3 National incumbent: PP (minority government)
- 4 National incumbent: PP (majority government)

5 This table presents electoral results aggregated by two types of parties: Regional parties (represented with a capital R) and national parties (represented with a capital N).

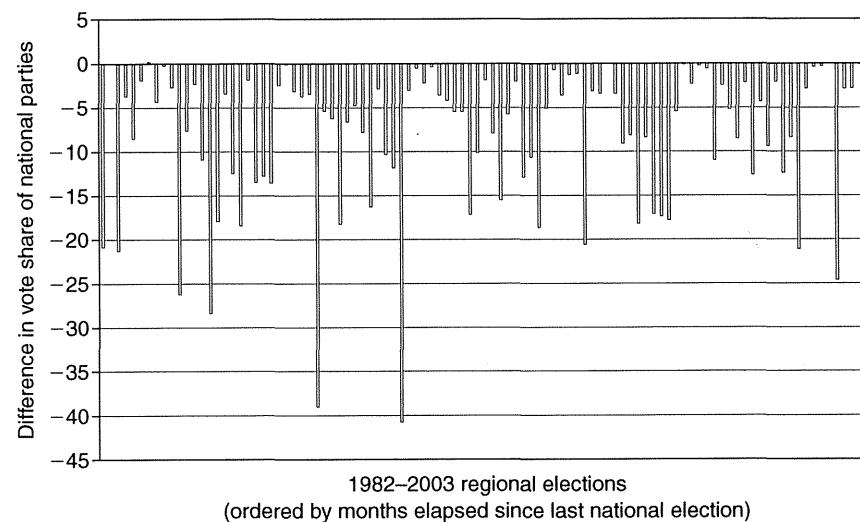


Figure 6.4 Regional elections aggregated 1982–2003 (national party vote share).

parties punished and right wing regional parties rewarded? This theory is hard to test with the existing data because regional parties have not been coded as a function of their ideological leanings. However, theoretically speaking this seems quite implausible because there are few regions where voters have the full range of options of regional parties (both left and right regional parties), and secondly, most regional parties are hard to classify in the left–right continuum.

This scenario reinforces the idea that voters are actually using the regional level to defend regional interests rather than to balance policy on the left–right ideological continuum. Further research should explore this second dimension of party choice and see how it can be included in theories of voting behavior (and moderating). This implies answering questions such as: under what conditions do voters prefer to vote for regional rather than national parties? And empirically speaking, why does regional party vote share increase in regional elections in Spain?

Conclusions

This chapter accomplishes three tasks. First, it offers a cross-time and cross-regional view of electoral patterns in Spain, and more specifically of electoral discrepancies between levels of government for the two main national parties (PP and PSOE). The use of aggregate data makes it difficult to draw strong conclusions about the individual motivations of voters, but on the other hand this type of analysis is useful to assess whether there is something systematic about electoral patterns in Spain, and where to look for explanations (or where not to look).

Second, the chapter finds that to a certain extent Spain resembles Germany and other federations in that there are electoral discrepancies between levels of government: for the most part incumbents at the national level incur in greater losses in regional elections than opposition parties. However, this chapter shows that there is not a strong support for the moderating elections theory in Spain. In order for voters to engage in “vertical balancing” (as termed by Kedar 2006) the federation requires a set of formal institutions that allow for genuine power sharing between regional and national governments. In the absence of such institutions, voters in Spain do not seem to use the vertical division of power to moderate between the two major national parties.

This chapter points to the necessity of specifying the conditions under which certain federations allow for moderation, and others do not. Future work is required in this area, especially comparing federations. Although the basic institutional structure of federations is the same (two levels of government with independent elections), they differ in many other aspects ranging from the strength of their upper house, the nature of vertical relations between levels of government, the types of political parties in their party system and whether elections are staggered or concurrent. All these differences are going to influence the way voters behave, thus teasing out these elements as well as the motivation of voters is crucial.

Appendix

Electoral data (vote shares and seats shares) for all parties in all Spanish national and regional elections: www.pre.gva.es/argos/archivo/index.html

Election Resources on the Internet: Elections to the Spanish Congress of Deputies http://electionresources.org/es/index_en.html

Data on government composition at the regional level: *The Europa Year Book: A World Survey*, Volume II for years 1985–2005. London: Europa Publications Limited. 1987.

Congreso de los Diputados (Spanish national lower legislative chamber) www.congreso.es/www.congreso.es/constitucion/elecciones/autonomicas/index.htm.

Senado (Spanish national upper legislative chamber) www.senado.es/www.senado.es/historia1977-2000/index.html

European Parliament: www.europarl.europa.eu/ (general web page) www.europarl.europa.eu/members/archive/alphaOrder.do?language=EN (find an MP at the EU Parliament)

Asamblea de Madrid (Madrid Regional Legislative Chamber) <http://asamblea.asambleamadrid.es/AsambleaDeMadrid/ES/QueEsLaAsamblea/Historia/Presidentes/ramonespinar.htm>

Parlamento de Cantabria (Cantabria’s Regional Legislative Chamber): <http://parlamento-cantabria.es/institucional/infogeneral/diputados1.htm>

Aragon: Cortes de Aragon www.cortesaragon.es/Embid_Irujo_Sr_D_Antonio.600.0.html

Eusko Arkatasuna web page. www.euskoalkartasuna.org/biog_fitxa.php?Hizk=es&biog=23

Navarra: El Mundo biographies: www.el-mundo.es/el-mundo/1998/septiembre/07/nacional/biografias.html

Instituto Nacional de Estadística (INE) (National Statistics Institute) www.ine.es/daco/ipc.htm Economic Data

Notes

- 1 The following people provided extremely helpful comments on earlier versions of this work: Jan Erk, Orit Kedar, Georgia Kernell, Shanna Kirschner, Yanna Krupnikov, Adam Levine, Mariely López-Santana, Enric Martínez, Wilfried Swenden, all the participants in the ECPR workshop “New Avenues in Comparative Federalism”, and the participants at the Comparative Politics Workshop (CPW) at the University of Michigan. All remaining errors are my own.
- 2 The terminology referring to these two levels of government is extremely varied in the literature. The national level is often referred to as the federal level. The regional level is also referred to as the sub-national level, the state level or the *Länder* level depending on the country or scholar. For sake of clarity, this chapter uses the terms “national level” and “national elections”, and “regional level” and “regional elections” respectively.
- 3 This definition is based on Bednar (2009).
- 4 The data collected for the two main national parties in Spain (PP and PSOE) spans the period 1982–2007, whereas the data on the rest of parties spans the period 1982–2003.
- 5 I did not include regional elections previous to 1982 because very few regions celebrated elections during those first years. In addition, this early period is quite unique in that it started with the first election after Spain’s transition to democracy and thus involved many more issues that could interfere with the analysis presented in this chapter.
- 6 In Spain there are 17 Autonomous Communities and 2 Autonomous Cities (Ceuta and Melilla). I have excluded these cities from my analysis.
- 7 Note that as shown in Table 6.1 most of the regions in Spain, with the exception of Catalonia, Basque Country, Andalusia and Galicia, celebrate their regional elections simultaneously (although staggered with respect to national elections). This means that the bars that represent regional elections in most regions should technically overlap on the horizontal axis. However, for clarity of exposition here these simultaneous regional elections are represented as consecutive in time.
- 8 In Spain, regional and national elections are mostly staggered, which means that elections to the national government and to regional governments are not concurrent. The exceptions are four regional elections in the region of Andalusia (see Table 6.1) that are held at the same time as the national election. The assumption in the moderating elections framework is that when confronted with electing the regional government “voters always know which party controls the federal government” (Erikson and Filippov 2001: 316), and this is how they can engage in balancing. For these four cases of concurrent elections, I use the national election from the previous electoral cycle as the point of reference. In addition, I have conducted robustness tests excluding these four cases, but there were no significant differences.
- 9 This analysis (once more) is focused on the two main parties: PSOE and PP since they garner most of the votes in national elections in Spain, and they are the parties that alternate in government at the national level (although there are other national and regional parties that make it to the national parliament). In addition, PSOE and PP occupy the two sides of the traditional left–right ideological spectrum, so if we expect any form of moderating behavior in Spain, it would be between these two parties.

7 Party politics in multi-level systems

Party responses to new challenges in European democracies

Klaus Detterbeck and Eve Hepburn

Introduction

Over the last few years, there has been a renewed interest in the role of political parties for the workings of federal and other multi-level systems. To be sure, the parties–federalism nexus has been recognized since the writings of the “Federalist Papers”. The classical assumption has been that political parties are important motors of national integration and coordinated policy-making (see Caramani 2004). In debates on democratic theory, this assumption led liberal thinkers to look for institutional incentives to safeguard federal democracy from the “mischiefs of faction” (Madison), while majoritarian thinkers applauded parties for their assumed capacities of being able to organize and execute the political will of a state majority, or “demos”, despite federal divisions of power. Many of these arguments have been re-adapted to current debates (see Bednar *et al.* 2001; Filippov *et al.* 2004; Stepan 2001).

There is, however, a good reason to review and question the classical assumption on the integrative function of political parties in federal and decentralized political systems. Political parties and the systems in which they operate have gone through some tremendous changes over the last decades. Parties in nearly all Western democracies have faced (and in many ways contributed towards) an increasingly volatile and skeptical electorate, a decline in party membership and a loss of traditional bonds in terms of ideology and social networks (Mair 1997; Scarrow 2000; Mair and van Biezen 2001; Daalder 2002). Federal and multi-level systems, on the other hand, have been confronted with the simultaneous processes of supranationalization, regionalization and deregulation, leading to more flexible systems of multi-level governance that involve a wider range of political actors (Marks and Hooghe 2000; Keating 2001; Hough and Jeffery 2006). Given these major structural changes, what role do political parties now play in federal and decentralized systems? Are they still capable of linking the political levels and providing for state integration?

This chapter will explore the effects of multi-level systems on political parties in six West European democracies – Austria, Belgium, Germany, Spain, Italy and the UK. The comparison shows that there has been a general tendency towards more asymmetry in party competition, albeit with varying degrees of

intensity. In response, we argue that parties are confronted with a paradoxical situation, in which there is both more asymmetry and a greater need for policy cooperation between the different territorial levels. There are three principal ways in which parties can adapt to that paradox. First, parties can hold on to their traditional ways of linking party levels; as we will see, this, however, means different things for parties with either a federal or a centralist tradition. Secondly, they can develop new forms of vertical party cooperation to provide for the accommodation of territorial interests. A third strategy would allow for the growing autonomy of substate party units, to enable them to adapt and respond to dissimilar pressures resulting from party competition at different levels. But before we examine these party responses in detail, it is necessary to provide an overview of the changes that have affected the parties–federalism nexus in recent times.

Challenges to the parties–federalism nexus

Among the major themes of party research since the 1970s has been the crisis of parties (see Daalder 2002; Webb 2002). At the *electoral level*, there has been a general increase in electoral volatility in nearly all Western democracies (Pedersen 1979; Webb 2002). Parties have suffered from declining levels of stable party alignments and a relatively pronounced degree of electoral instability, so that their popular support has become much more fragile (Bartolini and Mair 1990; Mair 1997: 28–33). Second, signs of party crisis are visible at the *organizational level*. Party membership rates have declines across OECD countries (Scarrow 2000; Mair and van Biezen 2001). At the *level of the party systems*, new parties, particularly of a regionalist, left-libertarian or populist right-authoritarian orientation, have become relevant players and changed the patterns of party competition and government formation (Kitschelt 1989). This is reflected in the development of a multi-dimensional policy space in which parties must compete on issues of territory, the environment and Europe for example, as well as on the traditional left–right dimension. It is also more indicative of a crisis of the more traditional and established parties. Finally, at the *level of the political system*, the capacity of parties to determine policy outcomes has been questioned in debates about neocorporatism and, later, the policy discretion of national governments in a context of open economic markets and supranational integration (Mair 1997: 131–136; Daalder 2002: 51–54).

In many cases, parties have responded to these multiple crises by making use of their privileged position within state institutions. The introduction and expansion of state subsidies to parties, plus access to other state resources, has compensated for declining levels of societal support. The dominance of parties in the recruitment of political elites and in the working processes of parliamentary bodies ensures parties remain important political actors. However, there is little doubt that parties have indeed lost in some of their representative functions. Fewer citizens are loyal supporters of any one party now or trust parties to articulate and realize their interests (see Mair 1997; Daalder 2002). Voters perceive

fewer differences between parties in policy terms and party elites are seen as focused on their aspirations to power. The problem is most pronounced among catch-all parties, which seek to attract support from all segments of society, but must convince voters that they have a distinct political orientation.

In federal and other multi-level systems, this development is particularly problematic for the established statewide parties. Such parties have traditionally claimed to represent citizens across the state by appealing to a common political vision, based mainly on class or religion (Lipset and Rokkan 1967). While vertical organizational linkages allowed for territorial interest aggregation, a shared political ideology provided the “glue” to transcend the heterogeneity of territorial interests and to unite the various territorial party units. As a result of vertical integration, it became possible to commit the party as a whole to specific policy goals. But with the erosion of traditional cleavages and the lack of a strong commitment to a well-defined political vision, parties’ representative capacities declined. Parties now find it more difficult to mobilize loyal support among the electorate.

Statewide parties have also faced problems in maintaining internal cohesion and discipline. This is particularly the case when patterns of state-level and substate party competition diverge. To put it simply: a substate party unit may have few incentives to support a statewide party line which is unpopular with the substate electorate if there is not a strong bond between the two party layers. This bond may be hierarchy, social solidarity, political identity (“we” feelings) or party ideology. Our argument, however, is that in many parties precisely these bonds have been eroded over the last few decades. Recent transformations in the territorial frameworks of European nation-states have added further frictions to the internal dynamics of multi-layered parties. The trend towards decentralization across nation-states in the OECD countries has increased the importance of the regional level of party competition (Hough and Jeffery 2006; Marks *et al.* 2008). This means that parties can no longer pursue one strategy for office in a single statewide political arena. Instead they must adapt and respond to several loci of decision-making at different territorial levels, which may or may not have diverse electoral and party systems. At the substate level, statewide parties must refocus their strategies for different regional contexts and address regional policies and issues. These challenges are heightened if regional branches face competition from regionalist parties, which must adopt territorial strategies to defuse the threat of secession. The accommodation of heterogeneous substate interests has thus become a more challenging task for parties.

Tendencies towards asymmetry in party competition

A framework of analysis

Political competition in multi-layered systems has an additional territorial dimension. The strategic interaction of parties in electoral and parliamentary arenas takes place not only at the statewide level, but also simultaneously in the

substate regions. In order to study linkages between the various levels of party competition, we focus on three dimensions in the footsteps of Deschouwer (2003) and Thorlakson (2006): (a) the formats of party systems in statewide and substate arenas; (b) the mechanics of party systems at both levels; and (c) the processes of government formation at both levels. In establishing the degree of symmetry (or congruence) between arenas, both a horizontal and a vertical dimension must be taken into account. In the former, the structures of party competition between the constituent units of a multi-layered system are compared; in the latter, variations between state and substate levels are examined. Multi-level dynamics will result from a configuration of both horizontal and vertical developments.

The format of party systems is determined by the number of relevant parties and their relative strength (Sartori 1976). Adapting the Sartorian numerical criterion to multi-level settings we ask whether parties have similar strength in the different electoral arenas. For a comparative analysis, the degree to which statewide parties find equal support across the jurisdictions and the level of success of territorially circumscribed non-statewide parties (NSWPs), which organize only in parts of a country, are the most crucial indicators. The stronger and the more persistent electoral asymmetries are, the more there is asymmetry in party system formats. If territorial strongholds and diasporas of individual parties are very pronounced, we will find complex and divergent patterns of multi-level competition.

The mechanics of party systems derive from the degree of ideological polarization and the spatial logic of competition (Sartori 1976). In multi-level contexts, we ask whether we find the same cleavage patterns and the same competitive dynamics at both levels and in all substate arenas. Finally, the processes of government formation can be analyzed with a view to the party composition and the frequency of specific government types, i.e. single-party cabinets, grand and small coalitions, minority and majority governments (Mair 1997). In multi-level systems, the outcomes of party competition can be characterized by congruence or asymmetry between levels and between constituent units.

Symmetry and asymmetry in party competition

In general, we find that there is a substantial amount of asymmetry in party competition across the states examined. However, while the tendency is relatively moderate in some cases, it is more strongly developed in others. Thus, we may assume that there is unequal pressure for adapting party structures and strategies to the incongruencies between territorial arenas.

Looking at our sample, variations in party competition are least pronounced in Austria. The same four relevant parties compete on both levels and in all of the *Länder*, whilst non-statewide parties are insignificant. The dominant parties at the federal level, Social Democrats (SPÖ) and Christian Democrats (ÖVP), are also the major parties at the substate level, whilst the Freedom Party (FPÖ) and Green Party are smaller parties on both levels. Moreover, the dominant

pattern of government formation at the statewide level – the Grand Coalition of SPÖ and ÖVP – is also the preferred model of government formation in the *Länder*. Though, according to “*Proporz*” rules, substate coalitions have often included the smaller parties, in particular the FPÖ (see Fallend 2005).¹

While symmetry is the basic feature of multi-level party competition in Austria, three qualifications are necessary. First, to the benefit of the FPÖ and Greens, a process of relative deconcentration of the party system has taken place at both political levels since the 1980s. With the decline in stable party alignments, growing volatility and political dissatisfaction, the electoral market has become more open. Differences between state and substate voting patterns have increased (see Müller *et al.* 2004; Abedi and Siaroff 2006). Second, although the two major parties are of equal strength federally, most *Länder* constitute a traditional stronghold for one of them, typically won by a wide margin. Despite a general erosion of party loyalties, the SPÖ remains strongest in Vienna and Burgenland, the ÖVP in the West of Austria (Vorarlberg, Tyrol) and in Lower Austria. Third, under the neopopulist leadership of Jörg Haider the FPÖ managed to become the strongest party in Carinthia and to hold a temporary second place in Vienna and Vorarlberg (see Fallend 2005). Thus, in some of the *Länder* format and mechanics of the party systems have diverged more strongly from statewide patterns. Recently, however, FPÖ internal feuding has led to a party split (the Haiderian BZÖ) and declining electoral success which reconsolidated the predominance of the two major parties.

In Germany, asymmetry in party competition has grown substantially with unification. Before 1990, the same party system format operated at both federal and *Land* level. While the parties varied in regional strength – most particularly between a conservative south and a strong Social Democratic Party (SPD) in the northern city states and in North Rhine Westphalia – the same three (then four, with the Greens in the 1980s) parties that entered the federal parliament became the only relevant players in the substate parliaments as well. Apart from the small South Schleswig Voter’s League (SSW) in Schleswig-Holstein, which is exempt from the electoral threshold, non-statewide parties lost parliamentary representation during the 1960s. The one partial exception is the Christian Social Union (CSU), competing for both federal and *Land* elections in Bavaria only. The party runs a separate party organization but is part of the statewide political camp of Christian Democracy. There is a common party caucus with the Christian Democratic Union (CDU) in the *Bundestag* and a permanent exchange of political positions among the leading politicians of both parties; however, programmatic nuances and occasional disagreement on specific policies differentiate the CDU and CSU.

Since unification, a regionalization of party competition has taken place (Sturm 1999). This is particularly pronounced for the smaller parties. The post-socialist Party of Democratic Socialism (PDS) has become a major force in the East at both federal and substate elections, capturing some 20–25 percent of the vote there. By articulating distinct East German economic interests and political values, the PDS represents a new territorial cleavage in German politics (Hough

2002). Until recently, the party was only a marginal force at elections in the West, but its amalgamation with the “Electoral Alternative for Employment and Social Justice” (WASG) to form the Left Party has enabled it to overcome its Eastern bias and exploit the political vacuum on the left (created by the SPD’s pursuit of third-way policies). At the federal level, the Left Party is a small force which is not accepted as a potential coalition partner by either SPD or CDU/CSU. In contrast, both the Free Democratic Party (FDP) and the Green Party are rather weak in the east of Germany, lacking the social milieus that support them in the west. Since 1990, party systems at the *Land* level have been further differentiated by the temporary inroads of three right-wing extremist parties (*Deutsche Volkspartei, Republikaner, Nationaldemokratische Partei Deutschlands*) in some eastern and western parliaments, and the sporadic successes of three centre-right protest groupings (*Statt Partei, Arbeit für Bremen, Partei Rechtsstaatliche Offensive*) in the northern city-states’ parliaments of Bremen and Hamburg. Therefore, even though the SPD and CDU/CSU remain the two dominant parties throughout Germany (with exceptions in the east²) and thus provide for symmetry, they face rather distinct competitive contexts in different arenas.

One of the most distinct features of regionalized party competition after 1990 is the heterogeneity of government formations in the *Länder*. After 1969, when the SPD/FDP government took federal office, either single-party governments or coalitions that matched the federal government-opposition dichotomy were formed in the *Länder*. Due to the increased distinctiveness of *Land* party systems after 1990, substate coalition-building has become both more autonomous and more heterogeneous. The incidence of *Land* coalitions allying parties that were political opponents at the federal level (incongruent coalitions) has flourished, as have alternative coalitions, which consist of federal opposition parties only. In addition to single-party governments, which are still important at the *Land* level (but unknown at the federal level), a rather flexible patchwork of Grand Coalitions, red–green and bourgeois (CDU/FDP) coalitions, cooperation between the SPD and PDS, SPD and FDP as well as rare coalitions with three partners emerged. At the moment, however, the predominance of the CDU at the *Land* level restricts heterogeneity (Sturm 1999; Detterbeck and Renzsch 2003).

Belgium is a special case, because all major parties split into separate Flemish and Francophone organizations with the decentralization of the state. As no Belgian party organizes and contests elections throughout the country, all parties are non-statewide. There are now two distinct party systems in Flanders and Wallonia, which only overlap in the Brussels constituency for federal elections and in elections for the Brussels regional parliament.³ On the other hand, all relevant Belgian parties are multi-level organizations. They are present at the federal level and in their respective substate entities and one party apparatus (party executive, conference) coordinates all party activities (De Winter 2006, 78–83). Arguably, variations in party competition are less pronounced than the separation of substate electorates would suggest. If we consider ideological party families rather than individual party organizations, we find that there is quite a good deal of symmetry at the core of the party systems across the levels and across the regional divide.

The three traditional party families – Christian Democrats, Liberals and Socialists – still dominate Belgian party politics, accumulating some 70 percent of the vote in federal elections, somewhat less in Flemish substate elections (around 65 percent) and slightly more in Wallonia (around 75 percent). The difference can be mainly attributed to the success of the *Vlaams Blok* (now *Vlaams Belang*, VB) in Flanders, which can be seen as the most salient feature of asymmetrical competition in Belgium nowadays. The extreme right is significantly more present in Flanders (VB) than in Wallonia (*Front National*). Wallonia has also been the more fruitful terrain for the Greens. The regionalist parties have faded away – somewhat later in Flanders (*Volkunie*) than in Brussels (*Front Démocratique des Francophones*) and Wallonia (*Rassemblement Wallon*). They have become victims of their own success, having achieved their constitutional goals (federal autonomy), and forcing the statewide parties to adopt regional demands that allowed them to take over the space that the regionalists once occupied (Deschouwer 2004).

As a result, the same party families now operate in the different electoral arenas. Moreover, their electoral fates are closely connected. Over the last elections, vote swings between elections have tended to affect the Flemish and Francophone sister parties in similar ways, i.e. both either gained or lost votes. Electoral timing and party strategies have had an important effect (Swenden 2002; 2005). However, differences between the two substate arenas and the two political levels remain. Traditional party strongholds for the Socialists in Wallonia and the Christian Democrats in Flanders are still important, even if their former predominant positions have become more vulnerable. Due to the strength of *Volkunie* (until its dissolution in 2001) and *Vlaams Belang*, the Flemish party system is more complex and more polarized than the Wallonian one. In terms of political cleavages, federal and substate levels diverge. The parties compete over socio-economic and other issues in both sub-electorates. However, polarization also arises at the federal level from the linguistic and regional cleavage, with all Flemish parties articulating self-defined Flemish interests and all Francophone parties claiming Francophone interests; only the two Green parties differ from this pattern (De Winter 2006: 82–83). Finally, (nearly) congruent multi-party coalitions at both levels and in both regions – made possible by similar electoral results in the simultaneous elections of 1995 and 1999 – has given way to more incongruent constellations due to the disconnection of statewide and substate elections from 2003 (Swenden 2005).

In Italy, the breakdown of the old party system in the early 1990s gave rise to a new two-bloc format of centre-left and centre-right alliances. Both are led by large statewide parties, in particular the Democrats of the Left (DS) and Forza Italia (FI), but contain a number of smaller parties as well.⁴ The same pre-electoral alliances, dominated by the same parties, can be found on the state level and in most of the substate arenas. This has allowed for a statewide interpretation of substate elections which are held simultaneously in 15 out of the 20 Italian regions. In the substate elections of 2000 and 2005, the governing coalitions in Rome suffered heavily from mid-terms effects (Loughlin and Bolgherini 2006: 149–150).

However, territorial differentiation is important for the patterns of party competition for three reasons. First, geographically defined party subcultures have a long tradition in Italian politics. In some of the regions, there is a clear structural advantage for either of the two political alliances at both statewide and substate elections. While the left is still particularly strong in the “red-belt” subcultures of the central-northern regions (Emilia-Romagna, Tuscany, Umbria), the right dominates the northern “white” (Catholic) regions. Some of the former Christian Democratic (DC) strongholds in southern Italy have been retained by the centre-right alliance, while others have become more competitive. Despite having the same statewide parties operating across the territory there is thus significant regional variation in electoral strength (Bull 1996).

Second, (to varying degrees) non-statewide parties pose challenges for statewide parties. In two substate arenas, both of them regions with special status, ethnoregionalist parties have become dominant.⁵ In other regions, NSWP like the *Partido Sardo d’Azione* in Sardinia or the *Movimento per l’Autonomia* in Sicily are relevant competitors for public offices. The *Lega Nord*, which has politicized the old North–South divide in Italy and spurred debates on federal reform, is a major party in Friuli-Venezia Giulia, Lombardy, Piedmont and Veneto. Third, although the same two broad pre-electoral alliances operate on both political levels, their intra-coalitional dynamics are quite different in the various substate units. This is mainly due to the territorial variations in electoral strength of the constituent parties in these alliances. While the major statewide parties are dominant in some regions, they are dependent on the support of smaller allies for gaining parliamentary majorities in others. In southern Italian regions successor parties to the DC, like *Udeur* (centre-left) and Union of Christian Democrats (centre-right), are of vital importance, while they are insignificant in the North. Meanwhile, in some northern regions, the support of the *Lega Nord* or the Refounded Communists is vital for government formation (Wilson 2007).

In the United Kingdom, devolution accentuated the distinctiveness of party systems in Scotland and Wales.⁶ Aided by the mixed electoral systems used for substate ballots, the devolved regions have developed multi-party systems which only partly overlap with the statewide patterns. At the state level, the historical impact of a two-party system, with each party representing opposing ideological poles, is still strong. While the electoral predominance of Labour and the Conservatives has come under pressure since the 1970s by the rise of smaller parties, in particular the Liberal Democrats, the single plurality electoral system has widely preserved the bipolar format in terms of parliamentary representation. The two major parties together still hold some 85 percent of the seats at Westminster. The non-statewide parties, the Scottish National Party and the Welsh Plaid Cymru (as well as all of the Northern Irish parties), are only minor forces at the statewide level.

In both Scotland and Wales, the Labour Party and a strong nationalist force (SNP, PC) are the major competitors, joined by two medium-sized parties (Liberal Democrats, Conservatives), a series of small parties (like the Scottish Socialist Party and the Scottish Greens) and independent candidates. Electoral

support for nationalist parties is consistently higher in substate elections than in statewide contests. On average, the SNP has scored 28 percent in Scottish elections compared to 19 percent in UK elections since 1997; for Plaid Cymru the ratio is 24:11 percent. At the level of the individual voter, surveys have found evidence for “dual voting”: a significant number of voters support statewide parties in UK elections but switch to SNP, PC or smaller non-statewide parties in substate ballots (Wyn Jones and Scully 2006).

In terms of political cleavages, the two political levels diverge in two respects. On the one hand, the territorialization of electoral behavior which has characterized UK elections since the 1980s has found new expression in the devolved context. The mechanics of the party system are strongly tilted towards the centre-left in Scotland and Wales, while the Conservatives (having their strongholds in southern England) are weak. At the state level, there is a more equal balance between left and right. On the other hand, the territorial dimension of party competition, which cuts across the class cleavage, is much more significant in the devolved regions.⁷ Looking at government formation, single-party majority executives continue to be the norm at the state level, while coalition governments and minority governments have come to office in Edinburgh and Cardiff. With devolution, a multi-party system has taken shape in Scotland and Wales, which has given nationalist parties a new arena to compete, and undermined the integrative capacities of the mainstream parties.

Finally, Spain exhibits a strong proliferation of non-statewide parties which is conducive to significant territorial variations in party competition. At the state level, the two main parties, the socialist PSOE (*Partido Socialista Obrero Español*) and the conservative PP (*Partido Popular*) are joined not only by a small leftist alternative, the IU (*Izquierda Unida*), but also by up to a dozen NSWPs from various substate entities (Autonomous Communities.) On average, some 12 percent of the votes were cast for NSWPs in statewide elections (Pallarés and Keating 2006: 107). Although they are rather small parliamentary groupings in the Spanish Congress, the support of NSWPs, in particular the Catalan CiU (*Convergència i Unió*) and ERC (*Esquerra Republicana de Catalunya*) as well as the Basque PNV, has proved vital for the PSOE and PP minority governments from 1993–2000 and after 2004. Thus, while NSWPs have encouraged the fragmentation of the party system, they have provided an important channel for representing territorial interests at the centre.

