

OXFORD

FEDERAL DYNAMICS

Continuity, Change, & the Varieties of Federalism

EDITED BY

ARTHUR BENZ
& JÖRG BROSCHEK



Federal Dynamics

This page intentionally left blank

Federal Dynamics

Continuity, Change, and the Varieties of
Federalism

Arthur Benz and Jörg Broschek

OXFORD
UNIVERSITY PRESS

OXFORD

UNIVERSITY PRESS

Great Clarendon Street, Oxford, OX2 6DP,
United Kingdom

Oxford University Press is a department of the University of Oxford.
It furthers the University's objective of excellence in research, scholarship,
and education by publishing worldwide. Oxford is a registered trade mark of
Oxford University Press in the UK and in certain other countries

© The several contributors 2013

The moral rights of the authors have been asserted

First Edition published in 2013

Impression: 1

All rights reserved. No part of this publication may be reproduced, stored in
a retrieval system, or transmitted, in any form or by any means, without the
prior permission in writing of Oxford University Press, or as expressly permitted
by law, by licence or under terms agreed with the appropriate reprographics
rights organization. Enquiries concerning reproduction outside the scope of the
above should be sent to the Rights Department, Oxford University Press, at the
address above

You must not circulate this work in any other form
and you must impose this same condition on any acquirer

British Library Cataloguing in Publication Data

Data available

ISBN 978-0-19-965299-0

Printed in Great Britain by
MPG Books Group, Bodmin and King's Lynn

Acknowledgements

Like each book, this one has a particular story. The idea to work on federal dynamics surfaced about three years ago when we had a conversation on our future research plans. We realized that the different approaches we were applying to understand the historical development, the success or failure of constitutional reforms, and the stability or instability of federal systems had a common ground, although they had been elaborated and still are discussed in separate scientific discourses. We concluded that it might be worthwhile to bring together scholars working from different theoretical backgrounds on the continuity and change of federalism, and organize an exchange of views. For this purpose, we approached federalism scholars from Europe and North America who drew our attention due to their contributions to advancing theory-building in the field of comparative federalism. Our invitation to a workshop received enthusiastic responses—more so than we had initially envisaged.

The first meeting took place in May 2010 at the University of Hagen (*Fern-Universität Hagen*), where we were teaching at the time. The quality of the papers, the lively and creative discussions, the interest and commitment of all participants, and their encouraging suggestions motivated us to proceed with a book. To discuss the drafts for the book chapters, we organized a second workshop at the Darmstadt University (*Technische Universität Darmstadt*), which took place in June 2011. Again, we experienced a stimulating atmosphere with excellent contributions. Close collaboration among participants continued after the workshop, in the exchanges of comments and revised versions of the chapters. Our largest debt, therefore, is to our authors for their cooperation over the last two years and their contributions to this volume.

We also are grateful to Nathalie Behnke, Jan Erk, Florian Grotz, André Kaiser, Fritz Scharpf, Michael Stoiber, and Wilfried Swenden, who contributed with very helpful comments to our discussions in the first workshop or commented on the concluding chapter in a meeting of German political scientists. In editing the book, we profited from a number of “helping hands.” Jared Sonnicksen, political scientist at the University of Bonn, did an excellent job in language editing. Sebastian Gessler and Andreas Haaf assisted us in our editorial work.

Acknowledgements

For grants which allowed us to organize the two workshops, we owe gratitude to the Fritz Thyssen Foundation and the German Research Foundation (*Deutsche Forschungsgemeinschaft*). Finally, we are indebted to Oxford University Press, in particular to Dominic Byatt, who endorsed our proposal right away, as well as to Sarah Parker, for all their professional support without which our project would not have been possible.

Arthur Benz, Jörg Broschek
Darmstadt, March 2012

Contents

<i>List of Figures</i>	ix
<i>List of Tables</i>	x
<i>List of Contributors</i>	xi
1. Federal dynamics: Introduction <i>Arthur Benz and Jörg Broschek</i>	1
Part I: Models, Varieties, and Dimensions of Federalism	
2. Comparing federalisms: Variations or distinct models? <i>Thomas O. Hueglin</i>	27
3. Varieties of federalism and propensities for change <i>César Colino</i>	48
4. Dimensions and dynamics of federal regimes <i>Arthur Benz</i>	70
Part II: Timing, Sequencing, and Historical Evolution	
5. Between path dependence and gradual change: Historical institutionalism and the study of federal dynamics <i>Jörg Broschek</i>	93
6. Resilience and change in federal institutions: The case of the German Federal Council <i>Kathleen Thelen and Sebastian Karcher</i>	117
7. Decentralization in time: A process-tracing approach to federal dynamics of change <i>Tulia G. Falletti</i>	140
8. Federalism, democracy, and democratization <i>Mikhail Filippov and Olga Shvetsova</i>	167