At the substate level, there are distinct party systems in some but not all of the Autonomous Communities (see Lago and Montero 2005). After the last round of substate elections, we find NSWPs in 12 out of the 17 substate parliaments. Their total vote share has amounted to around 18 percent since the 1990s. There are, however, significant differences in the relative strength of NSWPs. While they attract roughly 50 percent of the vote in Catalonia and the Basque Country, they only reach 20–30 percent in a number of other Autonomous Communities, including the Canary Islands, Navarra and Galicia, and take below 10 percent of the vote in a third group, among which we find Andalusia and Valencia.⁸ Thus, the importance of territorial demands and distinct regional identities

strongly differs between substate entities. Like in the UK, nationalist and regionalist parties fare better in substate than in statewide contests. Next to lower turnout, studies have documented the tendency of a portion of the electorate to support one of the statewide parties in general elections but to opt for a non-statewide party in autonomic elections (Pallarés and Keating 2006: 116).

To be sure, either the PSOE or PP is the strongest political force in most substate arenas; only in the Basque Country, Catalonia and the Canary Islands have NSWPs been able to collect most votes. Thus, in most elections for autonomic communities, which are held simultaneously in the year prior to the next statewide elections, the electorate have tended to support the incumbent government party in Madrid (Lago and Montero 2005; Pallarés and Keating 2006). Here at the state level, we find single-party governments of the PSOE and PP only, even if majority status has not been achieved. This type of government also prevails in the Autonomous Communities. Between 1983 and 2005, two-thirds of all substate governments were led by one party (with or without legislative majority). However, coalition governments have been of growing importance (Ştefuriuc 2005; Pallarés and Keating 2006: 109–110). After the 2007 substate elections, more substates were governed by coalitions than by single-party executives. In most cases, one of the statewide parties allies with a NSWP, which contributes further to the strong asymmetry in patterns of competition in Spain.

Comparing party strategies of adaptation

In response to increasing asymmetry, parties are confronted with a paradoxical situation: in order to maintain their integrative functions, there is a need for policy cooperation in the face of asymmetry. There are three principal ways in which parties have adapted to this paradox. Parties may either: first, maintain traditional mechanisms of vertical linkages in either a federal or a centrist mode; second, they can develop new forms of vertical party cooperation to provide for the accommodation of territorial interests; or third, they can give autonomy to substate units. We have termed these strategies *traditionalist (federalist or centrist)*, *modernist* and *autonomist*.

Following the work of Deschouwer (2006) and Swenden (2009a), we posit that party strategies are determined by the interaction of two dimensions: the strength of joint decision-making structures within party organizations, and the degree of organizational and programmatic autonomy allocated to substate branches. Indicators of joint decision-making are formal and informal linkages between state and substate units that determine “shared rule” within parties, including regular meetings between leaders, joint committees, mechanisms for regional input into statewide decision-making and the inclusion of regional officials in the state executive. Indicators of substate autonomy are regional control over candidate and leadership selection, policy programmes, manifestos, campaign strategies, coalition-building and finance. The combination of strong or weak joint decision-making, and high or low autonomy, creates four different types of strategy, which are captured in Table 7.1.

Table 7.1 Typology of party strategies

	<i>Strong joint decision-making</i>	<i>Weak joint decision-making</i>
Low autonomy for substate branches	Federalist	Centrist
High autonomy for substate branches	Modernist	Autonomist

- 1 A federalist strategy is characterized by the federalization of party structures, uniformity in policy programs and electoral campaigns, shared control over finance and candidate selection and strong joint decision-making structures within parties, which ensures high levels of regional-statewide party cooperation and shared rule.
- 2 A modernist strategy is typified by strong intra- and inter-party coordination and joint decision-making procedures, flexibility but harmonization in policy programs and high regional control of party finance and candidate selection.
- 3 An autonomist strategy is characterized by the decentralization of all party functions relating to policy and organization, loose vertical links, and low regional input into statewide party decision-making.
- 4 Finally, weak joint decision-making structures, high statewide control of the regional party decision-making, and low regional substate branch autonomy is typical of a centrist strategy. In this scenario, the regional branch of the party neither has strong input into statewide decision-making processes, nor is structured strongly at the regional level.

Centrist strategy

Some parties, when confronted with multi-level governance, have refused to let it interfere with how they organize, elect representatives or develop policy. In Spain and Italy, the main centre-right parties – including the *Partido Popular* (PP), *Alleanza Nazionale* (AN) and *Forza Italia* (FI) – each have highly centralized party structures, with a strong leadership role for the president. For instance, the state leadership of FI and AN each appoints regional coordinators, who are then responsible for appointing regional executive members (Hopkin and Paolucci 2003); similarly, PP regional presidents are proposed and ratified by the National Executive Committee. With regard to candidate selection, the state leadership in each of the parties is responsible for either drawing-up or approving lists for all elections, and may even veto the preferred choice of the majority of the party. These party organizations represent top-down pyramid-type structures, whereby regional branches have little influence over party decision-making (Wilson 2007). The internal organization of regional party units is decreed by statewide party statutes, and they are obliged to comply with the decisions of the state party leadership.

As regional branches have few mechanisms to influence party decision-making, the policy programmes of parties pursuing traditionalist strategies are oriented towards statewide issues. Regional units tend to follow the guidelines set out by the state leadership on policy programs and campaign strategies (Loughlin and Bolgherini 2006). However, depending on constitutional status (the special regions of Italy and the historical communities of Spain) and internal power balances there does appear to be room for regional variation, with the AN and FI as well as the PP enabling regional branches to cater to local identities, and the PP collaborating with the right-wing *Union del Pueblo Navarro* (UPN) in Navarra, and with the *Partido Aragonés*, *Unió Valenciana* and *Unidad Alavesa* elsewhere (Pallarés and Keating 2006). But despite the variation in electoral strategies in different regions, there is no *uniform* or *formal* organizational autonomy for substate units within centrist parties.

The two largest parties in Britain – Labour and the Conservatives – each had a centralized party structure with strong internal coordination mechanisms until devolution in 1998. The Scottish and Welsh Councils of the Labour Party had traditionally constituted administrative branches of the British Labour Party, enjoying little more autonomy than, for example, the East Midlands branch. Labour was forced to reconsider its centralist strategy due to the North–South polarization of party support and the need to combat political nationalism in Wales and Scotland. There were tensions emanating from its Scottish and Welsh “regional councils” for more programmatic and organizational autonomy, which was granted in the mid-1990s, at which point the party moved to an “autonomist strategy” (see below). The Conservative Party was also highly centralized until the late 1990s, owing to former UK party leader Margaret Thatcher’s efforts to bring the Scottish branch into line as a “regional unit” by assuming control over its personnel, finance and political office. The party was, under Thatcher’s rule, perceived to be assimilationist, whereby ultimate authority was exercised by the British leadership (Mitchell 1990). Yet, the Conservative party in Scotland and Wales also harboured some elements that desired greater autonomy in order to overturn the dominant role of England in party deliberations (Bradbury 2006), contributing to the party’s adoption of an autonomist strategy in Scotland and Wales.

Federalist strategy

Parties pursuing a federalist strategy have continued to strive for internal cohesion and aggregation in the face of asymmetrical party competition. This is achieved through the maintenance of strong pre-existing vertical linkages and a rather uniform party organization, which offers regional units little room to diverge from commonly agreed strategies and policies.

In Germany, the Social Democrats (SPD) and Christian Democratic Union (CDU) became more federalized in the 1960s (Gabriel 1989; Poguntke 1994). *Land* organizations were given more internal decision-making powers and gained more equal representation in the federal party. While the *Land* branches

possessed substantial autonomy rights, for example in choosing coalition partners at the substate level, most of the time they preferred to seek uniform solutions across the country (see Detterbeck and Jeffery 2008). The German parties sought to uphold a high degree of internal cohesion, with the regional party leaders being subsumed into the federal party national executives. For instance, all CDU *Land* prime ministers are, if not elected directly by the party conference, *ex officio* members of the federal leadership bodies. In addition, all regional party presidents and the leaders of the affiliated organizations are *ex officio* members of the party executive. While shared rule is less institutionalized in the SPD, its *Land* parties are also important power brokers in the federal party. These linkages have provided a source of continuity and integration, as has vertical intra-party coordination in the German *Bundesrat*. However, since 1990 there has been evidence of a stronger role for the *Land* party branches in terms of their programmatic and organizational autonomy, and their discretion over coalition partners. As such, the SPD and CDU both moved to a modernist strategy in the post-unification period (see below).

Austria's main parties – the Social Democrats (SPÖ) and People's Party (ÖVP) – also became more federalized during the 1960s. But whilst both parties managed to uphold a high degree of internal cohesion, with the substate party units being involved in and supportive of the federal single-party governments in the 1970s, *Land* organizations were also granted more political freedom in regulating their own regional affairs and they were placed on a more equal footing within the federal party (Dachs 2003: 81–84). Shared rule is largely organized around regional party elites who combine party offices at both levels and/or public offices at the *Land* level. More recently, similar to Germany, the Austrian parties have, however, experienced stronger tensions between party levels. While SPÖ and ÖVP have maintained high levels of vertical integration, the autonomy of *Land* branches has grown (see below).

Modernist strategy

In pursuing a modernist strategy, parties continue to emphasize the importance of vertical integration, but they also allow for a degree of flexibility of substate units, thereby creating new forms of coordination. The three traditional party families in Belgium (Christian Democrats, Socialists and Liberals) were, prior to the federalization of Belgium, the prototypes of a modernist strategy. The linguistic wings or regional branches had a high degree of autonomy, but there also existed strong joint decision-making structures at the statewide level. The substate units dealt with all the matters concerning their own part of the country but came together in (balanced) national party bodies to agree on statewide issues (see Deschouwer 1994: 84–93). As the parties split up between 1968 and 1978, these old coordination mechanisms basically broke down.

Since German unification in 1990, the CDU and SPD have witnessed an increasing amount of autonomy for *Land* branches in their policies, election campaigns and coalitions. Vertical and horizontal intra-party tensions (that is,

between the party levels or between different *Land* parties) has also become more widespread with regard to strategies and policy positions. In election campaigns, there are a number of incidences of *Land* parties seeking distance from their colleagues at the federal level (see Detterbeck and Renzsch 2003). Yet, with respect to formal linkages, there have been few changes to the formal multi-layered organizational structures of the German parties. Vertical integration has remained relatively high, achieved through the *Land* representatives' strong inclusion in the federal executive of parties. The parties have also maintained strong informal mechanisms of vertical intra-party coordination in organizing *Bundesrat* decision-making processes (Renzsch 1998; Leonardy 2004). Therefore, shared rule is still a typical feature of the German parties. The *Land* branches, however, are now much more willing to make more use of their autonomy rights than prior to unification (see Detterbeck and Jeffery 2008).

In Austria, conflict between the federal party and the regional units in both the SPÖ and ÖVP has grown in recent years. The *Land* parties, facing fiscal crises and a more volatile environment, became more willing to distance themselves from the federal party in election campaigns and policy debates (Müller 1994). There were several instances where *Land* parties allied to call for a stronger representation of their specific interests within the federal party (Dachs 2003: 87–90), or became more critical of the policies of the federal party in government (Müller *et al.* 2004; Abedi and Siaroff 2006). While the Austrian parties maintained the close interconnectedness of federal and substate party units in formal structures, their informal practices have changed to a more modernist mode.

Autonomist strategy

Parties adopting an autonomist strategy allow for the growing autonomy of substate party units, and a greater relinquishment of vertical coordination. In parties that put a high premium on self-rule for the constituent parts, while having only weak mechanisms of shared rule, the distinction between a strongly decentralized yet unified party on the one hand, and a party family which consists of separate but related party organizations on the other hand, may actually become blurred. An autonomist strategy is designed to allow the different units to adapt and respond more effectively to dissimilar pressures resulting from party competition at different levels, and to reduce the impetus towards factionalism by accommodating substate demands.

Of all the statewide parties in Italy, the Democrats of the Left (DS) have endowed the regional level with the highest degree of autonomy. The party adopted a federal constitution in 2005, to reflect the constitutional changes to the Italian state. The resultant regional “unions” assumed control over internal decision-making, candidate selection, campaign strategies, policy programs, coalitions and overall responsibility for sub-regional levels of the party. The only threat to their autonomy was the possibility of federal intervention in the case that the branch causes serious damage to the federal party – though this must be

approved by two-thirds of National Directorate members (Wilson 2007: 12). In terms of vertical coordination, the DS maintains formal statutory ties in that regional unions are obliged to develop “pacts” with the statewide party. Regional branches, however, are only weakly involved in the national executive and they exercise marginal influence over state decision-making, including selection of party leaders (Gianetti and Mule 2006).

Similarly, the PSOE in Spain transformed itself from a centralized party to a “federal” party in the 1990s. Regional units of the PSOE, called “federations”, have had considerable organizational autonomy. They are responsible for their own internal organization, decision-making structures and institutional resources; manifestos, policy and campaign strategies; post-electoral coalitions; and control over candidate selection for regional elections. The PSOE also has “pacts of federation” with the Catalan Socialist Party (PSC) and the PSE in the Basque Country, which gives the Spanish socialist movement a more territorial focus. With regard to vertical integration, the PSOE is structured to enable regional units to influence statewide policy, but precludes the statewide party from requiring regions to “toe the national line”. For instance, regional federations have the ability to influence statewide decision-making through the “Territorial Council”, an advisory body that comprises the Secretary-General and the regional party leaders. The most powerful regional party leaders also sit on the Federal Executive Commission (Wilson 2007).

In the UK, all of the statewide parties (or sections of them) moved to an autonomist strategy following devolution. Previously, both the Scottish and Welsh branches had their own headquarters, executives and annual conferences, but they had little real decision-making power. Party policy, personnel functions, candidate selection rules and campaign strategies were decided by the British leadership and regional “general secretaries” were directly responsible to the national executive. Even though there was little interference in the day-to-day running of the Scottish and Welsh parties, there was considerable formal centralization. In the early years of devolution, Labour transferred a number of powers to the Scottish and Welsh branches, including leadership and candidate selection, control over campaign strategy in devolved elections; and control over policy-making procedures and programs at the devolved level (Bradbury 2006). This enabled both parties to pursue policies distinct from the British Party. Regional branches were also allowed to display their different policy orientation in devolved elections, so long as they endorsed the statewide party at statewide elections. Yet whilst Scottish Labour was happy to endorse the discourse of “New” British Labour, in Wales this was resisted. The party rebranded itself “Welsh Labour” in 2000 to contrast with New Labour, and reasserted their commitment to Welsh “Old Labour” values.

Following a poor electoral performance in Wales and Scotland owing to its anti-devolutionist stance in the general election of 1997, the British Conservative Party underwent a radical reorganization after devolution. However, the form this took differed in Wales and Scotland. The Scottish branch of the Conservative Party held an internal review about how to respond organizationally to the

devolved legislature, and how to win back electoral support. The outcome was a decision to transform the branch into a more “Scottish” party and give it constitutional autonomy within a confederal British Conservative party. This gave it control over procedures for candidate selection, campaign strategies and policy programmes. In terms of vertical coordination, the Scottish party is still tied to the British party in statewide elections and the Scottish party chairman is appointed centrally. Yet there have also been calls within the party to obtain the organizational autonomy that the pre-1965 Scottish Unionist Party once had, and to adopt a relationship with the English Conservatives similar to that of the Bavarian Christian Social Union with the CDU. Meanwhile, the Welsh branch of the Conservative Party sought no such confederal relationship with the British party. The Welsh party is less autonomist than the Scottish branch, and the statewide organization is highly involved in the policy, campaigns and candidate selection of the regional branch. Yet there is also weak joint decision-making within the party with only a few regional officials on the state executive, whilst the British leadership allowed the Welsh branch room for maneuver, allowing us to classify the party strategy in Wales as autonomist (Bradbury 2006: 142).

Following the federalization of Belgium since 1970, and due to in-fighting and the competitive pressures of the regionalist parties, the established parties opted for a radical solution by splitting their organizations along the linguistic-regional cleavage. Each regionally based party in Flanders and Wallonia now has distinct party statutes and leadership bodies, political programs and policy positions, electoral strategies and fortunes (De Winter 2006: 76), reflecting a high degree of autonomy. There are only weak joint decision-making procedures between the Flemish and Francophone parties. Although a degree of inter-party coordination is achieved vis-à-vis the joint federal executive and joint parliamentary group meetings in the case of the Green party family, and frequent coordination among the party leaders and policy officers in the Flemish and Walloon Christian Democrats, Socialists, Liberals and Greens (De Winter 2006: 83–85), this has become less regular and maintained over time. And whilst, whenever possible, congruent coalitions have been built at the federal and the substate level (Swenden 2005), there is no representation of the members of one party of a party family in the executive of the other party. There is therefore little integration between the party executives of the Francophone and Flemish parties.⁹

Finally, the CSU, which was founded in 1945, was part of a long tradition of Bavarian regionalist parties. However, it did not seek to restrict its activist demands to the regional political arena. Instead, it negotiated an agreement with the Christian Democratic Union in the years 1947–1949, whereby the CSU was able to participate in federal politics as part of the Christian Democratic parliamentary group and fill Cabinet posts in CDU-CSU governments, whilst at the same time maintaining its full autonomy. This autonomy was manifested through separate party programmes and congresses, organizational and membership structures, and the existence of a CSU *Landesgruppe* in the *Bundestag*. Both parties agreed not to contest elections outside of their territories (Bavaria for the

CSU and the rest of Germany for the CDU) and the CSU became known as the *Schwesterpartei* (sister-party) to the CDU. As a result of this agreement, the CSU developed an institutional and political *Doppelrolle* (dual role), as an autonomous *Land* party with special federal characteristics (Mintzel 1990: 92).

Mapping party strategies

The preceding discussion has shown that the four “categories” of party strategies are not fixed or immutable. On the contrary, there is a great deal of flexibility and movement in party responses to multi-level political change. We have seen that the centre-left Italian and Spanish parties, and all the UK parties, moved from a centrist to an autonomist strategy following the decentralization of state structures in the 1990s; the Austrian and German statewide parties moved from a traditionalist to a modernist strategy in the 1990s, by strengthening regional branch autonomy; the Belgian parties moved from a modernist to an autonomist strategy, by loosening mechanisms of joint decision-making; and the Italian and Spanish centre-right remained committed to centralization and top-down control of regional branches following state reforms in their respective countries. It is clear, then, that not all statewide parties have adopted the same strategy, even though they are faced with similar challenges. It also means that parties may sometimes stand somewhere in between these four strategies. In order to capture the complexities of party responses to federal and multi-level politics, and to account for the movement of parties from one strategy to another, we envision the four ideal types of party strategy as being located along a continuum, which is shown in Figure 7.1.

At one end of the spectrum, parties pursuing a centrist strategy have sought to maintain top-down control over regional branches and to grant them little influence over party decision-making. Parties typifying this strategy include the centre-right parties in Italy and Spain (PP, AN and FI). At the other end, parties pursuing an autonomist strategy grant regional branches full control over their internal

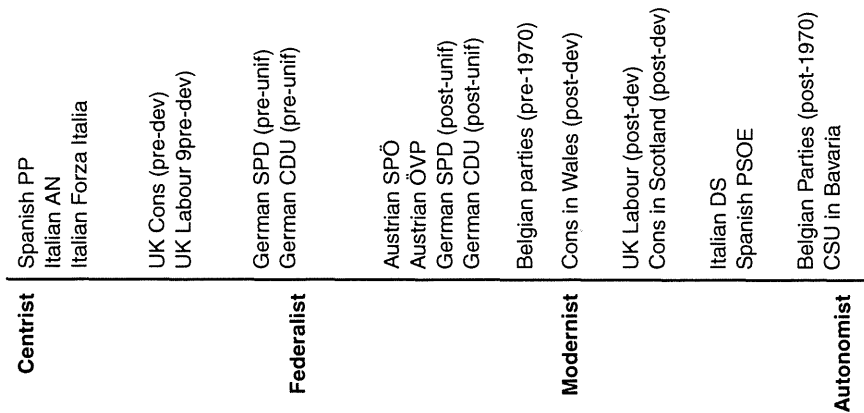


Figure 7.1 Continuum of Party Strategies.

decision-making or actually organize as separate parties. The Spanish and Italian centre-left parties occupy this space, along with the UK Labour and Conservative Parties (in Scotland), the Belgian parties and the Bavarian CSU. Lying between the centrist and autonomist strategy, the federalist strategy combines low regional autonomy with strong joint decision-making mechanisms, while the modernist strategy combines elements of the federalist strategy (strong joint decision-making) with elements of the autonomist strategy (regional autonomy). Party change in strategy is evidenced by the German CDU and SPD (which moved along the spectrum in the post-unification period) and the UK parties (which moved a greater distance from a centrist to a largely autonomist strategy following the devolution settlement). The continuum shows that strategies are not static and it is anticipated that further changes may take place in all parties.

Conclusion: adapting to a paradox

Parties have developed a range of responses to the asymmetrical nature of party competition. Strategies have varied across countries, as well as across parties themselves. Yet some general trends have emerged. In Austria, Germany and Belgium parties *within the same system* have pursued relatively similar strategies (moving from federalist to modernist, or modernist to autonomist strategies), whilst those competing within Spain, Italy and the UK have tended to pursue more differentiated strategies, even within party organizations. Furthermore, within Spain, Italy and the UK, centre-left parties are more likely to adopt autonomist strategies, whilst centre-right parties have tended towards centrist strategies.

One explanation for this trend is that the type of strategy adopted by the party in question has correlated with their current constitutional aims. Thus, the devolution-supporting Labour Party has a devolved party structure; the pro-regionalization PSOE in Spain has a regionalized party structure; the PP was vigorously opposed to granting the regions, and its branches, more autonomous powers; and the FI in Italy remains centralized in accordance with its own constitutional preference for Italy. This correspondence between constitutional aims and party organization may in part explain why parties in Austria and Germany have adopted similar strategies across the party system: both are well-established federal states where the constitutional future of the state in question is less contested than in Spain, the UK and Italy.

Second, there is evidence of variation in strategies *within* statewide parties. This is most evident in the UK. The Conservative Party in Wales has less autonomy than the party in Scotland, though both may be classified as “autonomist” strategies; in Spain the PSOE has allowed the development of an affiliated Catalan party with maximum autonomy – the PSC; in Italy FI has allowed the creation of a more autonomous units in “special regions”; and in Germany, the Christian Social Union has developed as an independent party from the CDU. The explanation, in each case, is that the party has responded to the particular regional setting, largely in response to the relative strength of a territorial identity, or the existence of regionalist parties.

Third, these findings have shown that, despite the fact that there are centralizing and decentralizing traditions in all of the main party traditions, in decentralized systems the left are more likely to adopt autonomist strategies (as has been the case for the Labour Party in the UK, the Democrats of the Left in Italy, and the PSOE and United Left in Spain), whilst the right have tended towards centrist strategies (including here the *Partido Popular* in Spain, and *Forza Italia* and the National Alliance in Italy). However, in the federal systems of Austria and Germany the pattern is rather different: the autonomist strategy is generally eschewed, except for the unique case of Bavaria, in which the CSU operates as a regionalist party. This may be explained by the federal context in both countries, where most policy areas are legislated at the national level. Regions and regional party units are thus strongly interested in having a voice in federal politics. The major parties have sought to maintain high levels of vertical integration through various intra-party mechanisms to accommodate increasing internal territorial heterogeneity. The Belgian case is different. Parties have followed an autonomist strategy by splitting into separate territorial party organizations with limited inter-party coordination among Flemish and Francophone sister parties. However, party families have sought to maintain congruent coalition patterns between political levels and substate entities in order to make a complex federal system work.

This chapter has argued that political parties in West European democracies, once instruments of national integration and coordinated policy-making, are now faced with the challenge of denationalization. Parties in Germany, Austria, Belgium, the UK, Spain and Italy have responded differently to these challenges. Whilst some have sought to reflect new divisions of powers and authority within the state in their own organizational structure, others have held on to the belief that a united party will underpin a unified state. In the more contested constitutional political arenas of Spain, Italy and the UK, it is a desire to maintain the territorial integrity of the state from threats of secession that has motivated the strategies of statewide parties. But whilst parties on the left generally believe that granting autonomy to regional subunits is the best method for warding off the threat of independence from regionalist parties, those on the right believe such a move would lead to the break-up of the party, the dissolution of the party system and perhaps the collapse of the state. This reveals that protracted debates on the constitutional future of the state are, on a micro-level, also evident within the parties themselves: parties are struggling as much with the implications of state structural change resulting from multi-level governance in their internal organization, as they are externally in their responses to new divisions of state powers.

Notes

- 1 *Proporz* government, the proportional allocation of cabinet positions to all parties above a specific threshold, is constitutionally prescribed in five (until 1998, in seven) of the nine Austrian *Länder* (Fallend 2005).
- 2 In Saxony and Thuringia, the PDS/Left Party is far ahead of the SPD and CDU.

- 3 In the German-speaking community, most parties are aligned to their respective Walloonian mother parties. However, there is also a regionalist party, the PJU-PDB, which is represented in the community council (Förster *et al.* 2004).
- 4 In October 2007, the constituent parties of Romano Prodi's Union coalition (including the Democrats of the Left and the Margherita amongst others) amalgamated to form the Democratic Party. At the time of writing, the DP has not yet contested any elections in Italy and because its impact is too early to gauge, we have excluded it from our analysis.
- 5 The *Südtiroler Volkspartei* holds an absolute majority in the province of Bolzano, which forms part of the bilingual region of Trentino-Alto Adige. In the bilingual region of Valle d'Aosta, the *Union Valdotaïne* is the largest party.
- 6 We do not consider the case of Northern Ireland where statewide parties do not compete.
- 7 This is particularly pronounced in Scotland, where devolution is supported by Labour and Conservatives, independence is advocated by the SNP and several smaller parties, while federalism in the UK is the programmatic goal of the Liberal Democrats.
- 8 Based on average results of the last three substate elections.
- 9 In the Belgian parties, as well as in the Bavarian CSU, we look at the statewide party family and ask whether there is shared rule between the separate party organizations in terms of electoral and parliamentary strategies and policies.

8 Toward a resolution of the paradox of federalism

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Introduction

The study of federalism is enjoying something of a resurgence in the field of political science. At the center of this resurgence is the question of whether it is possible to design federal institutions that are stable over time (Filippov *et al.* 2004). This question is central to the ongoing debate over federalism in contexts as diverse as Iraq, Afghanistan, the European Union, Great Britain, Belgium, Spain, and Canada, to mention just a few. Perhaps the most basic challenge to federal stability is the threat of secession. But the prospect of designing stable federal institutions is complicated by “the paradox of federalism” – the contradictory finding that federalism seems to be able to reduce or prevent secessionism, but also that it has been found to be a contributor to secession and secessionist mobilization (Erk and Anderson 2009). There have been attempts to resolve this paradox, but there have been none that attempt to do so through an examination of variations in federal origins and federal institutional structures. There are significant variations between federal systems, and these variations are likely to play a role in whether federal institutions are secession-inducing or secession-preventing. That institutional variation has not been explored to resolve the paradox of federalism is particularly surprising given the recent attention paid to institutional influences on policy and political outcomes. In this chapter, I suggest that contradictory conclusions regarding the link between federalism and secessionism are a reflection of variations in federal institutions and origins. The implication, then, is that there is no paradox of federalism. The apparent paradox might simply be a reflection of the fact that there are different institutional configurations that lead to different policy and political outcomes.

This chapter is organized in the following fashion. First, I examine the conventional determinants of secession. I discuss the design of states and variations of federalism, in particular. I then explore the link between federalism and secession, identifying the paradoxical conclusions that have been drawn. I examine the existing efforts to resolve this paradox and offer my own conclusions regarding the link between federalism and secession and its implications for conflict prevention, reduction, and resolution.

Secession

Secession – breaking apart an existing state along ethnic, administrative, geographic, or other lines (Bartkus 1999) – continues to be a significant source of intra- and inter-state conflict and instability (Ghai 2000; Gurr 2000). Calls for secession (that is, secessionism), successful or not, threaten state and regional stability. Despite the dangers posed by secessionist pressures, our understanding of the forces that contribute to and shape secessionist politics is woefully inadequate.

I should add here that the dependent variable of this analysis is secessionism, not secession. I explore the factors that contribute to and shape secessionist movements. I limit my analysis to the movement or the pursuit and not the event for two reasons: First, there are too few cases of secession with which to engage in meaningful comparison. Macedonia is perhaps the only clear-cut case in the past couple of years. It is too early to tell whether Kosovo constitutes a clear-cut case. Second, while the determinants of secessionism seem to reside largely, but certainly not only, in the domestic context, whether “a secessionist movement will achieve its aims ... is determined largely by international politics, by the balance of interests and forces beyond the state” (Horowitz 1985: 230 quoted in Saideman *et al.* 2005: 612). Thus, the most complete understanding of secession requires an exploration of forces within the international setting. International structures, like the EU, and international norms, like the maintenance of territorial integrity of states, can place limits on the likelihood and appeal of secession. At the same time, promises of recognition from major powers will certainly play a role in whether the risk is acceptable.

The existing framework for analyzing secessionism focuses on cultural, economic, and political grievance as the primary motivator behind secessionism (Horowitz 1985; see also Bookman 1992; Hechter 1992; Dion 1996; Wood 1981). Secessionism, from this view, arises from some retrospective or prospective complaint about the existing political union. Grievance, however, is common; secessionism is comparatively rare. Furthermore, secessionism is not an automatic reaction to grievance. In fact, the presence of grievance says very little about the shape of policies that are designed to accomplish grievance remediation. While grievance might be a necessary condition of secessionist mobilization, it is not a sufficient condition. Something else must account for a decision to pursue secession – especially considering that other strategies (pressure group politics, electoral politics, or even civil war, for example) are virtually always available to aggrieved groups, and many of these strategies have lower costs than secession. Put otherwise, grievance says very little about the propensity to pursue secession or the shape of secessionist mobilization (see Collier and Hoeffler 2004 for an exploration of the inadequacy of grievance in explaining civil war).

The conventional analysis, then, misses a great deal with respect to the study of secessionism. First, it is grievance-oriented. Second, the selection of cases in the literature on secession is limited by geography and time, focusing almost

exclusively on recent movements in the developing world and the states and client-states of the former Soviet Union (e.g. Emizet and Hesli 1995; Hale 2000). Third, there is no analysis that focuses on precisely how secession makes it on the political agenda – this is especially critical given the high costs associated with secession and the variety of usual methods to deal with grievance – and how mobilization for secession is shaped in terms of justifying secession and specifying a secession process. In other words, critical questions – how does secession make it onto the agenda? how is secession justified? how is secession pursued? – have not been answered or even asked. But they are critical in understanding – let alone resolving! – the paradox of federalism. For example, in some contexts, the pursuit of secession is justified through a reference to compact theory and states' rights. Compact theory includes the idea that the federation is a bargain freely entered into by the constituent units of the federal state. In others, secession is justified via a reference to the right to national self-determination. In some contexts, both justifications are used simultaneously (Meadwell 1999). The mechanics of achieving secession (i.e. how, specifically, secession is pursued) vary as well. In some contexts, secession is pursued through a regional referendum; in others, it is pursued through representative structures in the center or through parallel institutions of regional governments; in others, with no regional government, secession is pursued through non-governmental organizations. There is, in other words, significant variation in how secession is pursued. This variation in justification and process, I argue, can be explained by differences in federal institutions and interpretations of origins and by changes in institutions and interpretations over time. Finally, the conventional analysis fails to identify and explain the link that exists between institutional setting and grievance development. This chapter shows the extent to which grievance development is deeply embedded in institutional setting.

In the conventional analysis, secession and secessionism have been left unexplained. It is not surprising, then, that the conventional analysis has not adequately resolved the paradox of federalism. The inadequate understanding of the factors contributing to secession make it impossible to specify the conditions in which federalism will be secession-inducing and the conditions in which federalism will be secession-preventing. This is unfortunate from a stand-point of advancing knowledge – but it is especially problematic for the prospects of finding effective conflict reduction mechanisms. If peace-makers and decision-makers hope to develop institutional mechanisms that reduce or eliminate secessionist conflict, a more complete understanding of secessionism than the existing literature has offered is needed, and the paradox of federalism needs to be resolved.

Institutionalism, institutions, and federalism

In the now not-so-new-institutionalism, political scientists have explored the role institutional features of the state play in shaping policy (Bell 2002; Hall 1986, 1992; Hall and Taylor 1996; Kato 1996; March and Olson 1984; Steinmo *et al.*

1992; Thelen 1999). This research has been helpful in accounting for the shape of social and economic policy. An institutional analysis might not be the conventional means by which secessionism is explored, but the institutionalist framework is appropriate for an analysis that specifies the origins and shape of secessionism, which is typically pursued through the same institutions that determine social and economic policy. Even grievance, which is central to the push to alter the status quo and which plays such a central role in the conventional account of the causes of secession, appears to have institutional origins.

I offer an expansive, but far from unlimited, definition of institutions. They are widely known and accepted norms, rules, and standard operating procedures that are associated with essential features of the state (Hall 1986). Federalism – its origins, the meaning attached to its origins, its constituent attributes, its structures – is an institution (see, however, King 1982 for a distinction between federalism and federation). Institutions are also ideas or cognitive frames and discursive structures that provide a web of meaning that fills in the gaps between the formal and material institutional structures and policy outcomes (see, for example, Hall 1993; Campbell 1998, 2002; and Béland 2005). Exploring institutions as ideas has already helped to advance the study of trade policy (Goldstein 1993), international relations (Goldstein and Keohane 1993), and international political economy (Campbell 1998). Institutions – both material and ideational – establish real and measurable parameters that determine the viability, availability, and path of political alternatives. This includes claims relating to the presence and character of dissatisfaction with the status quo, the likelihood of secession making it on the political agenda or the opportunity for secession, how secession is justified, and the mechanics proposed to accomplish secession. Understanding the forces that contribute to secession must include a thorough examination of the institutional setting – both material and ideational – in which grievances related to culture, politics, and economics are situated.

In defining federalism, I refer to William Riker (1964: 11; see also Elazar 1987), who established the following essential features:

- (1) two levels of government rule the same land and people, (2) each level has at least one area of action in which it is autonomous, and (3) there is some guarantee ... of the autonomy of each government in its own sphere.

In a federal state, political authority at the regional level is often exercised through a regional legislature, a regional executive, and a regional judicial system. While useful, this basic definition fails to take into account the diversity within federal institutional structures, institutional origins, and the meaning attached to them (Stepan 1999 and 2001; see also Beck *et al.* 2001; Elazar 1994; Griffiths and Nerenberg 2002; Watts 1999). These diverse origins, institutions, and meanings contain a variable set of incentives in dealing with dissatisfaction with the status quo. In some cases, the institutions of federalism point in the direction of secessionism. In others, they do not. In still others – here, the paradox becomes even more problematic – the same feature of federalism points

in both directions for differently situated groups within the same state (see, for example, Martínez-Herrera this volume). Thus, for example, the origins of the break-up of the Soviet Union and Yugoslavia are certainly found in the federal institutions in place in those contexts. Other federations have enjoyed long-term stability – thanks, at least in part, to federal institutions in place: the United States, Germany, Switzerland, and Australia have all survived and thrived. In Canada, however, federalism seems to have both contributed to the development of secessionism (in Québec and elsewhere) but, because of the accommodative nature of Canadian federalism, there is a strong federalist strand in the nationalist movement in Québec.

While there are likely as many federalisms as there are federations, I point out a handful of the most salient – and relevant – differences between federations. In a general sense, a federation can be symmetrical or asymmetrical; it can be more centralized or more decentralized. Furthermore, federal origins vary: a federation can be coming-together or holding-together (Stepan 1999), which means, in effect, that a polity either is born federal from a bargain among previously independent political units (a coming-together federation) or becomes federal through a process of bargaining in a pre-existing unitary state (a holding-together federation). The United States was born federal. Belgium has become federal. Great Britain is becoming federal. Federations vary according to a set of ideas that serve as interpretive guides to make sense of those origins. For example, compact theory – the idea that a political union exists thanks to a bargain between sovereign or formerly sovereign political entities – is one of these central ideas. Each variation in federation can play a role in making secession more likely or less likely. Complicating matters considerably, each variation might prevent the development of secessionism within one group in a state while increasing the possibility of it in another group. Moreover, the conditions that prevailed at a federation's birth are not likely to be in place at a later stage, and this has implications for the development of secessionism (see, for example, Chen and Ordeshook 1994). This means that the propensity to secede will not only vary according to differences in institutional design, but they will also vary over time as institutions – and their meanings – are transformed.

The paradox of federalism

The institutional environment of the state is critical to understanding secessionism. There is a great deal of research on the manner in which federal institutions influence secessionism, but this research has generated conflicting results (Hechter and Okamoto 2001). For some, federalism is a panacea to territorially based conflict, resolving conflict, acknowledging diversity, and maintaining the territorial integrity of existing states; for others, it is nothing more than a pit stop on the way to full independence, a set of institutions that whets the independence-appetite of those who are dissatisfied with the status quo. This is the paradox: federalism has features that make it both secession-inducing and secession-calming.

Federalism is often recommended as an institutional arrangement that can manage diversity, prevent secessionism and other conflicts from developing, and resolve conflict that has developed, all while maintaining the territorial integrity of the existing state (Amoretti and Bermeo 2004; Bermeo 2002; Ghai 2000; Gurr 2000; Horowitz 1985). It accomplishes this by providing institutions through which groups that are or might be in conflict with the central state can exercise autonomy. Often, it is the pursuit of autonomy that is at the base of movements for independence. Federalism, then, is seen as a cure-all for this form of intra-state strife.

Given the enthusiasm some have for the palliative impact of federalism, it is ironic that providing autonomous institutions to groups that are or might be in conflict with the center might actually increase the chances of secessionism (Bunce 1999; Cornell 2002; Dorff 1994; Gorenburg 2003; Leff 1999; Roeder 1991; Treisman 1997). The very same institutions that appear to be able to calm secessionism, reduce or eliminate the possibility of conflict, and manage diversity might actually work in the opposite intended direction. These institutions might freeze identities that are meant to be fluid, provide incentives to mobilize in favor of separation, and, most alarmingly, provide institutions that can be used to overcome the collective action problem and accomplish secession. These institutions hold over into independence, thereby reducing the fairly significant costs of secession. Federalism, then, might actually promote secessionism rather than resolve it.

Resolving the paradox of federalism: existing views

There is a conventional literature that identifies the existence of the paradox and tries to resolve it, but none of these efforts explore the design or origins of the federation as a factor in whether federalism is secession-inducing or secession-preventing.

Henry Hale focused on demographic features of ethnofederal states, arguing that states with core regions (defined as a “single ethnic federal region that enjoys dramatic superiority in population”) are more likely to be vulnerable to secessionist pressures than states without core regions (Hale 2004: 166; see also Levy 2007). Michael Hechter argued that “Whereas [federalism] may provide cultural minorities with greater resources to engage in collective action, leading to a rise in protest events, at the same time it may erode the demand for sovereignty” (Hechter 2001: 146). This reduction in the demand for sovereignty ought to reduce the incidence of nationalist rebellion – that is, secessionism. Thus, while decentralization enhances protest events, it does so in a way that curtails secessionism. However, Hechter also argued that the relationship between federalism and secession is highly context-dependent, and exogenous (i.e. international) factors need to be taken into account. According to Hechter, then, a decentralized environment that is able to contain secessionist conflict may, thanks to exogenous forces, end up facilitating secessionism. Ian Lustick, Dan Miodownik, and Roy Eidelson (2004: 223) explored the impact of power-sharing (which includes federalism) on secessionism and found that such institutions “seem to inhibit secessionism”. They accounted for the apparent paradox by suggesting that

power-sharing institutions like federalism may decrease the chances of secession, but that they increase the likelihood of mobilization along ethnic lines; that is, analysts of federalism and secessionism who see groups mobilizing along ethnic lines have mistakenly identified mere ethnic mobilization as secessionism. From this point of view, the paradox is simply a case of mistaken identity (see also Snyder 2000). Dawn Brancati (2006) looked at regional political parties as an intervening variable that resolves that paradox. While decentralization might reduce the chance of secessionism, it can increase the chances that regional parties will develop. Thus the supposed federal bulwark against secessionism obtains when regional political parties are absent; it does not obtain when parties are present (for more on the importance of political parties for federal stability, see Filippov, Ordeshook, and Shvetsova 2004). Others have attempted to resolve the paradox through large-*N* analysis, but this work tends to take federalism as monolithic and invariant (Saideman *et al.* 2002). In such analyses, a state is either federal or it is not. This might be able to determine whether federal states or unitary states are more vulnerable to secessionist pressures, but it cannot say anything about variations between federations.

There is also literature about the impact of the link between economic development and secessionism. Variable economic development can fuel secession in wealthy parts of a country (Flanders and Northern Italy, for example) or, in the case of welfare retrenchment, from regions that rely disproportionately on central welfare transfers (McEwen 2002). This, then, suggests that variations in secessionism are linked less to institutional structures and more to economic structures. Recent work has found that the paradoxical impact of federalism is a function of citizen attitudes and regional economic development (see, for example, Martínez-Herrera in this volume).

While advancing a resolution to the paradox, there are limits to these solutions: federations obviously vary along a variety of axes – demographic–institutional features are but one – and each variation may have a territorial–political impact; not all federations are ethnic-based; the paradox cannot simply be a case of mistaken identity as federations have experienced secessionist pressures and been torn apart by secession. The argument about political parties might very well be decisive, but this simply pushes the question off: why do regional parties develop in some federations, but not others? The paradox remains. Finally, the large-*N* analysis does not take the institutions of federalism as variable. The conventional analysis is incomplete at best. While there have been some promising advances in resolving the paradox, none of these works are sufficiently attuned to the variations that exist within the institutions of federalism. It is on this point – on the significance of such variations – that there is fertile ground for resolving the paradox.

A new perspective

Why does a group pursue a grievance amelioration strategy that focuses on secession? Groups will obviously seek a strategy that resolves the grievance, and secession is certainly able to do this if the grievance is focused on the action or

inaction of the host state. But the strategy employed also needs to be consonant with the political and historical context in which grievance is situated. That is, the strategy employed must be (and be seen as being) available. All things being considered, secession is a rare and risky strategy to pursue. Groups that otherwise might be able to obtain some benefit from independence or being seen to support independence rarely pursue secession. Resolving the paradox of federalism, then, means being able to specify what institutional and ideational environments make secession a viable grievance amelioration strategy.

In some federal environments, secession makes sense and is easily placed on the agenda; in others, secession is not consonant with the common reading of the federation and, hence, is unlikely to be on the agenda. In addition to variations in the development of grievance and in the propensity to secede, there are likely to be institution-induced differences in the path of secession. Indeed, the paradox of federalism is much more complex – and more paradoxical – than has thus far been suggested. Exploring differences among federations can offer some purchase in resolving the paradox of federalism. Some of the variations in federations make the development of a powerful grievance more likely. Other variations help to make secession a more attractive grievance amelioration strategy. Some variations do both, depending upon the circumstances. Others facilitate secession along one path rather than another. In this section, I explore some salient variations in federations and the impact these variations are likely to have on grievance development, placing secession on the agenda, and the proposed path of secession.

Core region redux

To resolve the paradox of federalism, Henry Hale explored the impact of core regions in ethno-federations. The presence of core regions in non-ethno-federations may have the same impact. Furthermore, a group of provinces (or states) acting in concert might operate as a core region, without meeting the technical definition of a core region. In the American case (a non-ethnic federation), for example, fears that Northern states were consolidating control and acting in concert (acting, then, as a dominant core region) drove South Carolina and Deep South toward secessionism (Anderson 2004a). The North, for example, was not a core region in any formal sense, but Southern radicals were able to effectively argue that the North was operating as a monolithic political unit and that the preferences and actions of this monolithic political unit were detrimental to the interests and the survival of the South. The Québec case can be instructive on this as well: if Québécois secessionists could more credibly make the case that English Canada was a *de facto* core region – as opposed to being internally divided – Québec would certainly be farther on the road toward secession than it already is. This concept is also instructive in the case of the Scottish movement for independence. One of the central ideas driving the movement for Scottish independence is the dominance of England in British policy-making. Again, England is not formally a core region of Great Britain, but its status as a *de facto* core region has played a significant role in mobilizing support for independence in Scotland.

Centralization

The extent of centralization in a federation is perhaps the single most salient difference between federations, but neither the basic definition of federalism nor the way federalism is often coded in the literature (a state is either federal or it is not) provides any significant insight into this important variable. The more powers in the hands of the constituent political units, the more decentralized (or by some accounts, the more “federal”) the polity. In addition, the manner in which constituent units are incorporated into the central government varies from federation to federation, as does the distribution of taxing and spending authority. Federations, then, can be either “more centralized” or “more decentralized” (or more “federal”), depending upon the amount of authority that rests with the center relative to its constituent units.

The extent of centralization can play a role in whether constituent units experience grievance that might drive the pursuit of secessionism. The more policy competencies available to constituent units, the less likely it is that a grievance will develop between a region and the center. Thus, highly decentralized federations ought to experience a lower level of grievance. However, the extent of centralization can also play a role in the development of institutions that make secession viable and the threat to secede believable. More state institutions at the regional level make the center appear less significant in terms of the public goods it provides. This is one of the central defining elements of the paradox of federalism. Increasing centralization works in the opposite direction. Power concentrated in the center might increase the chances that a grievance will develop within a region, seeking to increase regional authority. The same feature, though, provides, by definition, few institutional resources through which secession can be accomplished. Thus, while a grievance may develop, secession may not be viable or seen as viable. The very same institutional variable – decentralization – makes secession both less desirable but easier to accomplish or more desirable but more difficult to accomplish. Think, again, of Canada. Do the provinces have too much power or too little? That Québec has too little power is taken as an article of faith and a definitional feature of the movement for independence. The perception of increasing centralization (typically referred to as “consolidation”) in the pre-Civil War era drove the movement for independence in South Carolina and the other Southern states. The South was differentiated by both the institution of slavery, which was potentially under threat by the policies of the federal government, and a desire for more limited government than the industrial economy of the North needed. A North consolidating its hold on federal government power, then, played a central role in Southern grievance development. The fact was, however, that this political union was highly decentralized, with most governing taking place at the state level. South Carolina and the South were able to secede with minimal disruption. The case of Iraq is also instructive here. The question of the power of a reconstructed central government in Iraq is critical to, for example, Kurdish willingness to concede to re-integration into Iraqi politics.

Linked to the level of centralization is the question of whether a federation is demos-enabling or demos-constraining (Stepan 1999). This refers to the extent to which national majorities are able to turn their policy preferences into reality. On one hand, demos-enabling federations are likely to garner the ire of groups that feel risks associated with being subject to the preferences of national majorities, thereby increasing dissatisfaction that can, in the right institutional setting, turn into secessionism. A demos-constraining federalism, then, will solve this problem by protecting a national minority from national majority preferences. There is a risk to this design, however: while national minorities might be satisfied that their interests are being protected, a more demos-constraining federation might very well draw the ire of groups representing the national majority whose political preferences are being thwarted by the interests of a minority. Thus, where demos-enabling federations are likely to see dissatisfaction develop in national minorities, a demos-constraining federation has the potential to develop dissatisfaction in segments of the national majority. Thus, for example, the special powers granted to Québec in the Canadian federation have probably helped to keep the province in the federation. However, these same arrangements have contributed to the so-called “Western alienation” and the development of a number of minor regional secessionist movements in the Anglophone provinces of Western Canada.

Symmetry/asymmetry

In the conventional analysis of federalism, it is assumed that the federal bargain between the center and region is symmetrical – that is, that the arrangement is the same for all regions, that the powers possessed by one region are equal to those possessed by others. Clearly, this is not the case. Asymmetrical federation is now increasingly common. But both symmetry and asymmetry can play a role in the development of secessionism – both in terms of developing a grievance and in terms of providing institutional resources that make secession more viable. When federations are symmetric, national minorities who believe they ought to possess more rights and powers may chafe at being equal to mere provinces or states. This may compel those who are part of a national minority to seek a change to the status quo in a way that makes their powers more appropriate to their status. When federations are asymmetric, increased institutional resources are granted to groups that might otherwise seek to secede or engage in conflict with the center. While this might mollify those who might otherwise support secession, it does provide the region with increased institutional resources and it provides other regions – regions that do not benefit from asymmetrical arrangements – to be aggrieved and, therefore, seek secession. For example, questions of symmetrical and asymmetrical federalism play a significant role in secessionism in Canada. The lack of asymmetry in the Canadian federation has led to calls for Québec secession. At the same time, special rights granted, or the prospect that they will be granted to mollify those that otherwise might want to withdraw from confederation, to Québec is regarded by some in

confederation as unwarranted special treatment of a mere province and has contributed to the Western alienation and even secessionism. Thus, the institutions of asymmetrical federalism might satisfy the aspirations of national minorities, but dissatisfy a subset of the national majority to the point where this group seeks independence.

Each one of these variations in federalism can be mobilized in a way that develops and defines a significant grievance for a unique population – depending upon precisely how it is situated with the federation. In addition, each variation tells an important story about the institutional resources (or lack thereof) that are available to constituent units. However, neither grievance alone nor the presence of institutional resources alone accounts for the presence of secessionism. Secessionism must be on the agenda for those who are aggrieved. Whether this is the case is linked to how the existing state is conceived, which is, in turn, linked to the origins of the state – or, more precisely, the story told about the origins of the state.

Origins

Federal origins can play perhaps the most significant role in the development of secessionism. William Riker (1964) provided the orthodox understanding of federal origins when he suggested that federalism arose out of an aggregation of independent states seeking to resolve a security dilemma. The United States and, by some accounts, Canada were formed via this method. This orthodox understanding ignores considerable variations in federal origin, however. For Riker, whom Alfred Stepan is reacting against, all federations originated in a bargain between previously independent political units. Stepan calls this a “coming-together” federation (2001). While this adequately captures the origins of the United States, it does not accurately describe the origins or development of most federations. Spain and Belgium are examples of “holding-together” federations. That is, they are federations in which formerly unitary states have elected to devolve political authority to their constituent units. Often such arrangements are made in order to acknowledge diversity within the existing states and to calm separatist pressures while maintaining territorial integrity (i.e. “holding” the state together). These ideal types do mask some of the complexity of federal origins. The possibility of a hybrid federation seems likely. Spain, for example, seems to be backing into a compacted federation, providing institutional resources to historical nationalities.

Federal origins play a role in the development of secessionism by making available (or unavailable) a rhetorical structure that can help to place secession on the agenda for those dissatisfied with the status quo. In broad terms, there are two available justifications for the pursuit of secession: it can be invoked either as a state’s right or as a right consistent with the right to national self-determination (Meadwell 1999). The justification made according to the right of national self-determination does not make a claim about the present or past nature of the state or its institutions; it implies only that a group that calls itself a nation does not presently possess the ability to rule itself. This is a justification

available in virtually any context, but what the right of national self-determination actually implies is by no means clear. The notion of national self-determination is conceptually fuzzy, and its exercise does not necessarily imply outright independence. For example, national self-determination may be enjoyed through various autonomy arrangements, including the adoption of federalism in previously centralized states. A strong case could be made for the provinces of Canada and the states of the United States being self-determining but not formally independent. A strong complement of group – and even individual – rights could also meet the right of self-determination.

By contrast, the invocation of a state’s right justification for secession makes the following claim about the character of the polity from which secession is sought: it is a union of formerly independent states that was created through a treaty or compact between those states. Coming-together federations generally contain a powerful rationale to conceive of the newly formed political union as a compact or bargain that has very specific terms, which are usually set out in a constitution or treaty. The terms of the bargain typically specify what set of powers are held by the center and what set of powers are held by the constituent units. As long as the terms of the bargain are maintained (usually meaning that the member units do not over-step their constitutional authority), the political union holds together. However, if the terms of the bargain are violated – by, for example, the central state over-stepping its constitutional authority – the member-units are able to interpret this overstepping of boundaries as a violation of the terms of the compact. Along with this grievance is a readily available and rhetorically compelling remediation strategy that is not readily available in other institutional contexts: withdrawal from the bargain. The state’s right justification, then, is not only a justification for secession, but an historical claim about the nature and terms of the polity. Moreover, this justification also implies the presence of institutions that can be used to accomplish secession.

While secessionism obviously exists in non-federal and non-“coming-together” environments, this particular – and seemingly simple and powerful – justification for secession does not. In the presence of “compact theory”, which often includes a history of independence, substantial institutional resources available to member-units, and a discourse involving bargains that can help to frame the conception of grievance, secessionist pressures have existed and, in many cases, been successful (Anderson 2004a, 2004b; Emizet and Hesli 1995; Hale 2000). Compact theory provides a way to measure grievance (the terms of the bargain), a way to conceptualize grievance (a broken bargain), and an easily justifiable grievance remediation strategy (withdrawal from the bargain). Grievance, in this view, arises from the perception that the terms of the putative bargain are not being adhered to. Thus, even grievance, widely regarded as the primary motivator behind – if not the cause of – secessionism, may have institutional origins. Different ideas about the meaning of federal origins can be situated within the same federation (Romney 1999).

The rhetorical advantages in favor of secessionism in a coming-together federation are considerable. A coming-together federation provides not only a

conception of grievance, but also an easily justifiable remedy and, often, institutional resources that can be marshaled to bring secession about. The strongest secessionist movements to develop in the West – South Carolina in the American South and Québec – have both been in federal environments that could be interpreted as coming-together federations. In both instances, grievance, remedy, and process were closely linked to the institutional setting of the states involved. And in both, compact theory was used to characterize the grievance experienced by the groups seeking to secede, and the language of compact theory was used to justify the pursuit of secession. As time has gone on, however, the language of compact theory has given way to a justification grounded in the right of national self-determination. There is a disjuncture, then, in the origin of grievance in the Canadian case and the language of justification used to defend the pursuit of secession. One is firmly grounded in compact theory and states' rights; the other is closely linked to the more contemporary language of national self-determination. The Scottish case is also instructive here. In the middle of the twentieth century, the grievance driving secessionism and the justification used to mobilize support for secession was found in a reference to violated principles of the Treaty of Union. References to the Treaty of Union have given way to situating the movement in the right to national self-determination.

A glance at the situation in Iraq demonstrates the importance of federal origins as well. Indeed, the case of Iraq shows the paradox in action. Federalism has been cast as both the only chance to maintain the territorial integrity of Iraq and as the biggest threat to the territorial integrity of the state. Opponents of decentralized federalism refer to it as partition. Thanks in large part to the autonomy enjoyed by the Kurdish region of Iraq, the reconstruction of the Iraqi state – if it ever occurs – will have elements that are very much like coming-together federations. If sufficient powers are not granted to this region, it is unlikely that the Kurds will support a re-invigorated Iraqi central state. However, the maintenance of strong regional institutions will continue to serve as a focal point of secessionist mobilization.

Where groups can invoke a past of independence, and where this sovereign past is institutionalized in the federal system through the maintenance and significance of political, cultural, and economic institutions, federalism is very likely to facilitate secessionism. Where there is no opportunity to harken back to an independent past (or where that independence is too distant to provide a practical basis for mobilization) and no bargain with an explicit set of terms forming the basis of the polity, federalism is very unlikely to be subject to strong secessionist pressures. Simply put, coming-together federations have many ingredients that put them at risk of secession; by contrast, holding-together federations are unlikely to have the mixture of elements that make them as susceptible to secessionism. This is not to suggest that secessionism won't exist, but that, in these environments, there are significant mobilization dilemmas to overcome. Justifying secession as a state's right seems to be an especially powerful defense of withdrawal, but it is not available in all contexts. When this powerful justification is found alongside institutions that contribute to the development of griev-

ance and an expansive set of policy competencies, the stage is set for the development of a very potent form of secessionism.

This might mean, then, that some federations are simply built vulnerable to secessionism. This does seem to be the case. Decisions about symmetry and centralization take place in an environment of contestation – based upon regionalism, ethnicity, resources and other factors. While it may be impossible to predict in advance which federations are likely to be vulnerable to secessionist pressures and which are not, it is certainly possible to specify in advance the way institutions will be used and the fault lines along which secessionism will develop, if it does.

Conclusion

Federalism can be both secession-inducing and secession-calming. Institutional features of a federation provide only part of the answer to the puzzle. The very same trait that prevents secessionism in one federation might encourage it in another. Indeed, this is the crux of the problem. There is no one answer to the question: does federalism calm secessionism or facilitate it? It depends. Features of some federations seem to point clearly toward secessionism when in the presence of a strong grievance – coming-together federations, for example. Most of the other features of federalism that have been discussed here seem to be able to point in both directions, potentially leading to the development of a strong grievance in one group, while preventing the development of grievance in another and calming secessionism in one group while encouraging its development in another. Furthermore, many of the elements of federation that I have identified do not play out in a vacuum. It is highly likely that in any federation there are factors that are operating to both calm and facilitate secessionism.

This chapter has attempted to work toward resolving the paradox of federalism. It has done so by focusing on the manner in which the institutional setting of political conflict can impact the availability of rhetorical strategies in support of secessionism. Simply put, secession is more likely to be conceived of as an available grievance amelioration strategy in a coming-together federation than in a holding-together federation. This does not mean that secession is impossible in holding-together federations – just that the institutional setting makes secession and secessionism more difficult. Nor does this mean that coming-together federations are likely to be regularly torn apart by secession and secessionism: Grievance is a necessary condition of secessionism: where there is no grievance, there is no secession. The other features of federalism, however, do not point clearly in one direction or another. Symmetry and centralization (or asymmetry and decentralization) can point in both directions. There are other factors as well. While a multi-ethnic federation contains more opportunity for the development of conflict and grievance, there is no guarantee that federations without ethnic divisions will be free of secessionism. Furthermore, the presence of a core group does not bode well for multi-ethnic federations, but the absence of a core group does not assure peaceful co-existence among the constituent units of the

federation. There is ample evidence of these claims in the American and Canadian cases. Other factors, independent of – but related to – institutional structures, are likely to play a role as well: the structure of political party competition and regional and central party electoral fortunes are likely to play a role. Finally, exogenous factors in the international setting are likely to play a role as well – especially with respect to whether a movement for secession is successful.

The conclusions offered here are not entirely optimistic about the prospect of knowing in advance what institutional features make for stable federations and what features make for unstable federations. Making a prediction of “what works” in advance will remain elusive. What works in one environment will not necessarily work in another. The same institutional structure will not necessarily have the same outcome in two different environments. But the conclusions here are not entirely pessimistic, either. While context-dependent, it is possible to specify in advance where fault lines are likely to be situated or to develop and whether, given these fault lines, specific institutional features will be secession-calming, secession-inducing, or both.