Contents

9. The evolution of federalism and executive power in Canada and Australia <i>Anthony M. Sayers and Andrew C. Banfield</i>	185
Part III: Social Change and Political Structuring	
10. Federalism, nationalist politics, and social policy: How ideas and institutions shape federal dynamics <i>Daniel Béland and André Lecours</i>	209
11. Dynamics of change in federal representation <i>Lori Thorlakson</i>	229
12. Mainstream parties and territorial dynamics in the UK, Spain, and India <i>Wilfried Swenden and Simon Toubeau</i>	249
Part IV: Actors, Institutions, and Internal Dynamics	
13. Constitutional change in federations: The role of complementary institutions <i>Jenna Bednar</i>	277
14. Constitutional reform and federal dynamics: Causes and effects <i>Bettina Petersohn</i>	297
15. Paradoxes of self-coordination in federal systems <i>Nicole Bolleyer</i>	321
16. Economic crisis and federal dynamics <i>Dietmar Braun and Philipp Trein</i>	343
17. Conclusion: Theorizing federal dynamics <i>Arthur Benz and Jörg Broschek</i>	366
<i>Index</i>	389

List of Figures

1.1	Directions of change in the varieties of federalism	8
1.2	Sources and mechanisms of federal dynamics	10
5.1	A historical-institutionalist framework for the study of federal dynamics: Theoretical and conceptual building blocks	111
6.1	Stylized stages in the evolution of German federalism	120
6.2	Percentage of laws requiring BR consent by legislative period	131
6.3	Expenditures of state and federal governments in Germany	133
7.1	Sequence and policy effects of neoliberal decentralization, Argentina, 1978–94	158
7.2	Sequence and policy effects of neoliberal decentralization in Brazil, 1980–88	161
8.1	Regime durability and probability of the two highest levels of competitiveness of political participation, 1990–2007	180

List of Tables

1.1 Sources and mechanisms of federal change: Illustrative examples	13
3.1 Dimensions and variables of the formal framework	55
3.2 Dimensions and variables of federal relations	56
3.3 Varieties of federalism according to formal framework and federal relations	57
3.4 Four varieties of federalism and their institutional and interaction dimensions	60
3.5 Different decision-making and integrative capacities of the four varieties of federalism	62
4.1 Mechanisms of state–society dynamics	80
5.1 Variants of historical institutionalism and the study of federal dynamics	97
5.2 Gradual patterns of change and federal dynamics	105
7.1 The evolution of the intergovernmental balance of power in Argentina and Brazil, 1978–99	147
8.1 Competitiveness of political participation	177
8.2 Competitiveness of political participation in 1990–2007; 1990–99, and 2000–07	178
8.3 Federalism and the quality of democracy: three dependent variables	179
9.1 National government share of revenue and workforce	199
11.1 Coincidence of horizontal and vertical coordination	236
11.2 Impacts of federal design on party competition	238
12.1 Conditions producing decentralizing reforms	257
12.2 Conditions producing resistance to change	264
14.1 Patterns of constitutional reform processes	301
15.1 Modes of self-coordination in federal systems	326
16.1 Effect of fiscal crisis policies on federal balance	351
17.1 Analytical framework	371

List of Contributors

Banfield, Andrew C. is Lecturer in the School of Politics and International Relations at the Australian National University, Canberra. He holds a PhD from the University of Calgary. His main research fields include: federalism, public law, and comparative institutions.

Bednar, Jenna is Associate Professor of Political Science at the University of Michigan. Her work crosses disciplines, addressing constitutional questions using the methods of complex systems analysis and game theory, and has been published in law reviews as well as journals in political science, economics, and sociology. She is the author of *The Robust Federation: Principles of Design* published by Cambridge University Press in 2009. Professor Bednar earned her PhD from Stanford University in 1998.