9 Federalism and ethnic conflict management

Rival hypotheses, the attitudinal missing link and comparative evidence

Enric Martínez-Herrera

Introduction

For decades federalism has been prescribed as a recipe for overcoming ethnic conflict and separatism in divided societies with geographically concentrated ethnic groups. Recently, however, some scholars have alerted instead that federalism can exacerbate the very problems it seeks to address. Both bodies of research primarily focus on the behavior of collective actors such as governments, parliamentary groups, armies, parties, social movements and guerrillas. As a result, individual citizens are mostly absent from these analyses. Researchers have paid attention to particularly problematic forms of behavior that entail a degree of contentious politics and, in particular, violence. By focusing on the consequences of ethnic conflict and secessionism, researchers have often failed to provide accounts of the intermediate mechanisms and, especially, correlative empirical evidence, about how self-rule arrangements cause both elites and ordinary individuals to engage in such forms of behavior.

This chapter examines the effects of political decentralization on a specific intervening variable that can be expected to explain, to a large extent, secessionist behavior. Previous research has shown that by creating or strengthening regional governments, territorial identities are created or reinforced. The impact of decentralization on subjective support for the overarching polity amongst individuals in regions with territorially concentrated ethno-cultural groups, however, remains severely understudied. This chapter highlights the attitudinal *support for the political community*, and investigates whether it is enhanced or undermined through a variety of mechanisms, especially through institutionally induced political socialization.

The chapter first considers the two rival hypotheses dominant in the literature, noting the absence of individuals' feelings and belief systems in the analyses of the effects of self-government arrangements on processes of separation and national integration. It then discusses different mechanisms by which decentralization may produce support for political communities, both for the overarching state and for the regions associated with ethnic groups enjoying

limited self-rule. It focuses on three sets of intervening variables: socialization mechanisms, perceptions of grievances and threats, and perceptions of interests, which also depend on regional economic wealth and demographic composition. In the empirical section, the chapter assesses these theoretical hypotheses on the basis of time-series research on public attitudes in four regions that have undergone decentralization: Catalonia and Galicia (Spain), Québec (Canada) and Scotland (Great Britain). The concluding section draws attention to how little the social sciences know about the consequences of federalism and other forms of decentralization for coping with ethnic conflict and dealing with secessionism.

Two rival hypotheses

Political decentralization is seen today as one of the state's most prominent options for confronting demands for self-government from territorially concentrated, culturally differentiated groups. Most of the inhabitants and territories on earth are placed within the boundaries of states with a multiethnic, and thus, potentially plurinational nature. The plurality of cultures provides a basis for differing ethnic identifications which, in turn, can become politicized. Many multi-ethnic societies currently or potentially confront ethnic conflicts among their subjects that can give rise to contradictory nationalist projects. Due to the diffusion of nationalism as a model among and for cultural groups during two centuries, the odds of politicization of cultural and ethnic identifications are very high today. In addition, the costs of repression are rising due to the increasing power of international organizations and the advent of new communications technologies. This suggests an increasing trend towards more widespread and intense claims for different sorts of self-government, including independence, all the more so when the differentiated cultural groups constitute a majority of the inhabitants in a given territory.

During the last three decades, social scientists have paid much attention to secessionism. Albeit some have welcomed, even recommended, secession, most scholars approaching the subject have tried to supply accounts of the secessionist dynamics. They have directed their efforts at furnishing policy devices for maintaining the existing state borders, or, at the very least, for avoiding the multiple, often unintended dramatic consequences that frequently accompany the disintegration of political systems. Among the different factors scholars have considered, institutional design has been recurrent, especially federalism – which this chapter treats within the wider concept of “political decentralization”. Even though these scholarly efforts have yielded considerable knowledge, neither conventional wisdom nor scholarly research provides a straightforward answer. In fact, studies on the effects of federalism as a response to minority nationalism and, more in particular, to secessionism, have produced two different, opposing answers to the same question.

On the one hand, a sizeable body of scholarly work has concluded that political decentralization can mitigate most of the problems raised by ethnic and

minority nationalist conflicts (cf. Linz 1978; Lijphart 1984, 1999; and Horowitz 1985; see Linz and Stepan 1992; Gurr 1993; Hechter 2000; Saideman *et al.* 2002). From this angle, providing self-government in a number of substantial areas ought to appease peripheral nationalists, by diluting many of the perceived threats to their existence as a group, by removing sources of perceived grievance and by fulfilling a substantial part of their aspirations. Typically, self-government enables territorially concentrated ethnic groups to protect and promote their own culture and values. In addition, it allows them to foster their interests both as a group and as single individuals, since self-government enables them to develop professional and political careers in the administrative and representative structures within their sphere of jurisdiction. Moreover, albeit this is not clearly stated in the literature, the satisfaction of many of their desires might be expected to facilitate genuine acceptance of and attachment to the overarching political community among ethno-cultural minorities.

On the other hand, a number of analysts suggest or openly assert that political decentralization fosters the perception of conflict in terms of ethno-nationalism. Decentralization provides the minority ethno-nationalist actors with resources associated with state organizations, which they can use to organize large-scale rebellion (cf. Linz 1978, 1993; see Roeder 1999; Skalnik-Leff 1999; Hale 2000; Snyder 2000; Saideman *et al.* 2002). Only a few scholars have directly alluded to the aspect of citizens' attitudes. According to some of these, the simple fact that the state classifies citizens into ethnic or “national” categories and designates specific autonomous “national homelands” as “belonging” to particular denominations – or “titular” nations – promotes attitudinal nationalism (Gorenburg 1999; Brubaker and Cooper 2000).

Other scholars have added that decentralized institutions controlled by minority nationalist groups actually enable such groups to indoctrinate the population with nationalist beliefs and values by using the powerful communicative machinery of the state (Díez-Medrano 1995; cf. Clarke *et al.* 2000). In addition, by introducing new arenas of electoral competition, political decentralization sets a structure of political opportunities that, by and large, renders attaining positions in parliament and government far easier than in centralized states (Pallarés *et al.* 1997; Pallarés and Keating 2003). In all the cases considered in my research, secessionist peripheral nationalism was weaker in the electoral ground before decentralization than afterwards. Once secessionist entrepreneurs benefit from these resources, they can spread their messages more effectively, convincing their potential followers that the nationalist project is worthwhile (cf. Hechter 1987; a propos the electoral success of the Parti Québécois and a subsequent rising of nationalist attitudes, cf. Keating 1996 and Mendelsohn 2002). In addition, large-*N* comparative research has shown that the presence of regional, non-statewide parties is a key predictor of ethnic conflict and secessionism (Brancati 2006). Hence, from this perspective, political decentralization is expected to increase rejection of the overarching political community among the peripheral population and the exacerbation of conflict.

The citizens as missing link

Two alternative, diametrically opposed general hypotheses have thus been posited with regard to the effects of political decentralization. Nevertheless, scientific analysis has largely neglected the feelings of individuals that predate the commencement of separatist conflict and/or the process of separation itself. Scholars have generally focused on contentious ethnic politics, ranging from protest to coups d'état – with or without significant bloodshed – to outright civil war, but the preceding phases of escalation have been overlooked. Besides, this focus places the interaction of collective actors, such as governments, parties, armies, social movements and guerrillas before individual attitudes and behavior. As a result, analyses have only seldom made reference to citizens' feelings for their political communities. In addition, analyses referring to citizens' preferences have very seldom been backed with appropriate evidence – at the level of citizens' belief systems – and none of these has ever been properly tested.

Such is the case both for those foreseeing an enhancement of citizens' subjective integration in the overarching polity, and for those worried about an eventual further deepening of the centre-periphery cleavage that might lead to stronger secessionist claims and to rebellion. Amongst the former, Horowitz (1985) supplies evidence about macro-processes at a systems level, such as ethnically based coups d'état and civil wars in Africa and Asia. Noticeably, he analyses the behavior of political elites and collective actors such as governments, political parties and armies. Likewise, Lijphart (1984; 1999), who stresses the role of elites in striking deals while keeping their linguistic or religious constituencies segregated, pays little attention to citizens' support for the overarching polity. Yet another prominent example, Gurr (1993; Gurr and Moore 1997) gets closer to citizens' conduct, for he considers trends of aggregate contentious behavior – both protest and rebellion – and the strength of minority group organizations. Even so, he never considers attitudes such as ethnic and/or national identification.

This is much the same among those scholars who foresee the further erosion of support for the overarching polity. Neither Leff (1999), Roeder (1999) nor Snyder (2000), for instance, are directly concerned about citizens' support. Some may, on occasion, stress the importance of nationalist mass mobilizations in the former socialist countries (Bunce 1995). Further, some have explicitly pointed to the importance of mass attitudes towards the country and the role of nested territorial governments in shaping them (Díez-Medrano 1995; Gorenburg 1999; Brubaker and Cooper 2000; Clarke *et al.* 2000). Yet, at the very best, these scholars have formulated a theoretical hypothesis, but not tested it. Since survey methodology was quite unusual in these societies before and during the collapse of the real socialist regimes, they cannot verify the alleged rise of nationalist feelings amongst populations.

Thus, in most accounts of secession processes, citizens are absent. For one thing, one might be surprised by this absence from a democratic normative viewpoint. As long as most of the polity break-ups of the last decades accompanied

the breakdowns of autocratic regimes in transition to liberal democracy, one could expect that a stronger attention would have been paid to citizens' preferences and conduct. This paradox can probably be accounted for by the argument that most democratic transitions and secessions were led by the same bureaucratic elites and state apparatuses that had been ruling the respective republics during the *ancien régime*, with little room for genuine, autonomous political opposition and mass mobilization. In this sense, it seems significant, too, that hardly any of the secession processes from the former Yugoslavian and Soviet autonomous republics involved a genuinely democratic, *contested* referendum on self-determination.¹ Indeed, almost all secessions were decided by the republics' elites "holding on to the state structure [...] and defending the [republic] boundaries irrespective of ethnic, linguistic, and cultural borders" (Linz 1993: 362).

Having said this, one may also be astonished at the absence of citizen attitudes and behavior from a methodological standpoint. For citizens can also play a significant part, to say the least, in the political process. First of all, had self-determination referenda been held with guarantees for genuine contestation, citizens' preferences would have been allowed to play an all-important role. Ironically, the very absence of these plebiscites might well have to do with expectations about the content of mass attitudes among political leaders. Like a self-undermining prophecy, the speed with which the Croatian authorities, for example, declared independence might, to a large extent, be explained by their concern that such a *contested* referendum was to be held. Not only were substantial parts of the territory administrated by Croatia mainly inhabited by Serbs (e.g. the Krajina), but many ethnic Croats had been evolving towards a Yugoslavian identification during the last decades before the secession process started (Burg and Berbaum 1989; Pavkovic 2000). In addition, the obsession with ethnic cleansing policies is clearly related to rulers' worry about the political expression of citizen preferences.

A second obvious methodological reason to take an interest in citizens' orientations towards their political communities is that they may be a main factor for explaining and predicting voting behavior in party systems organized around an ethno-cultural cleavage. In competitive political systems, the power basis of regional leadership, and thus the conduct of the elites should also be accounted for, to an extent at least, by mass attitudes. However, even if one might feel somewhat skeptical about democratic manners in young democracies, given the multiethnic character of the large majority of new states, one should take into account that citizens' views are the grounds for the rise of contentious forms of political behavior such as protest and rebellion. For although during the 1990s many cases of rebellion were organized from public institutions such as autonomous republics and regions, other historical cases of rebellion such as guerrilla movements as well as most protest movements have emerged from the grassroots. In effect, most social movements greatly depend on citizens' availability, since the will of individuals constitutes their main source and resource of power (Tarrow 1994). More generally, political attitudes are a resource to be activated

or not, depending upon the needs, the organizational capabilities, and the structures of political opportunity which political entrepreneurs and the citizens themselves face at every particular conjuncture.

In a nutshell, the literature about the effects of political decentralization on ethnic conflict has not paid enough attention to citizens' belief systems, and when it has alluded to them, empirical evidence has not been sufficient. In this chapter I discuss the empirical evidence regarding the soundness of hypotheses about the impact of decentralization on conflicts of this kind.

From nation-building to building support for political communities

While decentralizing political power, central states generally transfer jurisdiction over education and culture to regional governments, and they can also transfer powers over the mass media on a territorial basis. In doing so, they renounce one of the main instruments of traditional nation-building and empower regional governments in precisely this regard. The literature on "nation-building" has examined the intentional production and dissemination of national sentiments from the state (Lipset and Rokkan 1967; Rokkan 1971; 1975). Nation-builders use the state resources in a top-down process with the aim of spreading feelings of attachment to the "nation-state" political community. This phenomenon is in line with current constructivist accounts that treat nationhood as a cultural product that certain agents create and circulate (Anderson 1983; Hobsbawm 1983; Brubaker 1996).

The induction "from above" of feelings of identification with a political community can be regarded as the product of institutions operating in two different, though not incompatible, ways: as *agencies* and as *structures of social interaction* (Skocpol 1985; Almond 1988). According to the literature on political socialization, they respectively work as *socialization agencies* and *socialization milieus* (Percheron 1985; 1993).² These two concepts are useful to analyze different processes and mechanisms in operation: agencies actively *transmit* beliefs and values and *indoctrinate* individuals, who are regarded as passive recipients, mere objects of the socialization process; by contrast, in milieus, individuals actively *familiarize* themselves with pieces of information from the environment(s) that they process and assimilate, and thereby act as non-passive agents of their own socialization (cf. Percheron 1985), particularly through *experiencing* (Eckstein 1988). A third factor that could have consequences on shaping identification with political communities is policies aimed at promoting a language. Such policies can foster cultural nationalism, and thereby bolster or undermine support for the overarching polity.

Regional governments also develop nation-building processes. Some authors implicitly or explicitly adopt this model for Belgium and Spain. Citizens do not only experience spontaneously their everyday belonging to regional political structures (Karmis and Gagnon 1996), but regional governments also actively promote regional identities (Moreno 2001 [1997]; Maddens *et al.* 1998;

Martínez-Herrera 2002; Rocher 2002; Miley 2006). As a matter of fact, previous research has shown that by creating or strengthening regional governments, territorial identities are created or reinforced (Martínez-Herrera 1999; 2002). Some observers of Soviet and post-Soviet politics have highlighted two mutually enforcing ways in which political engineering generates socio-political categories of vision and division of the social world. According to Brubaker and Cooper (2000: 26), the Soviet state established many autonomous republics and regions and regarded them as "national homelands", "each 'belonging' to a particular ethnonational group". Many of the "titular" "national" groups (and, to start with, their political elites) considered themselves as "owning" the republics vis-à-vis other inhabitants under their jurisdiction (cf. Bunce 1995). Second, individuals were formally ascribed to specific ethno-national groups, so that Soviet citizens learnt to distinguish between "titular" and "non-titular" citizens of the republics (Brubaker 1996; Gorenburg 1999).

Albeit autonomous familiarization with the structural and cultural social context is important, traditional nation-building mostly relies on political socialization via transmission of (indoctrination into) beliefs and values. In regions whose political elites hold competing national projects, the transfer of powers over education – and in some cases, mass media – entails that the balance in traditional nation-building shifts dramatically from the central to the regional layer of government. This is stressed further if the other traditional means for spreading the statewide national project are also weakened – in particular, where conscripted armies are replaced by professional armies and state broadcasting media are privatized. While states renounce using these mechanisms, regional government gain, or often seize, the opportunity to do so.

In this situation, central states seem to rely on alternative ways for building the support for the overarching, statewide political community. As far as political socialization is concerned, this would not rest so much on transmission–indoctrination mechanisms but rather on citizens' experiences of and familiarization with the political settings. This is a second mechanism that has not been given enough importance in traditional nation-building and has more to do with more "banal" processes of internalization of norms and values (Billig 1995). This consists of softer but persistent ways of nationalist socialization by the state and other agencies, which can take place without a clear purpose of instilling certain political ideas in the population. Yet even if unintended, this would not mean that they are less effective than outright deliberate inculcation of ideas and values. In this sort of process, government agents take for granted support for the political community by its members and make soft appeals to these feelings whenever possible – for instance, in international sporting competitions. Moreover, in the decentralized polity, individual citizens would experience and internalize their interaction with the contexts set by *both* the statewide and the substate layers of government (Martínez-Herrera 2002). However, as will be argued next, the hope would be that their experience with the statewide institutions would be more psychologically rewarding in the decentralized state than in the centralized one, thus producing positive feelings towards the overarching state.

To start with, it is expected that responsive policies vis-à-vis the peripheral demands and claims for recognition of cultural demands and, more specifically, self-government will reduce perceptions of unfair treatment from the “centre” in the “periphery” (cf. Linz 1993; Gurr 1993). Identification with a group is only produced if it comes out as positive and psychologically beneficent for the individual (Bloom 1990; Lawler 1992). The perception of grievances from the majority by a minority tends to make members of the minority place cognitive filters towards positive experiences and messages involving the overarching polity. Were this true, the removal of such grievances should facilitate the assimilation of positive messages and experiences and hence the production of positive feelings. Second, and in the same vein, where there has been some sort of perceived or actual discrimination in job opportunities, especially in the public sector (e.g. Québec and Northern Ireland), the creation of self-ruled regional administrations should also reduce feelings of grievance and economic threat (cf. Hechter 1987). Third, by enabling minorities in the state to be majorities in their regions, the establishment of regional institutions for representation and government should mitigate feelings of political marginalization in the overarching state. Fourth, in psychological terms, the “recognition” and institutionalization of regional cultures should provide the feeling that the “centre” prizes both these cultures and the ethno-cultural traits of their individual holders (Taylor 1994). Through all these paths, then, political decentralization ought to bring the members of the regionally based minority to feel no longer harmed, to feel safer (concerning both their distinctive culture and themselves) and, thus, to develop favorable affective feelings towards the overarching state.

The experience of four western regions in three decentralizing states

To adjudicate among these theoretical developments, this chapter summarizes the main results of empirical research upon long-term time series of public opinion (Martínez-Herrera 2005). The author has analyzed the developments of attitudinal support for the political community during a period of between twenty and thirty years in four regions that are culturally differentiated from the majority population of their states and that have nationalist movements of their own. These regions are Catalonia and Galicia in Spain, Québec in Canada and Scotland in the United Kingdom. All of them gained or increased – either *de jure* or *de facto* – their self-government powers from the 1970s. The study focuses on the alleged effects of political decentralization and applies multivariate techniques to control the effects of other theoretically relevant variables, namely, democratization, nationalist regional governments, re-centralization processes, and a number of political events invoked by the specialized literature. In addition, the study inquires into the effects of the interaction between political decentralization and other social contextual factors on support for the overarching polities.

Building on Easton (1965; 1975), this chapter refers to “political community” as the set of people who are collectively ruled and represented by the structures

of a political system. Diffuse support for the political community is the long-term affective attachment and generic loyalty to the existence of that community, which makes groups with disparate political aspirations readily accept their belonging to the polity even if their demands may remain unsatisfied most of the time. According to Easton (1975), identification with political communities appears to be the main expression of this legitimacy or diffuse support, although we can also add other expressions, such as supporting the existence of that political community.

The results of the author’s research cast doubts on expectations about political decentralization as an effective means for further integrating territorially concentrated ethno-cultural minorities into the statewide political community under some specific economic conditions. The evidence shows that political decentralization produces, as expected, changes in population support for the overarching polity. However, it also shows that these effects are not univocal. The figures in Table 9.1 are standardized regression coefficients of the effects of the independent variable and other control variables on the attitudinal complete lack of support for the overarching polity (Canada, Spain and the United Kingdom).³ This lack of support is measured as exclusive identification with the region (see Martínez-Herrera 2002) and/or support for independence/separation. The sign of the coefficients for political decentralization means that whilst in Galicia decentralization has substantially contributed to integrate subjectively peripheral nationalist citizens into their host polity, in the other three regions decentralization has further undermined support for the state political community.

The reason for this difference seems to lie in a permutation (interaction) with contextual factors. These are regional economic wealth as compared with the host country at large and the presence of “minorities within the minorities”.⁴ As wealth tends to attract economic migrants, minorities within the minorities tend to be large in the wealthy regions. It is plausible to hypothesize that the relative economic wealth of a region as compared with the overarching state would shift the direction of the effects of political decentralization in support for the state polity. When the region is economically advantaged as compared to the country average, it attracts important numbers of people from the rest of the country – and often also from abroad – to live and work there. Thus, people identified with the regionally concentrated ethno-cultural minority may well experience the growing presence of “outsider” economic immigrants – and not just entrepreneurs and public officials – to their affluent region as an alien “encroachment”. Massive influxes of migrants are prone to engender the perception of ethnic competition and thus ethnic conflict (Barth 1976). Hence natives may well be tempted to think about regional independence as a way to protect *their* habitat (Laitin 1991).

Political decentralization typically comes with the protection and fostering of local cultures. However, this protection, which in principle is aimed at reassuring the minority about threats to their cultural survival and to the prospect of discrimination on the basis of their membership in the minority group, may

Table 9.1 Standardized OLS regression coefficients of rejection of the host political community

Variable	Standardized coefficients							
	Rejection of statewide identification			Support for independence				
	Galicia		Scotland	Catalonia		Québec	Scotland	
	Lag	Coef.	Lag	Coef.	Lag	Coef.	Lag	Coef.
Autocracy		0.66***		0.76***		0.13**		0.24***
Decentralization		-0.39***	-1	1.08***	-1	0.78***	-3	
Meech Accord		-		-		0.33***		
Meech Failure		-		-		-		
Thatcher 3rd Gov.		-	-1	1.04***		-		0.75***
Poll Tax90		-		-		-		0.23**
Nat Gov Q		-		-		0.10*		-
Ref79_S/Ref80_Q		-		-		0.10*		-0.26***
Olympics	ns			0.38***		-		-
Sample (adjusted)	79-02	86-03		79-03		71-02		74-03
N	24	18		25		32		30
R2	0.88	0.81		0.74		0.87		0.81
Adj. R2	0.87	0.78		0.71		0.86		0.77

Notes

Significance *** 0.01; ** 0.05; * 0.10; ns = not significant.

nevertheless have unintended consequences. For such protection creates for the cultural minority a milieu in which they play with advantage in the competition for scarce resources – especially for jobs, subsidies and high status positions in relation to the public sector and other publicly intervened areas (Hardin 1995). As a result, members of the minority may be further inclined to expand that protected milieu, and separation may seem to be the top of the ladder in this regard.

At the same time, in line with the theoretical model of economic overdevelopment, peripheral economic elites of the relatively wealthier region hold different material interests than the elites that dominate the political centre. As a consequence, they promote and patronize the peripheral nationalist intelligentsia so that the latter, in turn, can mobilize the wider regional population in their favor (Laitin 1991; Bollen and Díez-Medrano 1998). Political decentralization makes the structure of political opportunities much more favorable for the higher-status groups and the nationalist intelligentsia of the culturally differentiated affluent regions for mobilizing their targeted followers. With the prospects of much easier competition and institutional political representation (Pallarés *et al.* 1997; Pallarés and Keating 2003), obtaining access to public resources that are useful for political mobilization and perhaps seizing regional power, higher-status groups have much more incentive to invest efforts in promoting the nationalist intelligentsia. Even though most people identified with the regionally concentrated ethno-cultural minority do not have the same economic interests as the higher-status groups, given their inclination to perceive that their habitat is invaded by aliens and the strong temptation to further reinforce the barriers for access to regional resources, they may well be tempted to follow the higher-status groups and intelligentsia.

There is a general inclination of nested organizations to prize the achievements as theirs while putting the blame for problems on the nest organization that they belong to (Lawler 1992) – an inclination that is further stressed as interests diverge. The consequence of these differentiated interests for political socialization is that increasingly important regional socialization agencies – namely, the educational public institutions and, where applicable, regionally controlled mass media – tend to spread positive messages of support for the region while ignoring or criticizing the overarching state and community (cf. Keating 2001).

The results in the empirical cases studied here lend credence to this hypothesis. In terms of gross domestic product (GDP) *per capita*, between 1980 and 2002, Catalonia was the third wealthiest region in Spain out of 17, while Galicia ranked fourteenth. Thus, the former was an overdeveloped region with respect to the Spanish average, whilst the latter was clearly underdeveloped. These positions of relative advantage or disadvantage as compared to the national average remained nearly constant before and after decentralization. In turn, in 2000, the *per capita* wealth of Québec was placed on the median of the distribution of the provinces and territories of Canada. Finally, the same year, Scotland ranked as the fourth out of 12 (England being divided into NUTS administrative regions) and within the third quartile for Britain.⁵

The degree of relative economic success is roughly paralleled by the presence of minorities within the minorities. In 2002, the rate of inhabitants born outside the region (either in other regions of the same country or abroad) was 36 percent in Catalonia, 13 in Scotland, and only 5 percent in Galicia. These figures do not include the direct offspring of immigrants. Minorities can also consist of people born in the region but who are ethnically different from the majority. If we consider those whose mother tongue is different from the traditional territorial language, in 2001 they constituted nearly 57 percent in Catalonia and 19 percent in Québec.⁶ Certainly, nationalist parties of Catalonia, Galicia, Québec and Scotland often present themselves as immigrant-friendly. Yet this does not preclude the fact that their members and sympathizers often look at minorities within minorities in a less friendly manner.

Figure 9.1 displays the relationship between the relative wealth of the cases within their host countries and the standardized effect of political decentralization on the denial of support for the host political communities. The relative affluence is given in quartiles in the distribution of the regions within their host country in terms of GDP *per capita*. For Scotland both the effect on rejection of

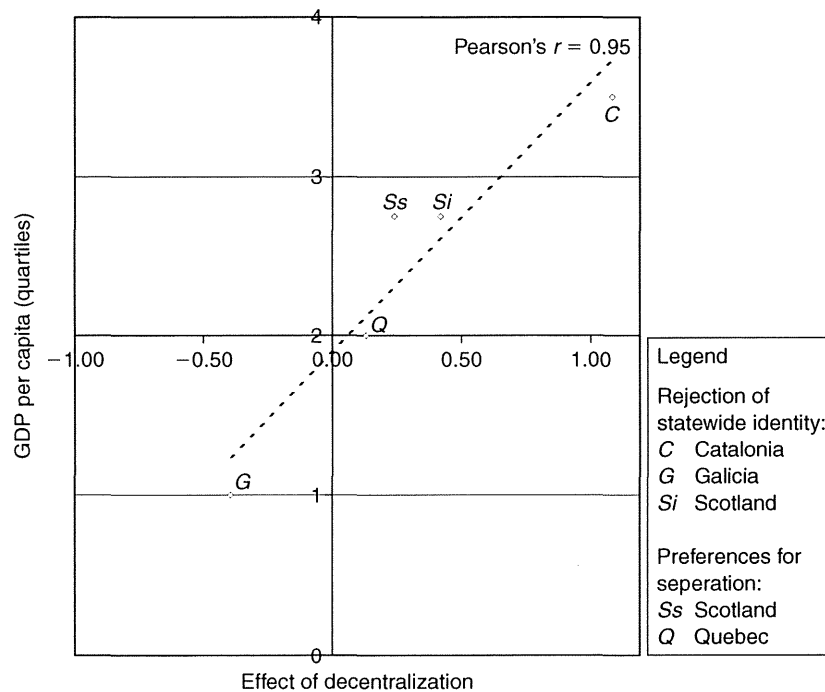


Figure 9.1 Standardized effect of decentralization on rejection of the host political community according to GDP per capita (given in quartiles) in four nationalities (source: author's elaboration).

British identification and on preferences for independence are considered. In effect, one can notice a very strong correlation between relative affluence and the outcomes of decentralization (Pearson's $r = 0.95$). Thus, an interaction of relative wealth with decentralization can account for the declining support for the host polities in Catalonia, Scotland and Québec whereas in Galicia such support has increased.

The implication from these four regions is that relatively poor culturally differentiated regions, such as Galicia, can increase their integration into the overarching polity as a result of political decentralization, which is in accordance with the hypothesis of a strand of literature. Yet, in accordance with the rival body of literature, political decentralization in relatively wealthy, culturally differentiated regional minorities, such as Catalonia, Québec and Scotland, seems to further fuel inclinations for separation.

Implications for theory and policy

Traditional nation-building relies heavily on political socialization via transmission of beliefs and values, carried out to a large extent by means of educational, cultural and, where available, substate mass media policies. When states decentralize power, they usually surrender jurisdiction over these policies to regional governments. As a result, in regions where political and public officials pursue competing national projects, this transfer of jurisdiction implies that the balance in traditional nation-building resources shifts to the regional side. This rebalancing of the "socialization leverage" is more dramatic insofar as other traditional means for spreading the statewide project of political community are simultaneously undermined – in particular, where military conscription disappears and state broadcasting media are privatized.

In this scenario, states must rely on alternative means for generating support for the overarching political community. Such a new approach might include forms of political socialization that do not rest so much on mechanisms of belief and value inculcation targeting passive (young) subjects but rather would depend upon the active experiences of individuals within their political contexts. This alternative mechanism has not been paid enough attention in the literature on nation-building. It consists of more subtle processes of norm and value internalization. In the decentralized polity, the hypothesis goes, individuals would experience and internalize their interaction with contexts set by *both* the statewide and the substate layers of government.

Those in charge of the overarching state would hope that the actual experience of the regional citizens with the statewide institutions is more psychologically rewarding in the decentralized state than in the centralized one. This more rewarding experience would in turn facilitate the production of positive feelings towards the overarching polity. State authorities that agree to transfer powers to the regional elites expect that policies responsive to claims of regional elites will mitigate feelings of collective grievance, individual economic risk, political alienation and perceptions of contempt for minority cultures in the "periphery". In

this vein, political decentralization ought to appease the members of the regionally based minority, allowing them to feel more comfortable in the overarching polity (no longer harmed, more secure, recognized) and, hence, to develop positive affective feelings towards the overall state. However, such hopes ignore the tendency of actors in nested institutions to take credit for the achievements of public policy while displacing blame for troubles onto the nest organization in which they are embedded, resulting in the persistence and perhaps even exacerbation of negative perceptions towards the overarching polity.