Béland, Daniel is Canada Research Chair in Public Policy and Professor at the Johnson-Shoyama School of Public Policy (University of Saskatchewan campus). A political sociologist studying policy development from an historical, political, and comparative perspective, he has published eight books and more than sixty articles in peer-reviewed journals. Professor Béland has held visiting fellowships at the University of Chicago, Harvard University, the Woodrow Wilson International Center for Scholars, and George Washington University.

Benz, Arthur is Professor of Political Science at the Technische Universität Darmstadt, Germany. Before he accepted his chair in Darmstadt in 2010, he taught at the Universities of Konstanz, Halle-Wittenberg, and Hagen. In 2007/08, he was the John G. Diefenbaker-Scholar at Carleton University in Ottawa.

Bolleyer, Nicole is Lecturer in Politics at the University of Essex in the United Kingdom. After her studies at the Universität Mannheim (Germany) and at the Johns Hopkins University in Baltimore (the US), Dr Bolleyer completed her PhD in political science at the European University Institute of Florence (Italy) in 2007. Her first monograph *Intergovernmental Cooperation: Rational Choices in Federal Systems* (2009) was published by Oxford University Press. Her articles appeared in *West European Politics*, *European Political Science Review*, *Publius: The Journal of Federalism, Party Politics*, and *Regional and Federal Studies*.

Braun, Dietmar is Professor of Political Science at the University of Lausanne. His main research interests are federal studies, governance in science and technology policy as well as health policies, and theory development. He has published a number of books (the most recent with F. Gilardi: *Delegation in Contemporary Democracy*,

List of Contributors

Routledge) and published in a variety of political science journals. He is Research Councillor at the Swiss National Science Foundation.

Broschek, Jörg is Lecturer at the Technische Universität Darmstadt. He is author of a book on Canadian federalism (*Der kanadische Föderalismus. Eine historisch-institutionalistische Analyse*, Wiesbaden, 2009). His articles have been published in academic journals including the *Canadian Journal of Political Science*, *Publius: The Journal of Federalism*, *Regional and Federal Studies*, and the *Swiss Political Science Review*.

Colino, César is Associate Professor in the Department of Political Science and Public Administration at the Spanish National Distance-Learning University (UNED) in Madrid. Before he taught at the University of Salamanca, the Autonomous University of Madrid, and was Visiting Researcher at the Max-Planck Institute for the Study of Society (MPIfG) in Cologne, and Visiting Fellow at the Center for Federal Studies at the University of Kent (UK).

Falleti, Tulia G. is Assistant Professor at the University of Pennsylvania (the US). She holds a PhD in social science from Northwestern University and has studied sociology (BA), statistics for the social sciences, and political science (MA) in Buenos Aires (Argentina) and at the Northwestern University. Her book *Decentralization and Subnational Politics in Latin America* (Cambridge University Press, 2010) was co-winner of the first Donna Lee Van Cott Award for the best book in Latin American political institutions from the Political Institutions Section of the Latin American Studies Association (LASA).

Filippov, Mikhail is Assistant Professor of Political Science in the Department of Political Science at the Binghamton University, State University of New York. Dr. Filippov holds a PhD in Economics and Political Science from the California Institute of Technology. His work, *A Theory of Self-Sustainable Federal Institutions*, co-authored with Peter Ordeshook and Olga Shvetsova, was published by Cambridge University Press and received an Honorable Mention for the William H. Riker Prize of the Political Economy Section of the American Political Science Association in 2005.

Hueglin, Thomas O. is Professor of Political Science at Wilfrid Laurier University, Waterloo, Canada. He holds a PhD in political science from St. Gall University in Switzerland. He has published widely on Federalism and Political Theory. He is author of *Comparative Federalism: A Systematic Inquiry* (with Alan Fenna, University of Toronto Press, 2006).

Karcher, Sebastian is a PhD candidate in the Department of Political Science, Northwestern University and currently Guest Scholar at the Kellogg Institute for International Studies, University of Notre Dame. His research investigates the politics of institutional change, with a special focus on labor market politics in advanced industrialized and emerging economies. Recent publications include "Complementarities and continuities in the political economy of labour markets in Latin America," *Socio-Economic Review*, 2010 (with Ben Ross Schneider).

Lecours, André is Associate Professor in the School of Political Studies at the University of Ottawa. His main research interests are Canadian politics, European politics, nationalism (with a focus on Quebec, Scotland, Flanders, Catalonia, and the Basque country) and federalism. He is the editor of *New Institutionalism: Theory and Analysis* published by the University of Toronto Press in 2005, the author of *Basque Nationalism and the Spanish State* (University of Nevada Press, 2007), and the co-author (with Daniel Béland) of *Nationalism and Social Policy: The Politics of Territorial Solidarity* (Oxford University Press, 2008).

Thorlakson, Lori is Associate Professor at the University of Alberta, Edmonton. She holds a PhD from the London School of Economics. Her research interests focus on European politics, party competition and constitutional design in multi-level systems. Her articles have been published in academic journals including the *European Journal of Political Research*, the *Journal of Common Market Studies*, *Party Politics*, and *West European Politics*.

Petersohn, Bettina is a research fellow at the University of Konstanz Germany. In the context of a comparative project, funded by the German Research Foundation, she works on constitutional reforms in federal systems, in particular Canada, Belgium, and Spain. Her publications focus on stability and instability in multinational democracies.

Sayers, Anthony M. is an associate professor in the Department of Political Science and Research Fellow in the School of Public Policy at the University of Calgary and an honorary research fellow in political science and international relations at the University of Western Australia. His published research encompasses political parties and theories of representation, the dynamics of federal states, and provincial politics in Alberta.

Shvetsova, Olga is Associate Professor of Political Science and Economics at Binghamton University in New York. She received her PhD in social sciences at the California Institute of Technology in 1995 and is working in the fields of constitutional political economy and institutional design. She published in *The American Journal of Political Science*, *The Journal of Democracy*, *Journal of Theoretical Politics*, *Comparative Political Studies*, *Electoral Studies*, *Law and Society Review*, *Legislative Studies Quarterly*, *Constitutional Political Economy*, and other peer-reviewed journals. She has also published a number of chapters in edited volumes and a book *Designing Federalism*, co-authored with Mikhail Filippov and Peter Ordeshook.

Swenden, Wilfried is Senior Lecturer in the field of politics and international relations in the School of Social and Political Science at the University of Edinburgh. He has completed his PhD in Politics at the University of Oxford, St. Antony's College. His research areas are comparative federalism and territorial politics, intergovernmental relations in federal states, organization and strategy of parties in a multi-level settings and institutional engineering for divided societies. He has published in the *Journal of Common Market Studies*, *Publius: The Journal of Federalism*, *West European Politics*, and other peer-reviewed journals.

List of Contributors

Thelen, Kathleen is Ford Professor at the Massachusetts Institute of Technology (MIT) in Cambridge, MA, and a permanent external member of the Max Planck Institute for the Study of Society in Cologne Germany. She studied Political Science at the University of Kansas (B.A.) and completed her Master and PhD at the University of California, Berkeley. One of her multiple awarded works is her latest publication *How Institutions Evolve: The Political Economy of Skills in Germany, Britain, the United States and Japan*.

Toubeau, Simon is a García Pelayo Fellow at the Centre for Political and Constitutional Studies (CEPC), Madrid, and a scientific collaborator at the CEVIPOL (Centre d'Étude de la Vie Politique) at the Université Libre de Bruxelles. He obtained his PhD from the European University Institute (2010), and was an ESRC post-doctoral fellow at the University of Edinburgh. His research interests focus on comparative territorial politics and federalism, nationalism, parties, and party systems, political institutions, and institutional theory.

Trein, Philipp is a PhD candidate at the University of Lausanne. He holds an MA in political science and history from the University of Heidelberg. His dissertation project is part of the research project "Multi-level governance in Health Policy," which is funded by the Swiss National Science Foundation. His research interests include comparative health policy, federalism, fiscal policy, and economic voting.

1

Federal dynamics: Introduction

Arthur Benz and Jörg Broschek

1.1 Introduction

By the beginning of the twenty-first century, the significance of territoriality for domestic politics in general and of federalism in particular has become more than obvious. For instance, comparative state theory has more thoroughly attempted to reconstruct different routes to modern state building, identifying the highly centralized state as only one among several possible pathways (King and Lieberman 2009). Moreover, the growing literature on regionalization has observed a “decentralist turn” in contemporary democracies (Hooghe, Marks, and Schakel 2008; Keating 2008; Jeffrey and Wincott 2010). While it is often assumed that the resurgence of regionalism in Western Europe is fostered by European integration, the emergence of the European Union in itself is another important indicator for the increasing importance of territorial politics and federalism (Nicolaidis and Howse 2001; Fossum and Menéndez 2011). Finally, and often interrelated with these developments, the subfield of comparative federalism has recently emerged as a “growth industry” in its own right (Erk 2007; Erk and Swenden 2010).