The results of the author's research with long-term time series of public opinion cast doubts on these hopes. The author has analyzed the developments of attitudinal support for the political community in four western regions that are culturally differentiated from the majority population of their states and have nationalist movements of their own. By deploying a multivariate research design, the effects of political decentralization are analyzed while controlling for the effects of other theoretically relevant variables and considering some interaction effects between decentralization and other social contextual factors.

The results show that political decentralization actually produces effects on population support for the host, statewide political communities. However, these effects are not univocal. Whilst in Galicia decentralization has substantially contributed to integrate subjectively peripheral nationalist citizens in their overarching polity, the multivariate analysis points to a further eroding of support for the state political community in the other three regions. The reason for this difference seems to lie in an interaction with certain contextual factors, which comprise both regional economic wealth as compared with the host country at large and the presence of minorities within the minorities, a presence that tends to increase as the regions are richer and thus attract economic migrants. As a consequence, it is plausible that the relative regional wealth vis-à-vis the average wealth of the whole society radically affects the impact of decentralization on support for the overarching polity. Political decentralization generally facilitates protection of the local culture. However, this protection may have unintended consequences, for it creates a protected milieu for the cultural minority – one in which they have a definite advantage in the competition for scarce resources, especially with respect to labor market opportunities in the public and service sectors. As a result, members of the minority community may be tempted to expand their protected milieu, with secession as the ultimate panacea.

In addition, political decentralization makes the structure of political opportunities much more favorable for high-status groups with regional-specific interests, as well as for the local intelligentsia who can take advantage of the situation to try to indoctrinate and mobilize the regional population against the centre. Once opportunities of gaining institutional representation, of accessing public resources useful for political mobilization, and of seizing regional power increase, high-status groups become more willing to promote the nationalist intelligentsia. Consequently, in terms of political socialization, increasingly important regional agencies – most significantly, public educational institutions and, where applicable, regionally controlled mass media – will tend to inculcate

positive attitudes towards the region while ignoring or downplaying the overarching state and its community. The general tendency of elites in nested organizations to claim achievements as theirs while displacing the blame for problems on the nest organization is reinforced as interests diverge.

The empirical findings of the author elsewhere elaborated in detail clearly lend credence to the claim that political decentralization enhances integration into the overarching polity when it comes to relatively poor culturally differentiated regions such as Galicia, in accordance with the hypothesis of an important strand of the literature. Conversely, in accordance with the general claim of the rival camp in the literature, political decentralization in relatively wealthy culturally differentiated regional minorities, such as Catalonia, Québec and Scotland, appears to fuel inclinations in favor of separation. These results should invite the social scientific community to reconsider the theoretical claims that abound in the field, in the light of solid empirical data. An immediate task in just such a direction would be to expand this analysis to include more regions, particularly, in non-Western societies.

The implications also might invite us to take carefully ongoing tendencies to advise or prescribe territorial federalization to countries with diverse territorially concentrated ethno-cultural groups that are a majority in relatively rich areas, such as Iraq (concerning the Kurds) or Bolivia (concerning Santa Cruz). Even though the extrapolation of the experience of the four Western regions examined here ought to be considered carefully too, it should suffice to warn both academics and practitioners about the danger of long-run further exacerbation of sectarian tensions in the form of centre-periphery conflict as long as self-government on a territorial basis is created or augmented in the relatively wealthy regions. In this sense, alternatives to both self-government and *territorial* self-government ought also to be pondered.

Notes

- 1 I use Dahl's (1971) term "contestation". Dahl considers that one main characteristic of democracy – or real-world "poliarchy" – is the possibility of choosing between different options, all which have had similar opportunities to be advocated. This induces a fair competition between two or more options with a real public debate.
- 2 For a review of the recent literature about political socialization, see Sapiro 2004.
- 3 The data are modelled with ordinary least squares (OLS) regression. The control variables shown in the table are those yielding statistically significant effects. These comprise the degree of autocracy-democracy in the polity (as measured by Freedom House) and a wide battery of dummies for events: two representing the political atmosphere in Canada during the attainment and subsequent crisis of the Meech Lake constitutional accord; one representing the period of the third government of Margaret Thatcher in Great Britain; one for the year when the Poll Tax was enforced in Scotland; one for the years when the *Parti Québécois* held the provincial government of Québec (*NatGov_Q*); one for the referenda in Scotland (1979, on self-rule) and Québec (1980, on the relationship between Québec and Canada at large); and another one for the year in which the Olympic Games took place in Spain (for further details, see Martínez-Herrera 2005).
- 4 Linz (1981) coined the expression "peripheries within the periphery".

- 5 For economic data on the British, Canadian and Spanish regions, see, respectively, the database "Regio", (Eurostat), Statistics Canada (www.statcan.ca) and Instituto Nacional de Estadística (www.ine.es). However, were the oil revenues of the administrative region of the North Sea to be imputed to Scotland, this would become one of the two richest regions in the country, on the same footing as London.
- 6 For the Spanish regions, the figures are drawn from opinion surveys conducted by the CIS, as censuses do not ask about where parents were born. Instead, the data for Scotland and Québec come from censuses.

10 The distinct effects of federalism and decentralization on performance

Jan Biela and Annika Hennl

Introduction¹

Concerning the question: 'does federalism matter?' (Kaiser 2004) most analyses have placed emphasis on explaining the effects of federalism on the input side of the political process, i.e. effects on democratic quality (Lijphart 1999; Bednar *et al.* 2001). In contrast, studies dealing with federalism's effect on performance and thus output effects are scarce so far and, moreover, produce ambiguous results (for an overview, see Braun 2002a, or Benz 2002). From our point of view, these incoherent findings are due to a blurred understanding regarding the theoretical conceptualization of federalism and decentralization.

Classically, political science literature differentiates between federal and unitary countries, whereas public finance literature compares decentralized and centralized countries. However, a closer look at the theoretical reasoning underlying most analyses reveals that a federal organization of a country is often implicitly equated with decentralization and a unitary one with centralization, respectively. Empirically, this is not necessarily the case. Unitary countries, like Sweden or Denmark, can be decentralized, and a federal state structure can be accompanied by a rather centralized pattern of policy implementation – seen for instance in the case of Austria. Braun (2000) and Keman (2000) have thus argued that there is a need for a conceptual distinction between federalism and decentralization. Building on this important insight, the paper at hand consistently treats federalism and decentralization as distinct dimensions of territorial state activity and uses existing arguments of political science as well as public finance research to develop a theoretical model that explains their independent as well as interdependent effects on performance. Moreover, the reasoning applied does take into account that these effects may differentiate between policy areas (Benz 1998; 2002).

Striving for an empirical test of our arguments, we confront some difficulties. In line with the assumptions of new institutionalism (March and Olsen 1984; Kaiser 1997), we expect performance effects to be caused by a complex interplay of political institutions. The vertical organizational structure of a nation state, i.e. federalism and decentralization, is only one factor in the overall institutional arrangement. Consequently, there are many variables with a potential

impact on performance but only a relatively low number of (stable, democratic, and economically developed) political systems in the world – and even fewer federal ones. We thus confront the well-known methodological problems of a ‘small n’ design. Whereas this may have contributed to the bemoaned lack of comparative studies on federalism (see Chapter 1 of this volume) and a preference for case studies (Scharpf *et al.* 1976; Peterson 1995; Painter 1998), the chapter at hand proposes a twofold solution to this problem. Firstly, we develop a multifaceted, quantitative strategy in order to apply a cross-national comparison of OECD countries. By computing a large number of multivariate regression analyses, we infer an effect of federalism and/or decentralization whenever we find stable and resilient correlations in a majority of the models. At the same time, we embed the quantitative results in a broader mixed-method research design and propose to use the empirical findings as a starting point for a more detailed analysis of cases and causal mechanisms. We thus suggest combining the advantages of both quantitative and qualitative approaches (Lieberman 2005; Gerring 2004; Rohlfing 2008).

This chapter proceeds as follows. After a brief literature review of federalism research that focuses on output effects, we develop a coherent model of causal links between federalism, decentralization, and performance. Following a detailed description of our research design, the findings of our empirical analysis are presented in the fourth section. Federalism and decentralization turn out as empirically different dimensions that have divergent effects on policy performance. Whereas decentralization improves macroeconomic performance, federalism tends to hinder it. Moreover, the effect varies from policy area to policy area. After discussing the potential of these findings as a guide for further qualitative research, the sixth section concludes and assesses how our chapter contributes to tackling new avenues in comparative federalism research.

Theory and hypotheses

Does federalism matter for effective policy-making, and if so, in what ways? A short literature review illustrates a wide variety of findings with regard to performance effects of federal state organization. Whereas Lane and Ersson (1997) and Castles (2000) do not find any impact of federalism on the macroeconomic performance of political systems, Lijphart (1999), Busch (1995) and Lancaster and Hicks (2000) detect a positive influence of federalism on lower inflation rates. Moreover, some studies have shown that federalism leads to a lower share of government expenditure in GDP (Wilensky 1975; Cameron 1978; Castles and McKinlay 1979; Schmidt 1996), that it may lead to lower unemployment (Crepaz 1996), lower welfare spending (Kriesi 1994), greater balanced budget (Busch 1995), or higher economic growth (Lancaster and Hicks 2000). Confronted with the task of interpreting such disputed findings, this chapter argues that existing research has mostly ignored the fundamental difference between federalism and decentralization as two distinct dimensions of territorial state organization.

Following Braun (2000) as well as Keman (2000), we thus assume that it is conceptually necessary to differentiate between federalism and decentralization as two distinct dimensions of territorial state organization. Federalism refers to the allocation of decision-making competencies within a state and, more specifically, to a subnational entity’s constitutionally guaranteed ‘right to decide’. Decentralization, on the other hand, alludes to the functional allotment of tasks within a state and encompasses discretionary policy implementation by subnational entities, and thus their ‘right to act’. Next to this basic distinction it is reasonable to expect that these two dimensions of territorial state organization impact upon policy performance independently and at different phases of the policy-making process. Whereas federalism may significantly alter patterns of (national) decision-making, decentralization refers to the discretion of subnational units during the implementation phase and may thus gain relevance at a later stage of the policy-making process.

Looking back at the history of federalism research, it is evident that these two dimensions have for the most part been analyzed in a rather undifferentiated way. In an effort to challenge Riker’s (1969) claim that federalism has no real effect except with regard to more complicated decision-making, Ostrom (1973) assumes that federal countries are able to tap the full potential of a decentralized provision of public goods and services. Based upon findings from public finance literature (in particular Oates 1972), it is obvious that Ostrom’s argument does not apply to federalism as such but rather ascribes effects to a decentralized resource allocation. In a comparable manner, Weingast’s concept of market-preserving federalism explicitly rests, amongst others, upon the condition that sub-national autonomy encompasses the authority to adapt policies and to tailor the provision of local public goods and services to sub-national circumstances as well as to set tax rates (Weingast 1995; Weingast and Qian 1997). Again, the theoretical argument refers to decentralization rather than to federalism itself.

In light of these conceptual ambiguities, this chapter emphasizes the significant difference between federalism and decentralization and develops a consistent explanatory model of their independent as well as interdependent effects on performance. It is thereby not necessary to develop completely new theoretical arguments but rather to disentangle the arguments that political science and public finance literature have provided. First, however, we examine the dependent variable of our output-oriented research and briefly turn to the concepts of efficiency of public finance and political science research, respectively.

The notion of efficiency that embodies the core of public finance research can be traced back to Musgrave’s (1959) theory of public finance, which distinguishes between three interdependent branches of fiscal government: resource allocation, wealth distribution, and maintenance of economic stability. Efficiency considerations mainly occur within the allocative branch and refer to a provision of public goods and services that is in accordance with the resource needs of the population. The emerging concept of efficiency is thus an economic one that largely ignores decision-making as a distinct dimension of state activity (Beer 1977; Keman 2000).

In contrast to public finance research, political scientists often apply the concept of efficiency to the analysis of decision-making processes and neglect its denotation as a process of spatial mapping of resource needs, preferences and public goods provision. Whereas this chapter analyses both the effects of a decentralized resource allocation as well as specific patterns of decision-making, our dependent variable is, in both cases, inspired by public finance research. We thus theoretically apply an economic concept of allocative efficiency even though data availability limits our quantitative analysis to the evaluation of policy performance. Within the theoretical reasoning, we will first turn to the independent effects of a decentralized resource allocation.

The most basic argument in favor of decentralization has been put forward by Oates (1972). His decentralization theorem postulates that a decentralized provision of resources is generally more efficient than a centralized supply – subject to specific conditions such as scale effects. The rationale behind this proposition is twofold. Policy-makers at the sub-national level are better informed about the local resource needs than policy-makers at the central level. Additionally, even when the central level is aware of different needs in the various regions, an uneven supply of resources at the central level is not always enforceable because it may violate political perceptions of equal treatment (cf. Oates 2005). Another argument puts emphasis on the advantages of a competitive resource allocation. Tiebout (1956; 1961) put forth the idea that mobile citizens within a decentralized system may move to a place where the specific pattern of resource allocation matches their preferences and thus maximizes their personal utility. Moreover, competitive resource allocation may lead to policy innovation as well as a diffusion of best practices and thus, in the long run, increase the efficiency of the system as a whole (Oates 1977). Accordingly, we formulate the following basic hypothesis:

H1: Decentralization leads to better policy performance than centralization.

However, increasingly, public finance literature has shown that decentralized resource provision is not necessarily a superior mode of governance. There is a need for additional institutional arrangements, which guarantee fiscal discipline concerning sub-national governments, by frustrating incentives to overstretch financial abilities in order to provide more goods and services. Such overspending may appear a viable strategy, particularly when the central government is likely to bail the respective sub-national government out, thereby causing the deficit burden to shift to residents of other sub-national entities or to future generations (Goodspeed 2002). Likewise, the central government may only prevent welfare losses of sub-national overspending if it can credibly put forward a no-bailout strategy. Accordingly, it seems reasonable that the effects of decentralization are subject to the hardness of budget constraints in a political system and for a given level of decentralization, harder budget constraints are associated with superior policy performance.

Interpreting the interaction between levels of government that shapes the incentives for debt finance as a game between the central and the sub-national level, it becomes clear that the effectiveness of hard budget constraints depends on the degree to which they increase a sub-national government's costs of overspending and/or reduce the central government's costs of a no-bailout, respectively (Inman 2003). He and Rodden (2003) show that this can be achieved either by market institutions or by hierarchical oversight procedures and legislative restrictions in combination with independent monitoring agencies. Thus, in countries with functioning democratic and economic institutions, sub-national budget constraints are illustrated either by sub-national fiscal autonomy and unequivocal accountability of sub-national governments or by hierarchical regulative authority on the central government's part (Rodden 2003). As can be seen in Table 10.1 and in line with Rodden (2002b), we thus expect decentralization in unitary countries and in those that follow the model of dual federalism to lead to higher policy performance. Decentralization in countries that follow the model of joint federalism may result in comparatively lower policy performance.

Whereas we thus assume that decentralization – and its interaction with federalism – impacts on efficiency during the implementation of decisions on resource allocations, we moreover argue that federalism has an independent effect on policy performance. The original decision-making competencies of sub-national units may independently impact on efficiency by protracting negotiations, particularly if external changes require the redistribution of resources between levels. The phase of decision-making can thereby be depicted as a separate strategic policy game, within which negotiations between sub-national entities on the allotting of resources correspond to the logic of a prisoners' dilemma. Cooperation of all sub-national governments with the central government yields the most efficient allocation of resources, but any single sub-national government has an incentive to deviate and demand particular benefits (Inman 2003). It is then plausible that sub-national governments in federal states use their original decision-making competencies to reinforce such demands and that an optimal resource allocation may *ceteris paribus* be more difficult to achieve than in unitary states. In addition, applications of game theory to political science have shown that it is especially difficult to achieve a welfare-optimizing equilibrium in prisoners' dilemma situations with more than two players (Ostrom 1990; Scharpf 1997). Based on these considerations, as well as with reference to veto player theory (Tsebelis 2002), we thus argue that, independent of the degree of

Table 10.1 Interaction effects between federalism, decentralization and performance

		Central government's ability to regulate sub-national government	
		Weak (federalism)	Strong (unitarism)
Sub-national fiscal autonomy	No	Bailouts, soft budget constraints	Hierarchical mechanisms
	Yes	Unconstrained decentralization	

decentralization, federal countries experience greater policy stability in comparison to unitary states. Yet, slower decision-making processes do not necessarily result in inefficiencies. According to Breton (1987), a federal system may rather lead to more balanced policy results. However, a transaction cost economics approach indicates that slower decision-making brings about a reduced capacity for reacting to socioeconomic changes. Williamson (1991) argues that in these situations hierarchical structures are clearly superior – particularly salient in the redistribution of resources according to Scharpf (1992). Federalism's tendency to protract decision-making may thus lower efficiency. Since the adaptation to the socioeconomic challenges of worldwide market integration has been prominent on the political agenda in virtually all OECD countries (Pierson 1998), we hypothesize that:

H2: Federalism tends to result in lower policy performance.

However, this hypothesis is formulated as a rather weak relationship as the effects of federalism may be dependent on the overall institutional arrangements.

In a nutshell, our theoretical model suggests that institutional arrangements of resource allocation influence policy performance, that a decentralized allocation – conditional upon hard budget constraints – leads to efficiency gains and that federalism tends to exhibit a (negative) effect if external changes require the redistribution of resources between levels.

In addition, our chapter seeks to evaluate the assumption that federalism and decentralization have divergent effects depending on the policy area (Benz 1998; 2002). Considering our basic theoretical argumentation (Musgrave 1959; Oates 1972), one reasonably expects efficiency gains to be limited to policy areas with allocative functions. Moreover, Braun (2000) argues that divergent sub-national policies should especially occur in space-related policy areas and in such areas that affect sub-national identities. Even though the following analysis will select policy areas based on this reasoning, additional theoretical considerations imply possible area-specific effects. Positive effects of decentralization in allocative policy areas thus seem to prevail only as long as a central provision of goods and services is not linked to additional economies of scale (cf. Oates 1972).² Whereas economies of scale are rather unlikely, for example, in the areas of economic policy or recreation and culture, they might gain relevance in the area of infrastructure. Additionally, performance may depend on the amount of discretionary leeway a specific area provides; positive effects of decentralization may be undermined if central level laws are very detailed and sub-national actors lack the relevant regulative competencies concerning their implementation decisions. Moreover, sub-national expenditures in a given policy area may be highly dependent on conditional grants³ or limited to spending on personnel. Furthermore, our theoretical reasoning explicitly rests upon the assumption that political actors are for a large part driven by policy motives. However, vote- or office-maximizing motives may provide an incentive for political core actors to deviate from efficient allocation decisions.

Design and methods

In order to test for the hypothesized effects, we will first conduct a quantitative analysis. As such, we are able to control for the numerous factors that reportedly influence policy performance and moreover provide a solid basis for case selection within a mixed-method research design. Owing to the theoretical premises of stable democratic and economic institutions, as well as to practical considerations concerning data reliability, the quantitative analysis will be restricted to the OECD countries. It thus rests on only 20 to 30 cases (dependent on data availability) and is – due to numerous control factors – characterized by a classical “small n” situation. Thus, the central limit theorem as the indispensable assumption for drawing statistical inference does not apply.⁴ In general, there are two quantitatively based solutions to this problem. One can conduct cross-sectional regressions in order to evaluate the empirical distribution within the respective countries and gain insights to systematic relationships by comparing the results of numerous regressions. A second option is to incorporate the time dimension into the analysis and thus increase the number of observations. Yet panel designs bring about a number of specific fallacies, and there is a growing awareness that their overall potential is limited (Beck 2001; Plümper *et al.* 2005). We thus restrict the analysis to a thorough comparison of cross-sectional regressions.⁵ In all regressions conducted, we tested for the validity of regression assumptions and, if necessary, applied appropriate adjustments.

Confronted with a small number of cases as well as a high number of potentially influential factors, we decided to opt for a complex strategy of analysis that combines different methods of preselecting indicators and rests upon the idea of comparing the effects of federalism and decentralization throughout a large number of built-up models. Moreover, the analysis includes six different indicators of decentralization and seven indicators of federalism.⁶

In order to interpret the results, we consider the persistence of the federalism and decentralization indicators across the different models. Hence, we infer an effect in case federalism and decentralization are significant in the majority of the models.⁷

Operationalization of the independent variables

Even a brief glance at the literature (Levin 1991; Baldi 1999; Rodden 2004) reveals that there are a number of indicators which capture different aspects of both federalism and decentralization. We have therefore decided to choose six different indicators for each dimension respectively (plus an additional dummy for the federalism type). With regard to federalism, we include (a) a dummy variable by Elazar (1987) that depicts Australia, Austria, Belgium since 1993, Canada, Germany, Mexico, Switzerland, and the United States as federal states; (b) a continuous indicator developed by Keman (2000) that encompasses the degree of autonomy, the balance between the legislature and the executive, the barriers that guarantee the constitutional security of sub-national representation

as well as sovereignty (taken as the amount of vertical separation of powers); (c) Lijphart's (1999) continuous indicator incorporating institutional indices of federalism, bicameralism, constitutional rigidity, judicial control, and the independence of central banks; (d) a dummy counting all states with sub-national decision-making competencies in at least one policy area (Treisman 2000); (e) an index of federalism and bicameralism that captures institutional veto potential (Gerring and Thacker 2004); (f) a categorical variable differentiating federal, semi-federal and unitary systems (Maddex 1996); and (g) a dummy for Germany as the most outspoken example of the model of joint federalism.

Regarding decentralization we consider (a) the ratio of sub-national expenditure to total expenditure (average values for 1994–2003, IMF); (b) the respective revenue ratio (average values for 1994–2003, IMF); (c) the share of total sub-national tax revenue (Rodden 2002; 2004); (d) the share of total tax revenue over which sub-national governments possess full autonomy to set their own tax rates (Rodden 2002; 2004); (e) the share of total tax revenue over which sub-national governments possess full autonomy to set their own rates and bases (Rodden 2002; 2004); and finally (f) an indicator measuring the ratio of sub-national to total administrative personnel (Schiavo-Campo *et al.* 1997).

Regarding the control variables, indicators, which capture fiscal aspects of a political system – and thus control for the hardness of budget constraints – are set apart. They include the proportion of new debts to sub-national expenditure (IMF), an index of budget constraints that has been developed by the Inter-American Development Bank (1997), as well as a slightly modified version of the respective data from Rodden (2002),⁸ the proportion of grants to sub-national revenue (Rodden 2004) as well as sub-national expenditure (IMF), and finally, two additional indicators measuring the vertical fiscal imbalance of the political system (average values for 1994–2003, IMF).

Further control factors selected on the basis of previous findings are the population size, the size of the country in terms of area and population density (taken from CIA 2005), age distribution (United Nations 2005), income distribution (UNDP 2004), ethnic (Levinson 1998) as well as religious fragmentation (Encyclopedia Britannica 1997), and the degree of urbanization (United Nations 2002). We also control for the level of development (Human Development Index (UNDP 2004)), the number of “democratic years” 1900–2003 (Marshall and Jagers 2002), the legal culture (La Porta *et al.* 1999), and the institutional configuration of the political system (Lijphart 1999).⁹

Operationalization of the dependent variables

As dependent variables, we chose macroeconomic performance indicators selected on the basis of a literature review: government size, welfare spending, inflation rates, unemployment rates, budget balance, and economic growth. These indicators are average values for the years 1994–2003 and are taken out of the Main Economic Indicators of the OECD as well as the OECD Economic Outlook data.

Next to these macroeconomic indicators, we have collected indicators for performance in different policy areas. Based on theoretical considerations outlined in section two, we focus on the policy areas of public order and safety, education, recreation and culture, environment, economic policy, and infrastructure, thereby preferring output to outcome indicators. Accordingly, we have chosen the number of police officers per 1000 inhabitants (United Nations 2002), the number of teachers (UNESCO 2001) as well as PISA results (OECD 2001), the number of library officials (UNESCO 2001), and the compliance with international environmental conventions (Porter *et al.* 2001). For economic policy, an index that captures “the extent to which technical, scientific, and human resources meet the requirements of the economy” (International Institute for Management Development 2005) was considered. Lastly, concerning infrastructure we included the size of road networks (UNECE 2005) as well as three indicators from the Global Entrepreneurship Monitor 2002 regarding regulations, the quality of public funding, and the physical infrastructure for start-up enterprises (Sternberg and Bergmann 2003).

Findings

The first step of our analysis assesses whether or not federalism and decentralization are indeed empirically different dimensions. This is important since our theoretical model explicitly rests upon this assumption. As can be seen in Table 10.2, our basic assumption is corroborated.

The correlation analysis between the different indicators of federalism and decentralization shows that even if the two dimensions are fairly connected, they are by no means identical. While most of the indicators correlate by values between 0.4 and 0.6, there are also weaker and even negative relationships. Moreover, for any combination of indicators there are some countries which do

Table 10.2 Correlations of federalism and decentralization indices

Correlations	dezrev2	dezrev3	dezrev4	snadm	dezrev1	dezexp
feddummy	0.46	0.14	0.52	0.41	0.57	0.64
fedlijp	0.46	0.13	0.61	0.43	0.60	0.71
fedkeman	0.58	0.31	0.63	0.48	0.65	0.74
fedtreis	0.30	0.12	0.54	0.41	0.46	0.50
fedgth	0.25	−0.03	0.43	0.45	0.47	0.58
fedmax	0.44	0.24	0.63	0.47	0.61	0.67

Note

dezexp = sub-national expenditure as share of total expenditure (IMF); dezrev1 = sub-national revenue as share of total revenue (IMF); dezrev2 = own-source sub-national revenue as share of total sub-national revenue (Rodden 2004); dezrev3 = see dezrev2, corrected for “rate autonomy”; dezrev4 = see dezrev 2, corrected for rate and base autonomy; feddummy = federal = 1, unitary = 0 (Elazar 1987); fedgth = indicator for federalism/bicameralism (Gerring and Thacker 2004); fedkeman = federalism indicator (Keman 2000); fedlijp = federalism indicator (Lijphart 1999); fedmax = federalism indicator based on Maddex 1998 (Keman 2000); fedtreis = index of sub-national autonomy (Treisman 2000); snadm = sub-national share of government employees (Schiavo-Campo *et al.* 1997).

not match the assumption that federalism and decentralization, and unitarism and centralization, go hand in hand. The often implicitly reported assumption of a perfect relationship between federalism and decentralization is thus rejected.

The second step of our empirical analysis consists of a cross-sectional analysis conducted, as described in section three.¹⁰ The dependent variables are macroeconomic performance indicators. As Table 10.3 shows, the analysis basically corroborates hypotheses H1 and H2 derived in the theoretical part of the study.¹¹ Decentralization tends to have a positive effect on economic growth and budget balance; its reducing effect on inflation rates must be qualified because a stable effect can only be verified for the indicator of personnel decentralization. Federalism is associated with a lower growth rate and higher inflation. Regarding the unemployment rate and government size, there is no confirmed effect of either federalism or decentralization. These findings coincide with most of the literature. Opposed to our theoretical expectations, the findings indicate that within the area of social policy, decentralization leads to higher spending on welfare, whereas federalism correlates with less spending.¹²

In a further step, we test for the assumption that the effects of federalism and decentralization differ from policy area to policy area (Benz 1998; 2002). Indeed, there are ascertainable differences. While a decentralized resource supply in the areas of economic policy, environment, and recreation and culture (albeit these results are somewhat unstable) tends to have a positive influence, the analysis yields no effects regarding the policy areas of education and infrastructure. With respect to the area of public order and safety, the relationship is inconsistent with the theoretical argumentation. Decentralized countries tend to have fewer police officers per 1000 inhabitants than centralized countries. However, this finding is confirmed only for some models.

For the several federalism indicators, including the federalism type, there is no stable effect detectable in the numerous regression models. However, the analysis indicates that Germany (as the sole case of joint federalism in the analysis) differs from the remainder of the OECD countries with respect to the number of police officers (positively), the PISA results (negatively), and public funding (positively).

Table 10.3 Federalism, decentralization, and macroeconomic performance

Performance indicators	Federalism	Decentralization	Federalism type
Economic growth	–	+	o
Unemployment	o	o	o
Inflation	+	(–)	o
Government size	o	o	o
Welfare spending	–	+	o
Budget balance	o	+	o

Note

+ signals a significant positive; – signals a significant negative relationship; o indicates that there is no significant relationship.

Table 10.4 recapitulates the findings of the cross-sectional analysis in different policy areas.

In sum, we have developed a theoretical model on the causal relationships between federalism, decentralization, and performance, which we tested by a quantitative analysis of the OECD countries. The findings show that federalism and decentralization are theoretically as well as empirically distinct dimensions that impact independently on patterns of state activity. Our analysis basically confirms the hypotheses of positive effects of decentralization (H1) and slightly negative effects of federalism (H2) on policy performance. Albeit with reservations, the findings regarding policy area performance are mainly compatible with the theoretical propositions. Results with respect to the type of federalism are unclear, so that the respective hypotheses are neither confirmed nor rejected.

Prospect of further research

Our analysis yields fresh insight regarding the interplay of institutional arrangements and especially the impact of territorial organization of state activity on policy performance. The analysis also exposes divergent effects of federalism and decentralization in different policy areas. However, owing to the “small n” problem and a small degree of variance for many institutional arrangements within the OECD, a quantitative approach is not enough to substantiate valid research findings in the sense of causal explanations.