Federalism is often said to be a “moving target,” confronting research with considerable difficulties in exploring and assessing its origins, developmental patterns, and, ultimately, its impact (for example, Gibson 2004: 7). Arguably, the ambivalence and complexity of federalism is one important reason why comparative scholarship has had problems with putting together a more coherent and complimentary research agenda. As a consequence, the field of comparative federalism, as it stands, appears to lack the state of development achieved by other areas of comparative politics in recent decades.

The aim of this book is to address this deficit by focusing on two interrelated concepts: the varieties of federalism and the concept of federal dynamics.

First, all federal systems have in common institutional arrangements that connect constituent units horizontally and vertically with the federal level through institutional mechanisms allowing both shared rule and self-rule (Elazar 1987). However, they differ profoundly in terms of how they combine such institutional features such as through the division of competencies or the system of intergovernmental relations. Moreover, the varieties of federalism have been established and developed in dissimilar societal contexts in which federal systems are embedded. Federal systems, therefore, not only serve distinct purposes or respond to particular needs; the varieties of federalism are also reflected in the idiosyncrasies of ideas that create different “meaning contexts” (Schmidt 2010: 8) for justifying a federal political order.¹

Second, diverging federal architectures are essentially a historical outcome. Federal trajectories emerge from processes involving contingent alignments and unintended feedback effects. The concept of dynamics captures this time-dependent behavior of federal systems. Furthermore, just as different variants of federalism are likely to face particular problems, we assume that they also yield specific patterns of adjustment. Overall, federal systems are permanently in motion or exposed to pressure for change caused by social developments or internal tensions. Different dimensions of federal systems do co-evolve through varying patterns of continuity and change. The focus on dynamics, therefore, addresses questions of how and why federal systems change as a matter of degree rather than within an absolute dichotomy. Moreover, rather than departing from the assumption that federal systems are equilibrated, the dynamical approach suggested here puts emphasis on their built-in tensions and frictions that constitute a permanent source of change as well as rigidity. Whether or not such frictions usher in flexible adjustments and innovations or threaten the survival of federal systems has been largely unexplored in the literature.

Although many scholars have emphasized the dynamic character of federalism, there obviously is a shortage of theoretically informed studies on this aspect.² Given the prevalence of rather descriptive and almost entirely problem-driven single-case studies on the one hand, and an increasingly diversified theoretical landscape on the other, efforts toward cross-theoretical fertilization within the field of comparative federalism have been few and far between. As for the former, it is hard to ignore that many studies in the field

¹ In order to avoid misunderstandings it is important to stress that our approach of varieties of federalism has not the same theoretical connotations as the varieties of capitalism approach (Hall and Soskice 2001). While we start from a multidimensional conception of federalism that is capable of capturing diverging federal trajectories, our concept does not necessarily imply any theoretical assumptions about complementary effects or “comparative advantages” of federal systems in an increasingly globalized world (see also César Colino, Chapter 3, in this volume).

² The dynamic nature of federalism is highlighted, above all, in the classic work of Livingston (1956); Riker (1964); Friedrich (1968); Landau (1973); and Elazar (1987).

are preoccupied with the practice of federalism in rather narrowly confined areas within federal systems. This is not to diminish the value of such studies. On the contrary, they have generated important empirical insights on federalism “in practice” and continue to enrich our instant knowledge pool in the field of comparative federalism substantially. However, without corresponding progress on the theoretical front, it is difficult to assess our empirical findings through a comparative lens and to gauge whether our assumptions are capable of applying across cases (or not).

Also, comparative federalism is not a field without theories. Different theoretical traditions have developed over time, and, building on these stocks, scholarship has become more diversified. Moreover, all theoretical approaches in one way or another are concerned, at least implicitly, with the issue of dynamics, addressing questions about continuity and change in federal systems. Yet despite this rich body of theory within the field of comparative federalism, there still appears to be a lack of substantial exchange pursuing common analytical frameworks and typologies. In fact, we still know surprisingly little about how and why federal systems change over time.