We therefore suggest that the analysis at hand should be perceived as a first step of a mixed-method research design (Lieberman 2005; Gerring 2004; Rohlfing 2008). In this understanding, the statistical analysis “can guide case selection for in-depth research, provide direction for more detailed case studies and comparisons, and can be used to assess the plausibility of observed statistical relationships between variables” (Lieberman 2005: 435). A so called “nested design” of quantitative and qualitative analyses combines the advantages of different approaches: Quantitative designs are useful to evaluate causal effects, whereas qualitative case studies focus more on the extraction of causal mechanisms (Gerring 2004). Taking both quantitative and qualitative analyses as complementary parts within a mixed-

Table 10.4 Federalism, decentralization, and performance in policy areas

Performance indicators	Federalism	Decentralization	Federalism type
Public order and safety	o	(–)	(+)
Education	o	o	(–)
Recreation and culture	o	(o/+)	o
Economic policy	o	+	o
Infrastructure	o	o	o
Environment	o	+	o

Note

+ signals a significant positive; – signals a significant negative relationship; o indicates that there is no significant relationship.

method design can thus contribute to our knowledge of territorial state activity by building on both inductive and deductive reasoning. However, the method proposed by Lieberman has recently been criticized for not appreciating specific methodological problems such as ontological misspecification (Rohlfing 2008).

With regard to case selection, our quantitative database as well as the specific analyses described above prove invaluable. Whereas on the one hand, they allow for a clear-cut classification of countries as either federal or unitary, and decentralized or centralized respectively, on the other hand, they additionally provide a basis for selecting countries that are average cases with regard to those factors that have been proven to additionally influence policy performance.

A classification of countries can thereby proceed as follows. Each of the federalism indicators is plotted against each of the decentralization indicators. Using the mean of the OECD countries as a dividing line, a country's position in one of the four generated quadrants serves to classify it. To give an example, Figure 10.1 shows the scatterplot for the Keman federalism indicator and revenue decentralization.

The frequency with which a country appears in each of the four quadrants if one plots every indicator of one dimension against those of the other dimension is

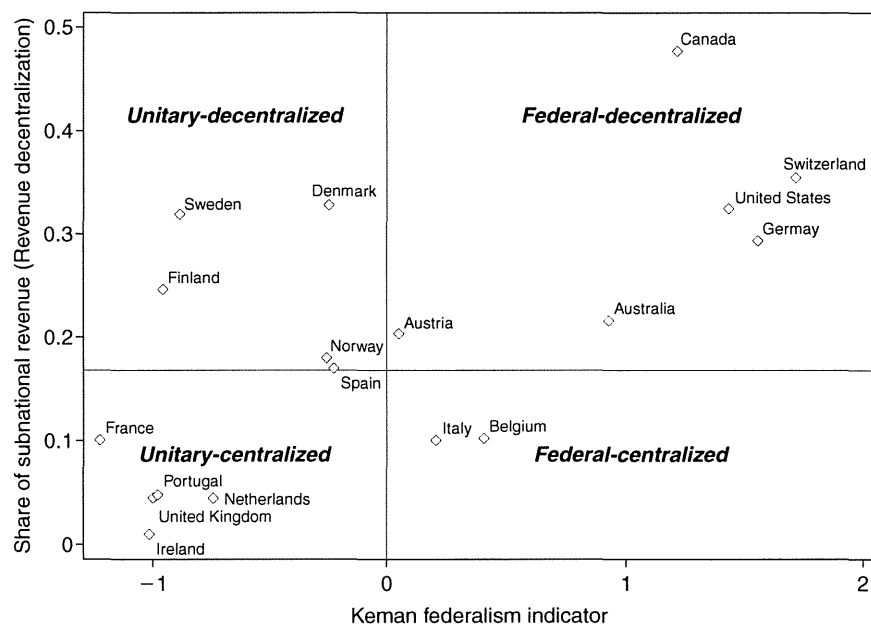


Figure 10.1 Scatterplot showing the countries' position on the unitary-federal dimension and the centralized-decentralized dimension.

Note

The lines indicate the mean of the OECD countries. dezrevl = sub-national revenue as share of total revenue (IMF); fedkeman = federalism indicator (Keman 2000).

shown in Table 10.5. The most common classification is indicated in bold letters. Based on this classification table, one can select cases for qualitative studies. A case study of a federal-centralized country can for example focus on Austria, one of a federal-decentralized country on either Australia, Canada, Switzerland, or the US. In order to analyze policy processes in a unitary-centralized country one can pick France, Greece, Ireland, or Poland, and regarding a unitary-decentralized pattern of policy-making, this may be foremost observed in the Scandinavian countries.

Besides, countries that do not clearly fit into the pattern sketched out in Table 10.5 are of specific scientific interest. For instance, it is almost impossible to assign the case of Spain to one of the depicted patterns. As one of the few countries that exhibits variation over time, with regard to decentralization (the degree of expenditure decentralization grows from 0.1 to 0.29 between 1975 and 2000

Table 10.5 Classification of federalism and decentralization in the literature

Country	UC	UD	FC	FD
Australia	0	0	0	24
Austria	4	2	20	10
Belgium	3	2	12	8
Canada	0	0	0	36
Czech Rep.	8	0	0	0
Denmark	6	30	0	0
Finland	6	30	0	0
France	24	0	0	0
Germany	0	0	18	18
Greece	15	0	0	0
Hungary	20	0	0	0
Iceland	10	10	0	0
Ireland	24	0	0	0
Italy	8	0	16	0
Japan	0	4	0	1
Korea	0	4	0	0
Luxembourg	8	0	2	0
Mexico	0	0	12	8
Netherlands	24	0	12	0
New Zealand	15	0	0	0
Norway	18	18	0	0
Poland	20	4	0	0
Portugal	36	0	0	0
Slovak Rep.	12	0	0	0
Spain	9	9	9	9
Sweden	6	30	0	0
Switzerland	0	0	0	36
Turkey	4	0	0	0
United Kingdom	30	6	0	0
United States	0	0	0	36

Note

UC = unitary-centralized; UD = unitary-decentralized; FC = federal-centralized; FD = federal-decentralized. The most frequent results are indicated in bold numbers.

due to IMF data), an in-depth case study of Spain would facilitate an additional test upon the reasoning of our model. Regarding the selection of policy areas, it is useful to focus on areas, where the statistical analyses of decentralization and federalism exhibited diverging effects, for example economic policy, infrastructure, and public order and safety.

In all cases, it is of utmost importance to avoid a biased case selection that might arise due to neglect of additionally influential factors (Rohlfing 2008). Countries chosen should thus be highly comparable with regard to those factors that have been significantly impacting upon the performance within the quantitative analysis.

Conclusions

Does federalism matter for effective policy-making? Our chapter contributes to the research that focuses on this question in at least four ways. First, we develop a theoretical model on the causal relationships between federalism, decentralization and macroeconomic system performance by bridging the gap between two strands of literature (federalism literature in political science, public finance literature on fiscal federalism) that have coexisted in isolation for too long. Second, the main hypotheses derived from the model are corroborated by a quantitative analysis covering OECD countries; federalism and decentralization are empirically different dimensions of the territorial organization of politics, decentralization has positive effects on policy performance, whereas federalism tends to result in either no or negative performance effects. In addition, we find that these effects differ from policy area to policy area. Whereas we have thus shown that an approach that compares numerous cross-sectional analyses can at least guide quantitative research, even in an area where researchers have so far rejected the application of quantitative methods, our chapter, third, paves the way for in-depth qualitative case study analyses as it provides for an adequate case selection. A closer evaluation of the causal mechanisms that may lie behind the approved relationships constitutes the next step in the research agenda.

Notes

- 1 This chapter is based on research funded by the Deutsche Forschungsgemeinschaft (KA 1741/2-1 and KA 1741/2-2) and the Cologne Centre for Empirical Research in the Economic and Social Sciences, Principal Investigator: Prof. Dr. André Kaiser. We thank Jaclyn Verghis and Thorsten Kemper for able research support.
- 2 Economies of scale denote the dependence of the production output on the production factors. Positive economies of scale result, for instance, in bigger planning and production units. In economic theory, most public goods are supposed to correspond with such economies of scale.
- 3 Next to these area-specific constraints on diverse implementation, general inefficiencies may occur as sub-national units with highly limited financial and personnel resources may simply not be able to efficiently make use of their 'right to act'.
- 4 The central limit theorem states that the sum of stochastically independent random variables is approximately normally distributed.

- 5 Within the broader research project both cross-sectional and panel analysis has been conducted. The main results presented in this chapter remain unaltered (Kaiser and Ehlert 2009; Ehlert *et al.* 2007).
- 6 The detailed steps of the analysis are shown in the appendix.
- 7 In assessing the models, we use the Akaike information criterion (AIC, Akaike 1973) being the econometric standard measure for the comparison of model quality.
- 8 Rodden (2002b) provides data for the hardness of budget constraints for all sub-national levels separately. We have modified this data by taking the average values for the state and local level in the case of federal countries.
- 9 Macroeconomic indicators are also incorporated as potential influence factors.
- 10 A selection of regression models with regard to both macroeconomic as well as area specific performance is shown in the appendix.
- 11 With regard to most model specifications, findings for the fiscal indicators were inconsistent. Whereas this may be traceable to the relative constancy of budget constraints in OECD countries, we included these indicators to avoid biased estimators of decentralization and federalism.
- 12 The depicted positive or negative influence is inferred by assessing the consistency of the effects throughout different models (see the third section of this chapter). The dataset as well as all analyses are available upon request.

11 Making fiscal federalism self-enforcing

Germany, Australia, and Switzerland compared

Dietmar Braun

Introduction¹

The existing arrangements of fiscal federalism in Germany are heavily contested: they seem to have negative effects on fiscal discipline in the form of excessive borrowing, cause disincentives to invest or to launch structural reforms, and foster waste of public revenues (see Jeffery 2003; Baus *et al.* 2007). The parliamentary committee on the reform of the fiscal federal order installed in 2006 has no easy task to find answers to these problems that might lead to efficient and sustainable fiscal arrangements. I intend in this chapter to apply insights from the emerging “institutional economics of federalism” approach in general (Weingast 1995; Inman and Rubinfeld 1997; Bednar *et al.* 2001; Filippov *et al.* 2004; Rodden 2006) and Figueiredo and Weingast’s (2005; 2007) model of “self-enforcing federalism” in particular and to use a comparative point of view in order to draw lessons for the fiscal federal problems of Germany.

The notion of incomplete contracts will be the starting point of my discussion on inefficiencies in German fiscal federalism. The insight that contracts in fiscal federalism are almost always incomplete and give rise to a constant “re-shuffling” of actors’ positions and fiscal arrangements raises the question, which political institutional order may be able to establish contracts that can generate an efficient and stable equilibrium? Recently, Rui Figueiredo and Barry Weingast developed a model of “self-enforcing federalism” (Figueiredo and Weingast 2005; Figueiredo and Weingast 2007) which attempts to give an answer to this riddle. “Self-enforcing” simply means that “the center and the states must have incentives to fulfil their obligations within the limits of the federal bargain” (Figueiredo and Weingast 2005: 103). This approach, which is firmly anchored within “institutional economics of federalism”, has not been explicitly applied to problems of fiscal federalism. I intend to fill in this gap.

By applying “self-enforcing fiscal federalism” as an analytical concept, I will be able to judge on incentives and disincentives that are created by political arrangements in Germany, Australia, and Switzerland and work out the merits and demerits of each model. This analysis will serve to find an answer to the question, which kind of self-enforcing fiscal federal arrangements could help Germany to overcome its inefficiencies? The chapter is structured in the

following way: in the next section, the approach of self-enforcing federalism is worked out. The working of fiscal federal arrangements in Germany is then critically analyzed before it is confronted with comparative evidence from Australia and Switzerland, both of which provide alternative ways of organizing fiscal federalism. In the conclusions I will demonstrate what Germany can learn from the other examples.

Theoretical considerations

The approach of “self-enforcing federalism” starts from the idea that economic wealth and social well-being needs a political order that respects the competitive forces of the market by not encroaching upon the market in terms of revenue extraction. Federalism is one of the means to do so but one needs to solve two fundamental problems in order to protect markets from “predatory behavior” by both the central government and subgovernments: one is to prevent the federal government from “destroying federalism by overawing its constituent units” and the other is to prevent subgovernments “from undermining federalism by free riding and other forms of failure to cooperate” (Figueiredo and Weingast 2005: 104). In addition, assuming that one has found institutional arrangements that respect these conditions, these rules need to be sustainable or self-enforcing in the sense that no actor has incentives to change these institutions. If one takes these thoughts as a starting point for a “self-enforcing fiscal federal order”, I would state that the first and foremost task is to define a fiscal order that fosters productive behavior of the federal government and constituent units and efficient use of resources and which avoids wrong incentives leading to “predatory behavior” or “free riding”. Such an order should also be in accordance with the protection of market forces (Weingast 1995) but this is a secondary aspect and will not concern us in this chapter. A self-enforcing fiscal federal order is a precondition for the protection of market forces. I contend that a fiscal federal order should respect three categorical rules or benchmarks:

(1) *Avoid predatory behavior of the federal government* or, in other words, avoid incentives for the federal government to use its authority to encroach upon rights and revenues of subgovernments in such a way that their autonomy in decision-making is seriously jeopardized. There is a “*type-1 failure*” if this goal is not achieved.

(2) *Avoid free-riding of subgovernments in the form of rent-seeking*. Rent-seeking means to abstain from acquiring income by a contribution to the productive development of a country and instead to look for revenues by influencing the revenue distribution of a country in one’s own favor without a particular effort, thus profiting from productive behavior of other actors. Such a behavior is considered to be unproductive (see the discussion on “distributive coalitions” by Olson 1982). If rent-seeking occurs, I will speak of a “*type-2 failure*”.

(3) Finally, one must *avoid disincentives for productive behavior of subgovernments*. Subgovernments that simply abstain from productive behavior because the system produces disincentives (like high marginal tax rates) may

undermine the fiscal viability of a federation and should be taken into account. If such disincentives cannot be avoided, I speak of a “*type-3 failure*”.

Two structural conditions seem to favor opportunistic behavior: (1) The federal government has policy preferences it cannot realize without the help of subgovernments. Such a situation generally occurs as a result of the separation of property rights in policy areas in “divided federations” and of the functional division of powers in “integrated federations” (Hueglin and Fenna 2006: 51), which limits the powers of the federal government. In order to overcome this constraint, the federal government uses its “power of the purse” to make member states accept the policy preferences of the federal government; (2) Member states are dependent on external financial resources. This can be the case if there are significant economic and social asymmetries between member states in the federation leaving some subgovernments with only limited fiscal capacities. A mismatch between expenditure assignments fixed in the constitution and available resources can also contribute to financial dependence. Finally, such dependence is aggravated if member states do not have “fiscal sovereignty” (property rights over one or more growth taxes) or at least “fiscal flexibility” (i.e. the right to vary tax rates or the tax base). Fiscal dependence creates incentives to behave in an opportunistic way: either by cheating or rent-seeking (see below) or by concluding individual contracts with the federal government that help to find a way out of existing financial problems but create opportunities for predatory behavior of the federal government. Self-enforcing mechanisms should help to avoid such opportunistic behavior. A fiscal federal order that is based on self-enforcing mechanisms can be sustained over time because actors have no interest in searching for other and more profitable pay-offs. Such an interest in maintaining the existing order can be based on two rationales: (1) the costs that are involved in changing the existing order are higher than expected benefits; (2) the pay-off institutionalized in the existing order represents the highest preference of the various actors.

Mechanisms or institutions that raise costs to change the system will be labeled “*opportunism-reducing mechanisms*”, while “*opportunism-eliminating mechanisms*” achieve to install an order that corresponds to the second case. To give an example: say there is a mismatch between revenues and expenditure requirement for a member state in a federation which induces it to search for additional money by borrowing. In order to avoid excessive borrowing, an opportunism-reducing mechanism would be to avoid bail out by the federal government. Still, the basic problem, the mismatch, would remain and therefore an incentive for the member state to search for other ways to improve its income or shirk on expenditures. Opportunism-eliminating mechanisms would overcome such a situation by reducing, for example, expenditure assignments or granting additional tax revenue. In this case, the motivation of the member state to shirk would be taken away and the order would be sustained. The discussion of the three countries that follows will use this analytical framework in order to judge the degree of opportunism built into each system and to evaluate the kind of opportunism-reducing and -eliminating mechanisms we find.

Germany

Germany’s problems are, first, a tax system that is as such conceived as opportunism-reducing but which creates incentives for rent-seeking by member states because of its rigidity. We shall call this problem (a); second, a borrowing system that is, despite some measures of control, strongly prone to free-riding of subgovernments (b); third, a horizontal equalization system that creates both type-2 and type-3 failures (c); and, finally, a vertical transfer system that still has some weak tendencies to promote type-1 failure (d).

In problem (a), Germany has opted for a tax order based on *tax sharing*. It has fixed the share of revenues from income and corporate taxes in an equal way among the federal government and the German constituent provinces, i.e. *Länder* (and partly among municipalities). This principle is fixed in the Constitution and revision would need a two-third majority in the two chambers. Such tax sharing systems have their advantage with regard to type-1 failure because the federal government is constrained in its use of tax resources. The flipside of the coin is its lack of flexible adaptation if a mismatch between spending behavior and revenue income occurs. In that case member states cannot overcome this problem by a simple redistribution of tax shares. They cannot react individually and raise taxes because they lack tax sovereignty and flexibility. Under such circumstances, the only alternative is to search for other income sources, i.e. borrowing, equalization payments, and vertical transfers which open the door for rent-seeking behavior. In principle, German policy-makers have thought of these negative effects and introduced a compensating mechanism in the form of a more flexible value-added tax (VAT). In this case, simple majority decisions in the two federal chambers suffice to change the sharing rates between subgovernments and the federal government, which should add the necessary flexibility for adjustment. However, effects have been different. Though the voting procedure is less restrictive than in the case of revenue taxes, it may be as difficult to find a majority for a change of the VAT as in the case of revenue taxes. In order to find a majority in the upper house, i.e. the *Bundesrat*, the federal chamber in which member state governments are represented, one has not only to appease territorial interests but also party interests as both government and opposition are represented. In addition, the VAT has become more a bargaining resource and subject to pork-barrelling than a flexible mechanism to overcome the mismatch.

Only recently, discussions have started in Germany on changing this situation by granting more genuine tax autonomy to member states. The only outcome so far is that a tax of minor importance, i.e. a tax on land acquisition, has been put in the control of the *Länder*. This will be insufficient for overcoming the inflexibility of the tax-sharing arrangements and, hence, search of subgovernments for other sources of income will continue.

(b) One of such sources is *borrowing*. Germany has established a borrowing system that is considered as being inefficient despite of the establishment of a number of mechanisms that attempt to reduce rent-seeking behavior (Rodden 2003). Two conditions hold in the German context: one, member states are

allowed to borrow and, two, Germany leans on a system of solidarity among all actors: above all the federal government but also other member states are obliged to bail out member states with severe financial difficulties. In order to avoid excessive borrowing Germany has introduced a number of rules and soft forms of cooperative control, which will be discussed below.

Since the introduction of the new fiscal federal order in 1969, the constitution obliges all actors to take into account the macro-economic equilibrium when making debts. In case of serious economic disturbances, the federal government may intervene and fix maximum amounts for net lending of member states. Such a threat is, however, not very credible, given the fact that the federal government needs the approval of the *Bundesrat* to do so. The general problem is – and this holds also for the “golden rule” which obliges Germany as a member of the EMU to restrict borrowing to the “amount of projected outlays for investment purposes in the budget” – that the federal government does not dispose of sanctioning mechanisms that could punish “shirkers”. This lack of sanctioning mechanisms and the veto-power of the *Bundesrat* obliges the federal government more or less to search a consensus on borrowing topics with the *Länder*. This is done within the “Financial Planning Council” (*Finanzplanungsrat*) composed of all Treasurers of the federal government and the *Länder* as well as of representatives from municipalities. The Council does not have and never had sanctioning powers. It can attempt to find a consensus among all participants and “recommends” to its members to do this or that but it has no means to intervene if member states do not obey. The result is that 12 of 16 member states run a deficit, which is in conflict with constitutional regulations. Cooperative controls and rules and regulations cannot be self-enforcing if there are no sanctions involved (Kretschmann and Kaiser 2007). They can be interpreted in many ways and *Länder* use this to their advantage (Ter-Minassian and Craig 1997: 159).²

(c) No federal state can do without equalization payments in order to achieve a legitimate degree of equity among its members and avoid secession. The achievement of “equal” living conditions throughout the German federation is written into the Constitution, the *Grundgesetz*. Only recently the formulation has been changed to “equitable living conditions” in order to give policy-makers more room for variation. Still, equalization procedures are built on almost complete equalization of fiscal capacities (99.5 percent of the average fiscal capacity).

Germany was for a long time the only federation with a “fraternal component” in the equalization system, i.e. the main equalization payments come from member states themselves (horizontal equalization). To this fraternal component a “paternal component”, a supplementary financing by the federal government is added. There are three problems involved here: first, the high compensation level acts as a disincentive for member states that profit from equalization money to ameliorate their financial conditions. Second, in order to pay for this high level of compensation, marginal tax rates of rich states are very high (80 percent for member states with a fiscal capacity of 110 percent and more). This means that the benefits from productive investments are quickly lower than the costs that are

involved in producing economic growth. After a judgment by the Federal Court in 2003 that accused the system of creating negative disincentives, German policy-makers have reacted in the so-called “Solidarity Pact II” that became valid in 2005: marginal tax rates were fixed at 70 percent for those member states having a fiscal capacity of 120 percent and more. In addition, it was decided that horizontal equalization could not any longer lead to a different ranking in the ordering of member states before and after the equalization process, which has often been an outcome of the former equalization process. These adjustments intend to reduce the disincentive effect for productive member states but the steps taken seem still to be too small to overcome the reluctance of rich member states to invest instead of refraining from productive behavior. Third, supplementary grants by the federal government contribute, according to Rodden (2003), particularly to bail-out expectations and, hence, lead to rent-seeking of poor member states. They are discretionary and “present a ready-made mechanism through which bailouts might be distributed” (Rodden 2003: 10). In addition, member states, which are far below average fiscal capacity, have no incentive to change their situation because they can count on the obligation of the federal government to fill in the gap between 95 percent of fiscal capacities realized by horizontal equalization and the envisaged 99.5 percent.

The negative incentives involved in this third step of the equalization process were recognized in the formerly mentioned judgment by the Federal Court, in which a restriction of supplementary grants was demanded. In due consequence, these payments were revised in order to reduce incentives for rent-seeking: the sum of money given to smaller *Länder* with high administrative costs has been reduced; the payments for the special burdens of eastern *Länder* have become degressive and closed-ended and budgetary emergency payments to the western states will not be renewed (Jeffery 2003). Though this seems to present an opportunism-reducing solution for the “paternal” component of equalization, rent-seeking on the one hand (type-2 failure) and disincentives for productive investment on the other (type-3 failure) remain problems of the horizontal equalization process.

(d) Germany changed its fiscal federal system in 1969 from one in which vertical transfers of the federal government with conditions attached were very prominent to one in which the sharing aspect predominated and in which the “golden leash” was reduced (Adelberger 2001).

Today, one part of vertical transfers of the federal government is bound into the equalization procedure as mentioned above (*Bundesergänzungszuweisungen*) with some discretion for the federal government to use this money in negotiations with the *Länder*, which is, however, generally not seen as a “predatory problem” (Renzsch 2002). In other so-called “joint policy tasks”, there were more complaints about attempts of the federal government to “co-govern” policy areas that were in principle under the authority of member states. The recent federal reform has attempted to reduce such tasks but has not abolished them completely and a “prohibition to cooperate” was introduced for those tasks that are under the sole authority of the *Länder*. In sum, this is probably the area

where Germany has made most progress and where it may become possible to control type-1 failures in fiscal federalism. A lot depends, however, still to what extent Germany can give subgovernments sufficient own resources so that they do not need to enter into vertical financial arrangements with the federal government. But how have the other two countries solved problems of predatory behavior, rent-seeking and disincentives for productive behavior? And, can they show Germany how to do better?

Australia

Australia's fiscal federalism can be summarized as follows: its tax system creates permanent dangers of type-1 failure, despite of the delegation of the GST to member states. This is problem (a); the borrowing system is characterized by effective opportunism-reducing mechanisms (b); the equalization system has succeeded in reducing predatory behavior of the federal government but gives some room for rent-seeking and creates above all disincentives for productive behavior of member states (c); vertical transfers are prone to type-1 failure (d).

(a) Australia has chosen – though this was conceived differently in the beginning (Galligan 1995) – for a stronger role of the federal government in the redistribution of revenues than Germany. Australian states generate 20 percent of their revenues on the base of own taxes, which they alone can manipulate (Twomey and Withers 2007). The bulk of money comes from the federal government either in the form of equalization payments or in the form of “special purpose payments”, i.e. categorical grants. The federal government has ultimate authority over all growth taxes and therefore a predominant position in the financing of public services. Member states suffer from vertical fiscal imbalances more than other member states in other federations. What does this mean for opportunism?

The obvious danger of such a centralized tax system is the opportunity it creates for predatory behavior of the federal government. There are no formal limitations for the federal government to use its tax revenues and offer contracts to member states with conditions attached. The states have no formal rights to intervene at the federal level. Having said this, one should, however, discuss in more detail the role of the “Goods and Services Tax” (GST), which was introduced in 1999 and which seemed to signify a change in the fiscal federalism. The GST is the only federal tax, which is not at the discretion of the federal government and makes up for more than half of federal government transfers to member states. The Commonwealth Grants Commission (CGC), an independent body for managing equalization payments, has the task of calculating the revenue share for each member state.

The federal government is bound to respect and cannot change the equalization formula of the CGC. Moreover, any changes in the tax base, the rate and administration of GST are subject to a unanimous vote by all states and the federal government. A joint Ministerial Council is responsible for the control of the whole procedure. While this regulation seems to reduce the discretion of the

federal government well, this does not mean that the GST is completely protected and unchangeable. First of all, the federal government can reclaim this tax for own purposes, as it remains a federal tax. And, two, there are occasional attempts of both the federal government and member states to change the distribution formula in their favor though this has proven to be very difficult.

The introduction of the GST was seen by member states as a means to reduce encroaching behavior of the federal government because it was supposed to gradually replace categorical grants by the federal government. The idea was to reduce categorical grants in case the income from the GST would rise. In this way, the discretion of the federal government would have been gradually reduced. In reality, this expectation has proven wrong and recent proposals demand to immediately raise the GST from 10 to 17 percent and abolish most of the categorical grants instead, which is, of course, not in the interest of the federal government. The GST has certainly reduced this danger because the federal government cannot any longer decide unilaterally on the sums of money it would like to inject into the equalization system, as it has done before, but it has not reduced vertical fiscal imbalances and therefore financial dependence of member states.

(b) Australia has been able during the last 15 years to constantly lower the deficits of both the federal government and member states. This is without any doubt due to the strong economic growth but in part also because of its system of borrowing (Grewal 1999).

Australia has created a federal coordinating body especially for dealing with borrowing, the “Loan Council”. The Loan Council is a federal institution that unites the Treasurers of the federal government and the states. Since the beginning decisions were taken with majority, with the six states having one vote and the federal government having two votes and the casting vote. According to the existing system adopted in 1993, member states have the right to issue securities in their own names, making them dependent on the judgment of creditors with regard to their financial trustworthiness (Galligan 1995: 233). Nevertheless, they remain also part of the Loan Council though the Council cannot directly sanction the borrowing behavior of member states. It maintains nevertheless an important coordinating and monitoring function: each state has to present its demand for a “Loan Council Allocation” based on its fiscal needs and estimates of future economic development. These demands are then related to the general macro-economic policy defined by the federal government. In case the sum total of borrowing requirements exceeds what the federal government judges as sound for good economic development, borrowing rates are negotiated with the states and are finally allocated. This is, however, only the first step. In case a state fails to keep its debts within the confines defined by the Loan Council Allocation – and the states are obliged to deliver regular information on its borrowing – the Council can publicly denounce a state for shirking and ask for reduction of the deficits. This puts member states under strong public pressure. Without any doubt this shift has contributed to a greater exposure of the states to market mechanism while it still grants sufficient influence for the federal government to keep states in line with its macro-economic policies. “Cooperative controls” are

less enforcing than they were before 1993 but it seems that it is much more difficult for an Australian state to disregard the Loan Council Allocation than it is for a member state in Germany to disrespect the recommendations of the Financial Planning Council. The key is not only that states are more exposed to the market than German member states are. In addition, there is no bail-out system that could be exploited by the states. It is clear that a State that does not respect the Loan Council Allocations cannot expect future help by the federal government or other member states (Grewal 1999). In this way then, the Australian borrowing system is built on market and hierarchy, a very effective combination indeed.

(c) Australia has probably less problems to find a self-enforcing equalization system than Germany or Switzerland because it is rather homogeneous in terms of GDP per capita and in fiscal capacity from the outset (Spahn and Shah 1995). This may have been conducive to a system that is considered to be the most equal after equalization (McLean 2002). Australia with its centralized character uses only vertical transfers of the federal government for equalization, at least until recently. This does not mean that the federal government can use this money at its discretion. In fact 60 percent of transfers are in the form of general grants without conditions attached and distributed according to formulae developed by the above-mentioned CGC. What is more, the other 40 percent paid in the form of categorical grants are also included in the calculation of equalization rights of member states. This can be considered to be a strong disincentive for the federal government to abuse its financing powers and for member states to engage in rent-seeking by applying for individual special purposes grants.³ Despite this, categorical grants remain important for member states (see below).⁴

The CGC has no statutory powers whatsoever but no government would dare to not listen to the recommendations of the CGC in matters of equalization. The delegation to an independent body is indeed a way for governments to demonstrate their willingness to pursue certain arrangements in the long term and not to make them a victim of short-term political considerations. Delegation reduces the discretion of the federal government and is therefore a self-enforcing mechanism to avoid predatory behavior (Braun 2005)⁵ and to establish an equalization order that is accepted as legitimate by all actors (Spahn and Shah 1995: 65). Though there are occasional complaints by richer states about being disfavored in the distribution process, the legitimacy of this order is not questioned. Moreover, the CGC as an institution is well protected because it needs the unanimous consent of all states, the Territories and the federal government to abolish it.