We suggest that our two conceptual building blocks—the varieties of federalism and federal dynamics—are particularly well suited for overcoming the highly fragmented research agenda in the field, and to stimulate the debate about how to explore different aspects of federalism in a systematic fashion. In order to arrive at a more encompassing understanding of how exactly federal systems change (or not), we address three general questions that lie at the heart of the book: *What* changes within federal systems? *Why* do federal systems change in a particular way? *How* does change materialize and develop?

The first question requires setting out an appropriate concept of federalism. When viewed in broad historical and cross-national perspective, certain features of federal systems remain remarkably durable while others are subject to significant adjustments over time. Therefore, we have to proceed from a multidimensional concept of federalism. Analytically, a “federal regime” comprises several interrelated components like the territorial distribution of powers, the institutions of government, the organization of society in parties and interest groups, the socio-territorial cleavage structure, and the principles and ideas legitimizing a federal order. Obtaining an in-depth and comprehensive understanding of federal dynamics thus requires scrutiny of how patterns of continuity and change affect individual components, how they interact, and how they impinge on the federal regime on the whole. Moreover, from this point of departure, we can also systematically map out the different patterns change can take over time.

The second question the chapters in our volume tackle is more theoretical in nature. Rooted in different theoretical traditions, the articles take various

approaches to engage theoretical propositions about *why* federal systems change. They address this question by employing a broad range of ideas on how demand for change is generated, why such pressures often yield different modes of adjustment, and why federal structures resist pressure for change.

The third question of *how* federal systems change in and over time relates to this latter point. Dynamics can differ considerably with respect to the direction, pace, duration, and scope of change they entail in the different dimensions of a federal regime (see also Behnke and Benz 2009; Benz and Colino 2011). What are needed, then, are analytically meaningful concepts that enable us to identify different patterns of continuity and change and, ultimately, to compare diverging trajectories systematically.

1.2 Varieties of Federalism—Varieties of Federal Dynamics: Dimensions of Change

Theories of federalism differ profoundly in what they consider as the “essence” of federalism. They often put exclusive emphasis on one aspect while neglecting others. In contrast, although less parsimonious, the comprehensive approach to federal dynamics suggested here starts from a *multidimensional* concept of federalism. Acknowledging the configurative complexity is essential to adequately address the question of what is actually changing in federal systems (and what is not). As a result, it becomes possible to systematically trace the courses of change. Therefore, we propose looking at federalism from two different angles.

First, we encounter federalism as an *institutional arena* in a complex regime of divided powers exercised in different arenas. The notion of arena conceives of federalism as a configuration of rules, practices, and institutions between and among territorially defined political units, which is situated within the larger governance architecture of a polity. A federal arena is always part of an overarching intra- and inter-institutional configuration, with dynamics resulting from interaction effects that exist between and among individual components. At least three links between institutional arenas have to be considered:

- the vertical differentiation of authority between territorial levels of government (supranational, national, regional, local);
- the horizontal structure between constituent units, which is shaped, for example, through the balance or imbalance of fiscal resources and symmetric or asymmetric relationships;
- the intra-governmental arena; that is, the structure of governments constituting a federal system, organizational features of parties and party systems, or democratic or non-democratic forms of government.

As a second analytical perspective, federalism can be conceived as a *multilayered regime*.³ From this angle, political authority is always historically constructed through the co-evolution of at times connected and synchronized, at other times disconnected and asynchronous layers structuring collective action like social cleavages, formal or informal rules, power relations, normative ideas or interpretive frames, and, ultimately, constellations of actors. The driving forces behind federal dynamics, then, originate from the historically constructed multidimensionality of federalism which shapes interaction effects between differently institutionalized territorial and non-territorial arenas of political authority. The historical context from which a particular federal system has emerged varies as to whether it stems from a process of coming-together or holding-together federalization. Accordingly, this perspective is particularly interested in the consequences of sequencing, timing, and intercurrency; that is, the temporal coincidence of often incongruent structures, processes, and actor constellations in federal regimes (Orren and Skowronek 2004; Falleti and Lynch 2009).

In accordance with the major strands of literature in the field of comparative federalism, it is possible to identify at least four layers that are of particular significance in order to grasp dynamics and varieties.