When it comes to rent-seeking of member states, however, not all experts agree on the merits of the system. The well-known Garnaut/FitzGerald report (Garnaut and FitzGerald 2002) for example warns that both disincentives for productive behavior and rent-seeking remain a problem in the system (see also Warren 2006: 91–92). Other actors oppose this view.⁶

(d) The danger of predatory behavior is eminent in the Australian case. Australia uses special purpose payments (SPPs) as categorical grants. SPPs remain an important revenue source for the States and are therefore an important means

for the federal government to influence local policies integrating payments into equalization calculations. This does not mean that such influence of the federal government is uncontested. The debate on the GST has revealed that member states are seriously struggling for the reduction of categorical grants.

A part of the SPPs are addressed to institutions or individuals and are only passed through the states, which serve then as administrative agents of the federal government. This means that there is no attempt to directly influence the policy decisions of the states and reduce their autonomy but to offer extra services the federal government considers as important in the various regions. Such services can, of course, conflict with offers delivered by the states and they can also conflict with basic policy intentions of states. The states could refuse to pass through such payments but usually they do not, fearing a negative backlash during elections for not having transferred extra money to the region. Other SPPs are directly addressed to the states. There is a mix in the degree of conditions the federal government applies by using these categorical grants. Some of the largest SPPs have a limited set of conditions and provide states with a relatively high degree of flexibility to provide services. In other cases we find strong requirements. Grants seem to have become more prescriptive and demanding over time (Department of Treasury and Finance 2006: 25).

Overall, given the importance that these grants still have for member states, one cannot deny that the federal government has the ability to influence member states' behavior on the basis of these grants. But the conditions attached to grants probably matter less than the degree of discretion the federal government has in curtailing, cutting, or extending SPPs to its own liking (Department of Treasury and Finance 2006). The member states usually do not have an influence on these decisions.

Switzerland

Switzerland's fiscal federal system produced type-1, type-2, and type-3 failures before it was thoroughly revised in 2004. The decentralized tax system is opportunism-reducing, though not eliminating (a); the borrowing system allows no bail-out and subgovernments are constrained by various institutional rules (b); the failing equalization system now does successfully restrain predatory behavior of the federal government and also rent-seeking, though there are still disincentives to invest (c); finally, the transfer system has been fundamentally revised and former predatory behavior of the federal government seems to be controlled (d).

(a) Switzerland – and this confirms its decentralized character – is certainly, together with Canada, the federal country, which grants most tax sovereignty and flexibility to member states. The member states, the cantons, have the right to decide on all tax resources except for VAT, which is exclusively in the hands of the federal government and which is also the main income of the federal government. Both the federal government and the cantons levy income tax. This tax competition system or “concurrent” system (Braun 2002) is, however, regulated

in order to avoid “overfishing” and to maintain the tax sovereignty of cantons: the maximum tax rates the federal government may levy are fixed in the Constitution (about 11 percent of the cantonal share).

As in Australia, the existence of own tax rights of member states has not prevented the federal government from developing an influence on the policies of cantons, though intergovernmental transfers have remained at a level far inferior to the ones in Australia. In fact, this situation was the start of the discussion on the revision of the fiscal federal order in Switzerland, which was then adopted in a referendum in 2004. Tax rights were not touched upon by this reform. The Swiss tax system is certainly opportunism-reducing, though the increasing role of the federal government in financing policy areas in the past indicates that it has not been opportunism-eliminating: the cantons are bound in tax competition with one another as well as with the federal government. The federal government use of the income tax is limited by constitutional rules as well as by the tax competition with cantons.⁷ In addition, each change of tax rates at all territorial levels needs confirmation in a referendum. This makes it particularly difficult to increase taxes. Moreover, the federal government cannot intervene in the tax decisions of cantons or municipalities. There is complete autonomy in this respect. The only power the federal government has acquired, which occurred in the 1980s, is the right to dictate some principles of harmonizing the tax base between cantons.

(b) Switzerland’s borrowing system has always been characterized by an almost complete freedom of cantons to use credits, with the exception that no actor can borrow money from the central bank. This freedom corresponds to the large degree of tax autonomy granted to member states. The federal government has no regulatory powers with regard to the borrowing of member states. The system depends on market discipline: the financial credibility of cantons is judged by the capital market with the result that interest rates can differ considerably between cantons (Feld 2007: 192). Tax competition among cantons has a similar effect by punishing unsound fiscal policies with the possible “exit” of enterprises (Dafflon 1999: 279). Though the question was never decided in court, the federal government does not need to bail out. An official coordinating body for dealing with borrowing questions does not exist. All this seems to point in the direction of a rather self-enforcing borrowing system for member states, which seems, in addition, to be supported by a political culture that entrenches “sound financing” firmly “in people’s minds” (Spahn 1997: 334).

On the other hand, Switzerland does not leave everything to the market. There are quite a remarkable number of rules and regulations, or institutional constraints above all, on the cantonal level (like the need for a balanced budget for providing goods and services (Dafflon 1999) and a limitation to debt financing) and on the federal level (the so-called “brake on debts” [*Schuldenbremse*] which demands that expenditures must be balanced against revenues during an economic business cycle). Direct democracy is another constraining factor: in many cases a financial referendum against budget decisions of the cantonal government is possible. As citizens are reluctant to pay, the existence of such a finan-

cial referendum in a canton is judged positively by banks and leads to inferior interest rates (Feld 2007: 193).

(c) Switzerland revised its equalization procedures and its fiscal constitution in a profound way in 2004. The reasons were severe deficiencies in the efficient functioning of the fiscal federal order (Freiburghaus 2001: 12). Two clear general guidelines were applied in order to decide on the new fiscal constitution (ibid.: 18): fiscal federalism should be based on *subsidiarity* and the financial capacity of cantons had to be improved by giving *more own resources*. Both rules were designed in order to reduce the opportunities for predatory behavior of the federal government.

Switzerland changed its system by introducing a horizontal equalization component like Germany. Before, equalization payments were based solely on a part of the federal income tax, which was given back to cantons, and on categorical grants to which an equalization component was added. The horizontal payments were introduced to strengthen the “solidarity” between cantons. The base for calculation is a new “resource index”, which takes only the “tax potential” of cantons into account, i.e. the tax income on the base of supposed equal taxation. The advantage of the new calculation base is supposed to be in the fact that cantons cannot manipulate the tax potential, which they could still do in the former formula (Feld 2007: 188).

Switzerland has never been a federation that envisaged complete equality among cantons. Differences are accepted (Braun 2003). This explains that the underlying criterion for equalization is not equality but equity of starting conditions. At the moment, an equalization rate of 85 percent of the average tax potential is valid. The federal government pays 1.8 billion and the 8 rich cantons 70 percent of this sum. The minimum that cantons have to distribute is fixed in the constitution and set to two-thirds of federal government money. It is important to note that the equalization rate is fixed politically, which means that the federal parliament (which has a Chamber of the States) can decide to change the rate of 85 percent. In addition, Switzerland has introduced a guaranteed minimum of financial resources for cantons: if horizontal equalization does not suffice, i.e. if cantons still do not have 85 percent of the average tax potential, the federal government adds money up to this standard.

Evaluating these arrangements, one can confirm that the main ideas, subsidiarity and own resources of cantons, have been respected. A substantial number of policy areas have been put under the sole authority of the cantons. The equalization rate of 85 percent reduces disincentives for productive behavior. The federal government has no discretion to use funds for encroaching upon the policy domains of cantons.

Nevertheless, two critical points need to be mentioned: one, there are some doubts if the new system will avoid disincentives for productive behavior in the case of rich cantons. Though marginal tax rates are more limited than in Germany, they may still be too high for productive behavior of cantons as rich states (Feld 2007: 190). Two, the decision to fix the equalization rate by parliamentary debate and decisions is questionable in terms of self-enforcing

mechanisms. The advantage is without any doubt that it allows to account for circumstances and changes in the economic and cultural environment. On the other hand, the agreed formula is not self-enforcing and will be under constant political struggle and subject to political hazard.

(d) Switzerland had, astonishingly, due to its decentralized character, quite a developed system of categorical grants, which served the double purpose of realizing policy preferences of the federal government on the local level and to redistribute resources in the federation. This combination seemed to have been particularly inefficient (lack of transparency, rent-seeking etc.). With the fiscal reform of 2004 most policy areas were decoupled and categorical grants as such abolished. In those areas where cooperation is still considered necessary, the financing is based on general grants and contracts that are concluded between the federal government and cantons. Programs are in addition long-term rather than short-term. All this considerably reduces the influence of the federal government on the policy-making of cantons.

Conclusions: what can Germany learn?

Germany has reacted to the dangers of exploiting its fiscal federal system on all four items: the transfer of property rights with regard to the tax on land acquisition to member states breaks with the principle of tax-sharing; the need of approval for delegating the implementation of federal laws to the member state level aims to reduce the mismatch for member states; the introduction of fines for debt-making in the stability pact increases costs for member states after existing rules and cooperative controls have proven to be insufficient to prevent excessive borrowing; the reduction of full compensation in equalization payments as well as the lowering of payments by rich member states attempt to raise incentives for productive behavior; the curtailing and phasing out of special supplementary grants signals the willingness to end the generous bail-out by the federal government; and the decoupling of some areas as well as the prohibition to cooperate expresses that all policy-makers want to limit inefficient cooperation procedures and predatory behavior of the federal government. While these reforms seem to have some promising effect with regard to type-1 failure, reforms seem to have not gone far enough to also cope with type-2 and type-3 failure. Could Australia and Switzerland instruct Germany in this respect?

As demonstrated, Australia has introduced quite a number of opportunism-reducing mechanisms, but due to its type of federalism, above all with regard to type-1 failures, limiting – though not eliminating – predatory behavior of the federal government (the establishment of the CGC and its equalization procedures; the introduction of the GST; the integration of categorical grants into the calculation of equalization rights). But there are also a number of ins.

Though a self-enforcing borrowing system would need some form of tax flexibility or autonomy and the abolishment of bail-out, Germany could nevertheless learn more from how the Loan Council functions: the system of determining “allocations”, monitoring borrowing behavior and the use of public denounce-

ment as a sanction mechanism seems to be promising. The introduction of such procedures should not cause major problems for Germany, as the German Financial Planning Council is already close in its working to the Loan Council.

With regard to the equalization system, the creation of an independent agency like the Australian CGC makes less sense in the German context as this can be seen as an institutional mechanism to protect member states from predatory behavior of the federal government, which is less of a problem in the German equalization system. But, Germany could, as Spahn (2001) has already proposed, link equalization rights more strongly to expenditure needs and efforts by member states to use their fiscal capacity like the Australians do. This would perhaps justify the establishment of an independent agency that could work out the complicated details of such equalization formulas.

One could finally think about integrating federal government payments in the framework of special supplementary grant, as well as grants in mixed financing areas, into the calculation of equalization rights like the Australians do. This would reduce both incentives for rent-seeking and predatory behavior.

Switzerland is the case that is more often discussed as a point of comparison for Germany. We have seen that the Swiss have indeed done a lot to reduce opportunism in the system, though they might not have achieved the perfect model yet. Marginal tax rates remain probably important and the discretion to revise the degree of equalization, as already said, remains a point that weakens a self-enforcing order. The functioning of the Swiss fiscal federal order depends to a large extent on the tax autonomy of member states and tax competition between them, which can in principle contribute to the elimination of motives for shirking. There is no doubt that Germany can only avoid rent-seeking and unproductive behavior if it overcomes the rigidity of its tax-sharing system by introducing stronger tax autonomy for member states. Only then member states can react by manipulating their tax rates and refrain from the search for other revenue incomes. However, the Swiss tax system is not only interesting because of its decentralized character, but also because of the elements of which it is composed: it is built on a tax separation system on the one hand, with the federal government disposing of the VAT, without any interference from cantons, and a concurrent tax system on the other (income tax). The concurrent tax system is interesting because it has restraining effects on opportunism of both member states and the federal government: the fact that citizens are taxed twice on the same income base induces policy-makers on the two levels to be prudent and not “overfish” the “resource” they share. To make the system more self-enforcing, the Swiss have in addition limited the ability of the federal government to be opportunistic and raise their share in the income tax. If one adds the tax competition of cantons with other cantons, these restrictions seem credible enough to limit the use of the income tax by both actors and exploit the system. At the same time, the strong accent put on the income tax reduces the possibility of the federal government to raise the income from this resource for own purposes, again because it might cause an overfishing of the resource. In this way, the tax system seems also to be sufficiently protected against opportunism.

Tax autonomy and tax competition also have implications for borrowing behavior. Swiss cantons are solely responsible for borrowing and rely on the market. Interest rates for lending money vary from one canton to another. Bailing out is no feasible option. But Switzerland has also learnt that market mechanisms alone are not enough to ensure a self-enforcing borrowing system: in addition, cantons have introduced a number of institutional constraints that seem to work well. The important point is that these institutional constraints are not enforceable by the federal government, nor are there cooperative controls at the federal level. Decentralization means that cantons are autonomous actors that are alone responsible for sound fiscal behavior.

What could Germany learn from the reforms on equalization in Switzerland? Switzerland never had the same equalization aspirations as Germany or Australia, which always made it easier to keep incentives for productive behavior in the system. Today the equalization norm is fixed to 85 percent, which makes it still worthwhile to engage in raising tax revenues in order to reach the average. The discussion to lower the equalization rate in Germany has been ongoing for quite some time and several propositions have been made (Schuppert 1993; Braun 1996; Spahn 2002). More radical reforms are needed but the resistance above all of the poorer member states is very strong and their veto-power makes it almost impossible to change the system in a more radical way than has already been done (Adelberger 2001).

Concerning the use of vertical transfers of the federal government, Switzerland has reformed its system in a radical way with, first, a decoupling of concurrent policy domains that went much further than in Germany and, second, the establishment of long-term programs with general grants and a governance construction based on new public management principles in areas that are still funded by both the federal government and cantons. Germany has taken first steps with regard to a decoupling of policy domains but has not gone as far as Switzerland. It would be interesting for Germany to reflect upon a new public management organization of the still existing mixed financing areas. Not only Switzerland but also recent positive experiences in Australia (Braun 2005) and Canada could help to instruct the set up of such a governance style. By integrating such "good practices" Germany could go a step further in installing a fiscal federal order that restricts as much as possible openings for opportunism, both with regard to the exploitation of the system by member states and the federal government. An opportunism-free order would, however, require more radical discussions about the suitability of the existing tax-sharing system, the maintenance of the bailing-out principle, and the application of the egalitarian norm of equalization.

Notes

- 1 This chapter draws heavily from a previous publication by the author in *Zeitschrift für Staats- und Europawissenschaften* 2007, Vol. 2, pp. 235–262.
- 2 Recently, a new incentive system was established with the adoption of Constitutional Article 109.5: member states that are not respecting the obligations following from the participation in the EMU now have to pay some "fines". This certainly introduces an

incentive for "spenders" to think about new lending, but the benefits member states get from borrowing in order to guarantee re-election certainly still outbalance such payments to a significant extent. The collective bail-out system has not been abandoned.

- 3 The methods used by the CGC "have the effect of clawing back any advantage or disadvantage conferred by specific purpose payments" (Craig 1997: 185).
- 4 McLean gives a number of reasons why these grants remain attractive (McLean 2002: 31).
- 5 "The CGC is a non-partisan agency immune from political manipulation" (McLean 2002: 34).
- 6 See the statements in the public hearing by the Federal-State Committee (Federal-State Relations Committee 1998).
- 7 The use of the VAT is also limited because of the double taxation in direct taxes and because of reasons of competitiveness. In fact, the rate is one of the lowest in Europe at 7.5 percent.

12 Taking stock during times of change

Jan Erk and Wilfried Swenden

The preceding chapters give a snapshot of what we have labeled “the new wave of federalism studies”. In order to bring coherence into a volume that addresses various facets of federalism research, we introduced four major benchmarks in the introductory chapter, based on institutions, democracy, cleavages and public policy. First, we will briefly summarize the distinctive features of the new wave of federalism as they emerge from this volume and identify connections between the contributions and the benchmarks that have guided this volume. Next, we will move up the ladder of abstraction and search for patterns of commonality between all or at least most contributions to this volume, irrespective of the theme which they address. Finally, we predict that developments within the discipline and in the real world are likely to consolidate the supply of federalism and of federalism studies.

Matching the contributions and the benchmarks

Federalism and institutional change

The first two contributions, by Colino and Sturm, focus explicitly on federalism and change. Modern societies are faced with significant external challenges, such as a globalizing economy, the current credit crisis, climate change or the increasing scarcity of (finite) resources like oil, gas or drinkable water. Many of these challenges require a coordinated international response. For individual states, they raise the challenge of developing mechanisms of domestic coordination and adaptation that allow their governments to pursue their interests decisively and effectively. Are federal states in a better position to take such decisions than states that are not federal; or are some federal states more effective in adapting to change than others?¹ Our volume makes clear that both questions cannot be addressed conclusively, partly because it is wrong to treat like for like. For instance, the type of federalism that is found in Belgium and the political and social structure in which it is embedded is profoundly different from the federalism that exists in Australia. Similarly, unitary Netherlands is a very different state from unitary Portugal.

In his contribution, Colino shows that the capacity of federal systems to adapt will depend on their formal federal structure or design, as well as the nature of

their federal relations. The formal design pays attention to what extent a federal structure authorizes the federal and regional levels to act independently (*unintegrated*), or makes them interdependent (*integrated*). Integrated federal systems build in more veto points and therefore reduce the likelihood of (radical) change. Federal relations on the other hand are “separate” from federal formal design as they refer to the type of interaction styles of elites (politicians, civil servants) that man the federal system; they can be collaborative, competitive or solidarity oriented. Based on where federal systems fit in terms of their formal design (*unintegrated or integrated*) and federal relations (*centripetal or centrifugal*), Colino draws a fourfold typology of federal subsystems in which the unitary federal subsystem and the segmented federal subsystem represent two opposite poles. Using the Spanish and German examples, Colino shows that federal subsystems can move from one type of subsystem to another (for instance Spain, so he suggests, moved from a segmented federal subsystem to a unitary federal subsystem between 1992 and 2000).

His analysis raises three questions that require further in-depth research. First, what is the relationship between (change in) federal relations and (change in) federal structure? For instance, is the relationship between more competitive federal relations and a more integrated formal framework a mere theoretical possibility or does more competitiveness always coincide with less integration? Second, to what extent does change in federal structure also capture change in the degree to which powers have been (de)centralized in the state. For instance, between 1992 and 2000, Spain moved from a segmented into a federal unitary system, as federal relations became less cooperative and the autonomous communities gained capacity to influence central decision-making. However, during the same period the fiscal and legislative autonomy of the Spanish autonomous communities increased, and thus Spain became a more decentralized state overall. In other words, Colino’s labels capture the dynamics of intergovernmental relations, but they should not be seen as substitutes for the characterization of a federal system overall. Finally, what is the temporal ordering of changes in federal relations and the formal federal structure? Does change in federal relations always come first, or can adjustments in formal structure also spark changes in the style of intergovernmental coordination?

Sturm’s chapter provides an answer to this last question. Against the odds, German federalism reformed in 2006, and, to borrow from Colino’s terminology, Germany moved from a unitary federal subsystem (with an integrated or strongly “intra-state” federal design) in the direction of a more “balanced” one. This runs against the logic of German federalism post-World War II which pointed at a more centralizing direction, and proposed a federation built on the principles of symmetry and uniformity. Sturm criticizes the inability of path-dependency to explain the more competitive and decentralizing orientation of the 2006 reform of German federalism. By then the formative federal institutional arrangements were long locked in and the short-term political costs of changing the structure should have outweighed the long term benefits (i.e. “increasing returns”) associated with continuity. In sum, federal institutions

(broadly defined as rules of the game, thereby encompassing both of Colino's analytical dimensions) were believed to preclude substantial change.

In Sturm's view, solving why change happened requires an explanation that is not institution but problem dependent. Problems can be linked to a particular event (such as the enormous challenges that have come with German Unification), but they can also *precede* such "critical junctures". For instance, Jeffery (1999) has argued that the widening of inter-regional socio-economic disparities in the 1980s already made the twin objectives of fiscal equalization and tax equalization much harder to achieve. Even before German unification lifted such inequalities to an even higher level, the *Länder* were already more inclined to go it alone and contested the fiscal equalization schemes in court. In this sense, new "narratives" of German federalism were building up that were reinforced (but not created) by unification and paved the way for a reform that focused on less symmetry and on a strengthening of *Land* autonomy.

Sturm's findings raise four interesting avenues for further research. First, he suggests that narratives change because conditions on the ground change (and he points at the territorial effects of globalization, unification and European integration). However, changing narratives may also be linked to rising electoral volatility and the emergence of a distinctive East German party system. Voters and parties are important agents of change. As Detterbeck and Hepburn show in this volume, after unification the regional wings of the German statewide parties pushed for more autonomy as they no longer agreed on a uniform party strategy and failed to build symmetric coalitions across the *Länder*. Second, could one not also turn Sturm's findings on its head? In spite of the significant territorial variations in socio-economic development and the difficulty for parties to provide a coherent approach, is the German federal reform not "more modest" than expected? The direction of the reform runs against the path-dependent trajectory of German federalism since World War II. However, it remains an open question whether the 2006 reform merely generated an incremental shift towards a less cooperative and integrated federal subsystem, or an altogether different type of federal subsystem. Third, and linking to the chapters on federalism and multi-nationalism, does the absence of multi-nationalism in Germany reduce the pressure for reform? Arguably, it is much easier to change or question a centralizing social narrative in a context of inter-regional inequalities when those who request more regional autonomy can mobilize minority nationalist support. Finally, the absence of more radical reform, for instance on fiscal federalism (as Braun discusses in his chapter) may be due after all to the strength of institutional veto-players like the *Bundesrat*. In this sense, institutional veto-players and path-dependent logics still matter.

Federal institutions as veto-players: courts and second chambers

Veto-players are indeed the focus of the next two contributions, which analyze respectively the role of constitutional courts and second chambers. This said, the significance of constitutional courts for policing the division of authority

between the centre and the regions is debatable. Some authors argue that courts, because they lack a democratic basis, do not play a decisive role in adjudicating the balance of power in federal political systems. Riker (1975: 102) at one point notoriously stated that the US Supreme Court "is an organization without much political or military force and therefore cannot be expected to occasion or even pace constitutional change". In turn, Stone Sweet (2000: 200) reminds us of the fact that [constitutional] courts always face the dilemma of "resolving legislative conflict about constitutionality, while maintaining or reinforcing the political legitimacy of constitutional review into the future". In other words, if courts run against the prevailing preferences of the elected political elite, the latter may attempt to curb their powers or amend the constitution in such a way that courts have no choice but to follow their preferences. Furthermore, because the vast majority of constitutional courts are centrally appointed (usually by a combination of the federal executive and legislative branches) their judgments may primarily serve the interests of federal policy-makers. The alternative perspective is represented by scholars who argue that the independence of constitutional courts should not be underestimated; judges serve longer terms than politicians who nominated or approved them and the institutional hurdles for constitutional change may be substantial, minimizing the extent to which the other branches can curb their judgments.

Saxena and Singh's contribution lends more evidence to the first perspective. The Indian Supreme Court, at least in the first decades after independence, assumed a largely technocratic role and mostly complied with the (centralizing) will of the federal government. For instance, the court did not stop the federal government from abusing the emergency provisions under Article 356 of the Indian Constitution (President's Rule), at least until it reversed its decision in 1994. Similarly, most central-state disputes (until the late 1980s) were resolved in the center's favor and the court took a hands-off approach in settling water disputes between the states, preferring their settlement by political negotiations or the creation of ad hoc specialist courts instead. Saxena and Singh show how the decline of the Indian Congress Party and, with it, the emergence of coalition government at the federal and regional levels turned the court into a less reliable partner of the federal incumbent party. Furthermore, the emergence of coalition governments made the federal government a more heterogeneous actor, thus increasing opportunities for the court to carve some authority for itself.

Saxena and Singh point at a seeming paradox. On the one hand, the level of judicial activism has increased compared with the period until 1977, when the Congress Party first lost power federally (albeit briefly). Yet, as the authors suggest, the rise in judicial activism was not as strong as anticipated. Further research should point out whether the cause of this may be found in a legal culture that is not as conducive to judicial activism as the American or, increasingly, EU legal culture (at least with regard to the role of the ECJ in establishing a EU regulatory order). Furthermore, the US (and to a more limited extent) EU political systems follows a separation of powers rather than a parliamentary logic (Hix 2005; Fabbrini 2007). In parliamentary India on the other hand, constitutional

politics has largely remained the reserve of politicians, not of judges. Alternatively, the lower-than-anticipated degree of judicial activism in India may also be explained by a fear among politicians to start judicial proceedings which may not only take a long time to unfold but could also lead to uncertain outcomes. The opinions of the court may now be harder to predict since the now widespread occurrence of coalition government forces the court into taking the preferences of a broader variety of political players into account. Finally, a cause for less-than-anticipated judicial activism may be found in that coalition governments are more willing to engage in intergovernmental negotiations, especially since some parties may participate in different coalition governments at different levels at the same time (Bolleyer 2006). The current (2008) lack of a federal government majority in the second chamber adds to the incentives of federal government leaders to prioritize political negotiations over judicial conflict.

Second chambers (sometimes also referred to as upper houses), then, are a second potential veto-player of federal systems and they feature centrally in Jorge Gordin's chapter. His analysis has important repercussions for our understanding of the broader relationship between the institutional design of federalism, democracy (and the role of parties therein) and policy outcomes (subnational fiscal policies). In federal states, second chambers are credited with breaking the tyranny of the majority by juxtaposing the will of the federated entities against that of the people. As such, the former are in a position to check whether federal policies properly accommodate their interests. This is especially the case for the smallest entities which in general benefit from being overrepresented in the second chamber. Federal theory applauds this "balancing" role of second chambers, for without it some federal states might not have formed to start with (the US without the Connecticut Compromise²), or might have collapsed. However, in some federal states, the second chamber may not be strong enough or sufficiently distinct in composition to play this balancing function. In others, the added value of a strong second chamber could be questioned from the viewpoint of federalism, for instance because sub-state entities lack a strong regional identity, territorial interests are no longer salient, or party interests overshadow territorial concerns (Swenden 2004; 2010).

Gordin focuses on Argentinean bicameralism which is both very powerful and "incongruent" (Lijphart 1999): unlike in the lower house, each province is equally represented in the Senate, irrespective of its demographic size. Gordin shows that the overrepresentation (or "malapportionment" as he calls it) of the smaller provinces in the Senate greatly affects the nature of decision-making and the quality of policy outcomes in the Argentinean federation. However, overrepresentation correlates with other variables, such as socio-economic and demographic factors, the electoral system or party variables. The main challenge for social scientists is to single out what is the independent effect of overrepresentation alone in order to avoid an endogenous bias problem.

For instance, the policy consequences of overrepresenting the smallest units for party representation in the Argentinean Senate are exacerbated due to the closed list PR (proportional representation) party list system. This fosters the

entrenchment of partisan enclaves in the smallest provinces, and, resulting from the lack of provincial competition there, puts senators from these provinces in a stronger position to pursue provincial interests at the centre. Small state senators operate as the agents of the provincial governors who wield enormous influence as a result of high incumbency rates and their role in determining the PR party list for senatorial elections.

In Gordin's view, the presence of subnational patronage networks, especially in the smallest provinces, played a role in triggering Argentina's fiscal crisis of the 1990s. He shows how senators representing small provinces have been able to pursue narrow provincial fiscal interests, for instance in granting (or withholding) parliamentary consent to key fiscal revenue and spending bills. As a result, they secured federal bail-outs or – as shown in his case study of the federal electricity investment development fund – a disproportionate amount of federal investment funding. These funds primarily target senators from parties who oppose the incumbent federal president. Their votes are bought in return for federal legislative support. Hence, Gordin demonstrates that the political framework in which intergovernmental fiscal relations occur is an endogenous influence that may account for subnational variation in fiscal decentralization policy outputs. His findings undercut the "market-preserving" credentials that some authors attribute to federalism (Weingast 1995). They also echo similar findings by Rodden (2006) or Braun (this volume) who point at the less than optimal institutional design of some federal systems from the perspective of creating a sustainable federal fiscal order.

Gordin offers a prime example of contemporary federalism research that is empirically driven and normatively neutral. His piece is not a plea against overrepresentation per se, but it suggests that the implications of overrepresentation should be studied analytically on a case-by-case basis, especially since the interaction of malapportionment with structural or socio-economic factors is highly context dependent.

Federalism and how it affects voters and parties

The strongly context-dependent effect of federalism also shows in the chapter by de Miguel Moyer. She tests the external validity of balancing theories for multi-level elections against alternative frameworks such as second order voting and "barometer elections" or "economic voting". Balancing theories dominate the analysis of electoral patterns in the US (and they have been applied to analyze multi-level voting in Canada and Germany also). They suggest that just as US voters prefer divided government at the centre, they opt for "divided vertical authority" by punishing the incumbent federal (executive) party in state elections. This is so, irrespective of the state of the (national or state) economy. De Miguel Moyer applies this framework to the Spanish case. Testing balancing theories on the Spanish case is rather unusual, since most European researchers who study multi-level elections apply alternative theoretical frameworks, especially second order elections or economic voting (for example, Pallarés and

Keating 2006; Hough and Jeffery 2006). Originally derived from how European elections relate to parliamentary elections at the level of the member states (Reiff and Schmitt 1980), the second order framework assumes that European parliamentary or regional elections are secondary in relevance to statewide or general elections. Consequently, parties in central government are expected to lose while parties in central opposition are predicted to win votes in second order elections. Crucially, one of the reasons for this second order effect is found in a significantly lower turnout for European or regional elections. By comparison, “barometer elections or economic voting” sees regional electoral results as reflecting the state of the (statewide) economy: the worse the performance of the economy, the larger the losses for the federal incumbent party (parties) in regional elections. This framework shares with second order elections the assumption that regional elections are primarily interpreted through the prism of politics at the centre (i.e. how the federal government handles the economy).

Considering all federal and regional Spanish elections between 1982 and 2007, de Miguel Moyer finds little support for the balancing theory. Whilst her findings confirm the theory’s expectations insofar as federal incumbent parties are generally worse off in regional elections, they do not lend support to “balancing” as the key rationale behind such vote losses. These can be explained better by other factors that make incumbents lose votes, such as lower turnout in regional elections. Furthermore, the incumbency loss in regional elections is not magnified if the federal incumbent party is also the regional incumbent, in fact, quite the opposite effect is observed. De Miguel Moyer explains these findings by the fact that Spanish voters do not use the federal structure to moderate along the left-right dimension (as is predominantly the case for voters in Germany or the US), but along a territorial cleavage which juxtaposes proponents of more regional autonomy against supporters of the status quo or of a stronger Spanish state.

In sum, how voters “use” the federal electoral arena depends on the mono- vs. pluri-national character of the state in which they vote, the strength of regionalist parties, the type of electoral system and with it the frequency of coalition governments and the strength of intra-state federalism. On most of these characteristics, Spain differs from Germany and the US. These differences largely explain why her findings do not fit balancing theory which disregards these contextual variations. More broadly, de Miguel Moyer’s analysis still starts from the assumption that a top-down logic determines how voters behave in regional elections, i.e. they use national elections as a general frame of reference. Arguably, future research should put more emphasis on the extent to which voters make cognitive assessments that do *not* link the federal and regional arenas or even apply a bottom-up logic. Indeed, voting in federal elections may be informed by regional party competition and who holds power at the regional level also (Swenden and Maddens 2009a).

Analyzing voting behavior and preferences may tell us much about how vertical authority is perceived in the state. Analyzing how parties organize and strategize may tell us even more. Gordin’s chapter demonstrates that grasping the

internal structure of parties and the strength of regional branches therein are key to understanding the degree to which Argentinian senators pursue territorial interests. Argentinian senators defer to the governor of their state and not to the federal president even if they represent the same party. Therefore, to study vertical relations within parties is crucial for understanding the (de)centralizing dynamics within a federation. The dynamics of a federation in which regional party branches trump national or statewide party branches or in which regional parties (sometimes also referred to as autonomist parties or ethno-regionalist parties) outweigh statewide parties is likely to point in a decentralizing direction. Conversely, a federation is likely to develop in a centralizing direction when its regional party systems are miniature reflections of the party system that crystallizes from general or national elections.

In their chapter, Detterbeck and Hepburn provide a survey of how parties in six West European countries have responded to the challenge of multi-level democracy. Their analysis focuses on the strategy of national or statewide parties, i.e. parties that seek to gain votes in national and regional elections across as many regions of the state as possible. Because of their objective to maximize their electoral following, and/or hold office, and/or make policy across multiple levels and regions of the state, statewide parties are likely to face the strongest difficulty in coordinating the viewpoints of their statewide and regional party branches. The mechanisms that statewide parties have used to accommodate the preferences of regional party branches are similar to those that federal states have used to accommodate regions within the state. Federations vary in the extent to which they accommodate regions in federal decision-making, provide for joint decision-making (i.e. intra-state federalism or shared rule) and grant fiscal, legislative and executive autonomy to the regions (self-rule; Elazar 1987; Hooghe *et al.* 2008). Similarly, some statewide parties give regional branches an important say, for instance in determining the general ideology of the party, selecting candidates for regional elections, or establishing party policy when the party is in office (shared rule). Other statewide parties grant extensive autonomy to the regional branches in regional party matters (finance, party program, candidate selection, coalition-making, membership recruitment, policy-making in between elections etc.).

Detterbeck and Hepburn observe how statewide parties shift their strategies across time (as is the case for the British parties pre- and post-devolution), and they observe strong variations in the level of regional party branch autonomy from party to party. They also show that party ideology is not a strong cross-national predictor of statewide party strategies, and perhaps most importantly, that different statewide parties within the same country may strategize differently. In other words, parties often have their own organizational inertias and follow their specific path-dependent logics (Hopkin 2009) *irrespective of* the type of federal or multi-level institutional context in which they operate. Yet a more robust correlation is found between party strategy and preferred territorial preference for the state. The more a party is in favor of regional institutional autonomy, the more likely it will reflect this by strategizing in a modernist or

autonomist direction (see also Swenden and Maddens 2009b). This contribution opens up new, interesting research questions, for instance, on the extent to which changes in the statewide party organizational structure reflect (or trigger) changes in the statewide and regional party systems, or, more generally on the relationship between authority migration, the “nationalization” of party systems and the organizational structure and campaign strategies of parties (Caramani 2004; Chhibber and Kollman 2004).

Federalism and multi-nationalism

Detterbeck and Hepburn show that the organizational adaptation is often strongest for those statewide parties which operate in a multi-national federal setting. The Belgian parties, for instance, broke up along linguistic lines in the period between 1968–1978, the Spanish PSOE (though not the PP) as well as the UK statewide parties moved considerably into an autonomist direction since regional self-rule was established. The pressure to adapt is largest in multinational federations, but is federalism with its directly elected regional parliaments, governments and policies perhaps a reason for this constant adaptation pressure? More dramatically, does federalism when applied to a multi-national setting generate a stable institutional or political equilibrium or a slippery slope towards secession?

Anderson and Martínez-Herrera analyze this question in further depth, but they suggest different methodologies and arrive at different conclusions. Anderson argues that the paradox of federalism lies in that it is both: secession-calming and secession-facilitating. The way to resolve this paradox is to unpack federalism in its many dimensions, and to recognize the variety of federalism(s) that emerge from studying the bargain or origins (and the accompanying social narratives) of the multi-national federation. For Anderson existing analyses do not take sufficient account of these variations. Important variations that he believes are worth considering (in isolation and in concurrence with other factors) are the strength of a core region (real or socially constructed) and variations in degrees of self-rule and shared rule. A stable federation requires a centre that is strong enough to make secession too costly but is also weak enough to be protected against recurrent allegations of regional exploitation; a centre that is strong enough to impose its numeric majority from time to time, but also is “weak” or “humble” enough to concede shared rule on matters that touch upon core regional interests; finally a centre that is willing to recognize plurinational difference by granting a special status to its minority nations, but does this in such a way that the majority nation is not aggrieved or faces claims for breakaway in return. In Anderson’s view, which side of the paradox comes out strongest may well depend on the origins of the federation in question. Minority nations may have an easier task selling secession if they are part of a coming-together federation and can portray secession as a breach of the original bargain or contract. Minority nations in holding-together federations, on the other hand, cannot use contract theory as a cognitive frame from which to build a secessionist narrative. So far, social constructivism has not featured strongly in the study of compara-

tive federalism, but it has in nationalism studies (Anderson 1991; Brubaker 1996). Bringing social narratives into the study of comparative federalism may help to explain under which conditions federalism is likely to be most successful in its objective of managing multi-nationalism, or why strongly entangled federal designs are capable of change (as in Sturm’s chapter).

The same “paradox” of federalism features in the chapter by Martínez-Herrera. For him, the missing link to solve the paradox lies less in studying the origins of federalism than in a critical analysis of how citizens engage with the multi-national state. Time series analysis should be able to demonstrate how their perceptions change as a result of granting or extending autonomy to the minority nations. This leads to a different methodological approach, less concerned with elite discourses, more with citizen opinions (and thus, survey data). Survey data on regional identity already exist, for instance through the Linz-Moreno question or subsequent variations thereof (Moreno 2001; Henderson 2007). Yet, in the author’s view these data have not yet been linked sufficiently to elite decision-making. For one, what citizens think affects what governments do in terms of how they divide vertical authority. Conversely, what governments do also affects what citizens think. In this sense, “narratives” and concrete policies play an important role in molding (sub)national identities.

Traditionally, military conscription and (federal) redistributive policies were used to build “national identities” concurrent with the majority nation or the state (for instance, Britishness as an attempt to link Scots, English and Welsh identities). In Western Europe or North America at least, military conscription no longer fulfills the “nationalizing” potential it once did and the retrenchment of statewide welfare policies reduced public support for the state, especially in minority nations that are net recipients of central welfare support (McEwen 2002). In contrast, federalism increased the power of minority nations which next to a directly elected parliament also control media policy, education (or where appropriate also language) policy, all of which are potentially strong tools of nation-building. As such, an increase in levels of identification with the minority nation and a rise in the support for secession could be anticipated after regional autonomy in these matters has been granted.

Martínez-Herrera tests the above assumptions for four Western minority nations (Scotland, Galicia, Catalonia and Québec). His findings confirm his rather negative expectations, and as such provide a more somber picture of the effects of federalism on managing multi-national states than Anderson in his chapter. For instance, he finds that decentralization undermined support for the state political community in each minority nation except for Galicia. Yet, once more context is important. Leaving aside Galicia, each minority nation performs economically at (Québec) or above (Scotland and especially Catalonia) the countrywide regional average.³ Québec and especially Catalonia also attract a disproportionate share of migrant workers. Migrants originate from other regions in the country or from abroad. Regional economic wealth and the presence of disproportionate “minorities within the national minorities” generate minority grievances, and the latter can be voiced more easily if a decentralized political

structure is at hand. Unlike what central governments may have envisaged, self-rule to these regional communities has not increased positive feelings towards the state, but as Martínez-Herrera states, provocatively, set in place a set of “nested institutions which could claim achievements as theirs while putting the blame for troubles on the nest organization they belong to”.

One would hope that Martínez-Herrera’s findings are too pessimistic, since they are based on four minority nations, each of which can invoke – to draw from Anderson’s contribution – a history of self-rule that predates the formation of the (Canadian, UK or Spanish) state. A more robust conclusion could be provided if more cross-national comparisons could be made to tease out whether the negative effects of federalism on multinational stability also apply elsewhere (see for instance Norris 2008 for large-*N* comparisons, Erk and Anderson 2009 for alternative case-studies). Future research would also require longitudinal datasets for a range of countries capable of measuring support for the state and/or the minority nation.

Federalism and how it matters for public policy

The fourth and final benchmark studies the effects of federalism on public policy. Biela and Hennl offer a large-comparative study to study the effects of federalism on macro-economic performance. The latter measures a set of indicators, combining government size, welfare spending, inflation rates, unemployment rates, budget balance and economic growth. For both authors the contradictory findings that are attributed to the macro-economic effects of federalism are due to a lack of conceptual clarity on what federalism is. Whereas political science distinguishes between federalism and unitary states, political economists or public policy analysts more frequently make a distinction between centralized and decentralized states. Broadly speaking, federalism considers the extent to which subnational entities have the right to decide, whereas decentralization considers the degree to which said entities have the right to act (Braun 2000; Keman 2000). Some federal states can be relatively centralized (such as Austria), whereas some unitary states can be strongly decentralized (such as Denmark). Federalism and decentralization, so Biela and Hennl argue, impact upon policy performance independently and at different phases of the policy-making process.

Their contribution tests two key hypotheses: on the one hand they expect that unitary decentralized and federal states with a dual federal structure will perform better than centralized states or federal states of the joint-decision-making (cooperative) mode. A second hypothesis assumes that federal structures, because they build in more veto points than unitary states, are slower to respond to socio-economic changes, and thus result into lower levels of policy performance. In other words, macro-economic performance should be at its best in unitary states that are highly decentralized and at its worst in federal states that are relatively centralized *and* of the joint-decision-making mode. They set out to test these hypotheses on about 30 cases.

Biela and Hennl’s analysis once more underlines the highly context-dependent (and therefore non-generalizable) effect of federalism or decentralization on policy performance. While their two hypotheses are corroborated, they find more robust support for the predicted positive performance of decentralized states than for the weaker performance of federal states. The latter, as they have argued, may be due to the multi-faceted character of (the relatively small group of) federal states, some of which are (de)centralized, some of which are dual or cooperative. Furthermore, they notice that the effect of federalism may differ from policy area to policy area. For instance, Germany’s relatively centralized joint-decision-making federalism is not always among the worst macro-economic performers. They admit that more research is needed and that it should take a qualitative character; whilst their statistical research has been useful to evaluate causal effect, such qualitative case studies should be able to shed more light on the causal mechanisms at work. As such they propagate a mixed method research design.

Brauns’ contribution offers such a small-*N* focused comparison. His analysis looks at three affluent federal countries that differ in their type of federal design. To adapt Biela and Hennl’s typology; he compares fiscal federalism in three federal states: Germany, a relatively centralized federation of the joint-decision-making mode; Australia, a more decentralized and dual federation; and Switzerland, the most decentralized federation of all three but with some important joint-decision-making traits, at least until its reform in 2004. Like Sturm, Braun is driven by recent (attempts) to reform German federalism, but unlike Sturm his interest lies not in explaining what has already changed, but in suggesting what might or should change. Braun’s chapter starts from the assumption that as it stands German fiscal federalism is underperforming.

Drawing from the comparative literature he identifies three categorical rules of fiscal federalism. A self-sustainable fiscal federal order requires that mechanisms are built in (1) to discourage the federal government from encroaching upon rights and revenues of regional governments; (2) to prevent regional governments from engaging in free-riding or rent-seeking behavior; and (3) to avoid disincentives for productive behavior of regional governments. In Brauns’ view German fiscal federalism violates against each of these categorical rules (but especially against rules 2 and 3). His contribution seeks to draw lessons from Australian and Swiss fiscal federalism that could enhance the self-enforcing properties of German fiscal federalism. For instance, if Germany were to adopt a Loan Council inspired by the Australian model, more responsive regional borrowing and therefore rent-seeking behavior could be curtailed. Similarly, copying aspects of the Australian equalization scheme could help to make the German fiscal equalization process more transparent and less arbitrary and could help strengthen links between regional fiscal capacity and regional expenditure needs and efforts. From Switzerland, Germany could learn that a decentralized tax system does not necessarily have to intensify inter-regional inequalities, and also that where the federal and regional governments are both allowed to tax the same base (concurrent tax), tax prudence instead of tax greed may be the outcome.

Braun provides potential recipes for improvement, but the question remains, how likely is it that German fiscal federalism will adapt along the lines that he suggests? In Sturm's view the "social narrative" that would sustain such a sea-change in fiscal federalism is simply missing. Germans still support high levels of territorial equalization and are wary of too much regional policy divergence, even in areas that belong to the regional domain (education for instance). Furthermore, through the federal second chamber, regions that are relatively resource poor can build strong enough coalitions to prevent a strengthening of regional tax autonomy or a lowering of the equalization targets. One avenue of future research may focus on what made a major structural reform of Swiss (fiscal) federalism possible, notwithstanding the prospect of multiple referendums and the relatively strong bargaining position of cantons at the centre. As such, we have reached full circle, for it is Colino's contribution that provides us with the conceptual lenses for understanding federal change.

New directions in federalism studies

The above overview gives a snapshot of the themes that are addressed in "new" types of comparative federalism research. But what transcends these themes, and in what sense are they reminiscent of what we labeled a new wave of federalism studies in the introduction? For this we need to move to a higher level of abstraction. In the introductory chapter, we argued that our field of study had moved beyond trying to answer whether federalism matters as the focus is increasingly on to "how it matters, to what extent it matters and what it matters for".

All chapters of *New Directions in Federalism Studies* represent this new research agenda in various guises. We believe two basic characteristics set the new wave apart from traditional federalism scholarship. One is the pronounced comparative outlook that brings with it a concern for external validity to an area of study that used to be driven by concerns of internal validity. The second characteristic is the scholarly distance to the very subject under study. Certain normative assumptions about federalism's democratic, economic and political benefits are now confronted with hard empirical evidence. The results often reveal the multi-faceted nature of federalism. This naturally begets an even-handed discussion of both the positive and negative sides of federalism. However, can there really be something identifiable as a new wave of federalism studies based on concerns for external validity and empirical objectivity only? We believe these two basic characteristics function as conceptual bridgeheads that can contribute to exposing the commonalities across pockets of federalism scholarship, and in doing so, help pave the way for a more integrated field of study. Despite the differences in substantive foci, all contributions to this volume epitomize the new wave in six distinct ways.

First, all contributions acknowledge the multi-faceted nature of federalism. Most start with a taxonomy of the institutional and socio-economic configurations in which federalism manifests itself. Taking stock of the recent boom in federalism research, we now know better how to distinguish analytically between

federalism and decentralization and between centralized and decentralized federalism. Furthermore, the contributions on intergovernmental relations and parties seek to bring conceptual clarity to a field of study that has hitherto remained conceptually rather untidy.

Second, the meaning of federal arrangements often requires us to go back to the origins or conditions under which federalism came into being. Is federal design endogenous or is it the product of external variables ranging from territorial socio-economic or demographic inequalities, international pressure or developments in the party system? Is federalism put in place to enhance economic efficiency or to mitigate ethnic conflict? Knowing why federalism emerged can teach us much about how federalism develops or transforms. If, for example, federalism is interpreted as a bargain, but the institutional or social resource base of the actors who struck the bargain changes over time, then the meaning or format of federalism is likely to transform as well. Furthermore, institutions often generate unintended consequences, and institutional design can be the product of compromise ("bargaining") as much as of visionary institution-building. In sum, in order to understand federalism we need not only to consider the origins but also to adopt a longitudinal and contextual frame. The chapters by Colino, Sturm, Saxena and Singh, Detterbeck and Hepburn, de Miguel Moyer, Martínez-Herrera, and Biela and Hennl all adopt such long-term and contextual perspectives.

Third, and directly following from what was mentioned above, in studying the effects of federalism or decentralization we need to acknowledge that federalism is an important institution, but it is also a *nested* institution; it interacts with other important institutional variables such as corporatism, the party or electoral system, the horizontal distribution of powers in the centre (parliamentary/presidential/bicameral). These further add to the *varieties of federalism*, and therefore also the variety of policy outcomes or impacts that are attributed to federalism. In fact, the chapters by Colino, Anderson, Braun, Martínez-Herrera, and Biela and Hennl all document the ambiguous and contradictory effects of federalism on policy performance, intergovernmental change and managing ethnic conflict

Fourth, most chapters question the traditional (normative) assumptions of federalism studies which were often accepted without empirical verification. For instance, as Chapter 5 by Gordin shows, the overrepresentation of the smaller units in the second legislative chamber of a federation can reduce the redistributive capacity of the centre by tying votes to inefficient pork-barrel policies which favor the smallest (but not necessarily the poorest) states. Where federalism is built on a relatively homogenous society, such as Argentina, the value of such practices cannot be justified by a desire to accommodate disgruntled minority nations. The empirical chapters also demonstrate that any normative conclusion attached to federalism depends on the criterion for assessment (democracy, accountability, macro-economic performance, stability, capacity for change), the type of federal design and the contextual variables. Put simply, in answering the question of whether federalism is a good thing, the (implicit) response of the contributors to this volume is a qualified "it depends".

Finally, we can add yet another paradox to our volume. Most researchers are concerned with context, and with studying federalism as a nested institution. Yet, at the same time, they also set out to test the external validity of theories, which by their very nature formulate causalities where there may only be probabilities, or formulate causalities that make sense in a specific institutional context, but not necessarily in another. Many of the theoretical assumptions on federalism originate from American federalism, not by chance the most significant federation which hosts the largest and most professionalized community of political scientists in the world. What these chapters show, though, is that the theoretical assumptions originating from American federalism rarely hold when tested in these different environments. For instance, Biela and Hennl demonstrate that federalism, even when it takes the form of a dual federal structure with fiscally autonomous regions, does not necessarily “preserve markets” (Weingast 1995). Gordin shows that members of the second chamber in Argentina, given the different nature of the party system and the differences in political career patterns, are more inclined to operate as territorial agents than their colleagues in the United States Senate. De Miguel Moyer demonstrates that Spanish voters do not follow the “economic voting thesis” as much in regional elections as their counterparts in the United States. These empirical tests cast a shadow on the external validity of some theoretical assumptions that are prevalent in the field. In the end, it is this concern with external validity and the prudent distance to the subject matter that defines the new wave of federalism studies, even if their findings point at an uncomfortable “disconfirm”.

From growth to consolidation

Taking stock of a field of study that is undergoing dynamic change is bound to result in a progress report rather than the final word. It is our hope that the attempt to make the latent commonalities between pockets of scholarship manifest will help lessons, insights and findings on federalism to be shared by a broader audience. While we hope that we have played some role in laying the groundwork for a more unified field of study by identifying certain analytical commonalities based on the four dimensions we proposed, the divisions in theoretical, methodological and substantive foci within the new wave of federalism studies are likely to persist. Our hope is at least to make explicit the common research puzzles across pockets of scholarship, and thereby create a conducive base for cumulative growth. This of course assumes that the current boom in federalism scholarship will continue unabated. In the introductory chapter we identified two potential reasons for the recent growth in federalism scholarship: the first was the increase in the supply side of federalism, that is, from Iraq to the European Union the burgeoning number of federal experiments with vertically divided political authority around the world. The second reason was the predominance of new institutionalist approaches in mainstream political science. There are, however, indications that these two potential reasons we identified might be on the cusp of reaching a point of saturation.

The current political and economic picture as *New Directions in Federalism Studies* goes to press is far from rosy. We are witnessing the beginnings of what is bound to be a long-term global economic downturn. The political response to the global financial crisis has invariably increased the role of central governments at the expense of sub-state levels of governance as well as the supra-state level. Country-by-country responses to the common financial challenges facing the European Union (EU) are likely to suppress the appetite for further federalism in the EU. In the meantime, the uneasy but cordial geopolitical relations between Russia and the West characterizing the last 20 years is also facing a downturn. Countries in Russia’s near-abroad will now think twice before allowing autonomy to their culturally distinct regions with the fear that this would make them vulnerable to outside political influence. And the last factor that may play a role in the slowdown of the growth in the supply of federalism is a little more prosaic: we have already seen the processes of federalization in play in most places where such demands had the potential to materialize. From Scots to Catalans, stateless nations have already contributed their share to the growth in the supply side of federalism. Consequently, we believe that a point of saturation for federal experiments with divided political authority is on the cards – for both economic and political reasons.

In our introduction we mentioned how international economic factors were making the vertical division between central governments and regions more salient. The global integration of markets and the dominance of market economic ideology, we argued, had led to the weakening of the political and economic responsibilities of the central government. As *New Directions in Federalism Studies* makes its way to publication, we are witnessing a global crisis engulf the world’s financial markets. After an initial period of indecisiveness, central governments around the world have been forced to reclaim some of their former responsibilities in managing the economy. It now seems certain that the crisis in the global money market will lead to a long-term downward trend in the global economy itself. The new role of central governments as guarantors of bank deposits is likely to be followed by a more active involvement in the economy in general. If the responses of central governments turn out to prevent the bad from getting worse, this will strengthen the center vis-à-vis the regions.

The resurgence of central government activism might very well be the current picture, but this is accompanied by cases where the real limits of national government capacity are laid bare. At the moment, this seems to be particularly valid for small countries like Iceland, but in the long run, not only regional governments but central governments might increasingly find themselves at the mercy of economic developments beyond their reach. With a stronger commitment to bail out financial services and national industries, central governments increase their overall debt-levels, potentially limiting their capacity to “subsidize” regional politics through direct cash transfers. Instead of strengthening the center at the expense of regions, this could expose the helplessness of central governments. Particularly, if the economic after-effects continue unabated, trust in the

efficacy of central government activism will likely face a decline. Regions promising a more competent response, on the other hand, have their hands tied due to the weak constitutional/political/economic clout they have over financial markets. So we might be in for a widespread sense of disillusionment with politics in general.

Furthermore, the global financial squeeze will certainly affect the priorities of international monetary institutions like the World Bank and the International Monetary Fund, who had been doling out financial support to Third World projects that included a significant decentralization component. The new spending priorities of such institutions are bound to be emergency loans to national economies unable to cope with the pressures brought on by the global financial crisis. Hungarian, Ukrainian and Icelandic economies have recently been the target of such rescue packages, and we are likely to see more countries joining the needy. In such a context, spending on decentralization projects in the developing world might be perceived as secondary.

As we wait for the dust from the global financial crisis to settle and prepare for the long-term economic costs, an additional global downturn has to be factored into the study of comparative federalism: changes in the geopolitical landscape. The Russian–Georgian war of August 2008 has exposed how vulnerable Russia’s neighbors are. From Ukraine to Turkey, concerns over international security are likely to trump concerns over domestic federal reform. Following the fate of Abkhazia and South Ossetia, demands for self-government in Crimea, Trans-Dniester, and Nagorno-Karabakh will now, more than ever, be interpreted as the creation of bridgeheads for Russian presence. After the re-emergence of Russia’s geopolitical involvement in its near-abroad, combined with the uncertain future of federalism in Iraq, Turkey for instance, is likely to resist acquiescing to Kurdish demands for self-rule in the country’s south-east bordering Iraqi Kurdistan. Such examples are abound throughout the globe and will instill more prudence before experiments with federalism are undertaken.

Another potential change in the geopolitical landscape is the level of American involvement in global politics. Facing two unpopular wars abroad (Iraq and Afghanistan), a tarnished international reputation, alienated allies, and a major economic downturn at home, the new (2009) American administration is bound to be pickier in getting involved in foreign politics. Without credible security guarantees from the US, many will hesitate to devise federal experiments with vertically divided political authority fearing the perceived international weakness this might create. Where such processes are already underway, and where geopolitical challenges from neighbors don’t exist, we will see the continuation of federal solutions. Federalism will of course continue to play a role in the politics of Québec, Flanders, Scotland, Catalonia, the Basque provinces, Wales and Wallonia, but we will not see too many new additions. While new recruits might not be queuing up to be put on the federal list, existing federations like Australia, Canada, Belgium, Germany, Spain and Switzerland are expected to continue tinkering with their respective federal systems. That will

assure a steady supply of study topics for comparative federalism. One should also note that the study of the welfare state experienced a boom precisely around the same time it had come under attack from Thatcher and Reagan (Cameron 1978; Flora 1986). Scholarly interest in the welfare state continued during the retrenchment of the very idea (Esping-Andersen 1990, Pierson 1994; Hicks 1999; Huber and Stephens 2001; Pierson 2001). While the surge in the supply of federalism might have helped propel comparative federalism to the centre of mainstream political science research, a decline in such growth does not signify an end to scholarly interest in the topic. In effect, as its novelty wears off, the day-to-day workings of federalism and its impact on politics in general will attract scholarly interest. Now, more than ever, the study of federalism calls for a comprehensive and nuanced examination of this complex phenomenon in order to better understand its workings.

In the introductory chapter a second potential reason we had identified for the boom in federalism studies was the (re)discovery of institutions by political scientists. We argued that the centrality assumed by new institutionalist approaches in political science had brought a renewed scholarly interest to federalism. Focus on how political authority is divided, shared or dispersed among two or more orders of government and the impact such federal institutional arrangements has on politics is an ideal avenue of investigation to new institutionalists. In the last two decades, most of the assumptions of new institutionalism seem to have been internalized into various subfields, in the process turning new institutionalism into the big heterogeneous center of mainstream political science. There are indications that the saturation point is fast approaching; some even go far as to declare that “new institutionalism is getting kind of old” (Erk and Koning 2009). A slowdown in the relentless advance of new institutionalism characterizing the last twenty years seems to be on the cards.

That being said, such a slowdown will not turn the clock back. New institutionalism has permeated various approaches in political science to the extent that almost all analytical traditions now acknowledge the importance of the institutional context as a filter between the deductive reasoning informed by their theoretical mind-map on the one hand, and outcomes on the other. Therefore, the workings of existing federal experiments with vertically divided political authority will continue to attract scholarly research. We possess increasingly sophisticated and nuanced tools to study federalism and decentralization; theoretically (i.e. the advances in public choice scholarship, neo-institutionalism, or comparative politics more generally) and empirically (due to the availability of large international databanks). The existing supply of federal experiments will keep us busy for quite a while. What we had was a period of growth, what we will now experience is a period of consolidation. *New Directions in Federalism Studies* is, thus, one of the first steps in exposing the underlying commonalities across pockets of scholarship and the building of a more integrated field of study where federalism is even-handedly examined – with its benefits and shortcomings.

Notes

- 1 The first question is not addressed explicitly here, but there is evidence to support the assumption that the distinction between federal and non-federal states is not necessarily relevant in the regard. For instance, in the view of Erik Jones (2008) non-federal Netherlands and its southern neighbour, federal Belgium, are both relatively ill equipped to carry the successful consensual economic policies of the 1990s into the twenty-first century. In his view, the domestic electoral climate (higher voter volatility and a much more fragmented and polarized party system) will prevent both states from facing up as effectively to the challenges of the twenty-first century.
- 2 The Connecticut Compromise established a federal bicameral legislature with a lower house (House of Representatives) in which representation is in accordance with demographic strength and an upper house or second chamber (Senate) in which each state is equally represented, irrespective of demographic size (Berns 1987: 67–100).
- 3 In the case of the UK, though, he uses eight NUTS regions instead of England as the relevant unit of analysis.

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