First, federalism can be seen as an expression of deeper conflicts rooted in society. This societal foundation of federalism lies at the heart of the sociological approach (Livingston 1956; Erk 2008). The configuration of social cleavages has left its imprint on the institutional landscape of political systems around the world. Federal institutions often emerged as “surface manifestations” (Livingston 1956) of societal differences based on territorial diversity or, as in the German case, were more accidentally preserved as remnants of the rather distant federal past. While features of the social structure are by no means static, change in this dimension tends to surface as a rather slow-moving process. Social structures comprise the exogenous, material landscape within which individual actors are positioned. In other words, they capture the “not man-made conditions” of political life (Parsons 2007). Yet the slowly changing nature of these conditions can have important consequences for federal dynamics (Livingston 1956; Amoretti and Bermeo 2004; Erk 2008). The gradual reconfiguration of territorially defined cultural, lingual, religious, or economic cleavages underlying a political order over time is likely to trigger corresponding adaptations in federal systems.

³ We use the notion of “layers” in an analytical rather than descriptive way. Accordingly, it does not refer to the vertical differentiation of governmental tiers in federal systems, but indicates that any given polity always consists of multiple institutional elements that cling together without necessarily constituting a coherent and synchronized whole. We thus take up arguments that feature prominently in the literature on American Political Development (see for example Lieberman 2002; Orren and Skowronek 2004; Falleti and Lynch 2009).

Second, federal systems consist of formal institutions and informal routines that establish authority relationships among territorially defined political entities. Institutions allocate power resources among the federal level and constituent units by variously assigning the “powers to act” and “powers to decide” (Braun 2000). Unlike social structures, institutions register the “man-made conditions” that place actors in relatively stable settings of political authority relationships (Parsons 2007). In doing so, they tend to prompt regular patterns of behavior. Moreover, institutions are both an important prerequisite for and a target of deliberate change in federal systems. To survey different directions of change within this temporal dimension of federalism, it is necessary to consider for example

- the *constitutional and institutional setting*; that is, whether authority relationships among territorial entities are rooted in a constitution or in treaties, whether these relationships are established through a separation of powers or arrangements of power-sharing, and whether these relationships are more decentralized or centralized; and, finally,
- the *system of intergovernmental relations*; that is, whether a weakly or strongly institutionalized system of intergovernmental relations exists, and whether it is characterized by particular structures of symmetric or asymmetric relations.

A third layer that structures federal regimes refers to the normative or ideational constructs that actors employ in order to interpret their social and political environment (Béland and Lecours 2011). Like institutions, such interpretative frameworks are man-made rather than exogenously given parameters of action and contingent on historical context conditions (Parsons 2007). Political authority is always, to varying degrees, contested, and, therefore dependent on widely shared, legitimizing ideas and beliefs on how it can be justified. In federal systems, the maintenance of legitimate political authority is further complicated by a multiplication of governmental bodies. These political authorities hold positions of power to actively participate in collective decision-making and enforcement within their territorial boundaries and/or on the federal level. Legitimate authority in federal systems thus relies on a generalized acceptance of the integrity of different territorially defined power holders, both with regard to themselves individually and in the way they are positioned within authority relationships vis-à-vis each other. Most notably, the ideational layer of federal systems manifests itself

- in the *moral foundations of the federal constitution*—for example, the notion of a “compact” of distinct communities or the sharing of power of governments determined to provide common goods for a society, and *the nature of the federal political discourse*, which can be based on individualism or communitarian reasoning;

- in the *historical legacy of nation building*—that is, whether the political self-identification of the demos is based on mono- or multinational conceptions of community.

The fourth layer is defined by the constellation of political actors within federal regimes. Two categories of collective actors are of particular importance: territorial governments and political parties. As for the former, federal regimes display significant spatial and temporal variation in terms of the institutional resources and strength of territorial governments, which in turn is assumed to have important consequences for how they interact with each other (see also Scharpf 1997). Constraints and opportunities derive from factors such as bureaucratic capacities, the scope of (exclusive) jurisdictions, and internal executive–legislative relations (Bolleyer 2009). Depending on how governmental actors are endowed with different power resources, the dominant mode of interaction between and among them might vary between unilateralism, coordination, cooperation, or highly interdependent forms of joint decision-making. Interrelated, but analytically distinct is the question of how organizational features of political parties and party systems change over time and contribute to the varieties of federalism (Riker 1964; Filippov, Ordeshook, and Shvetsova 2004; Thorlakson 2009). Most basically, different dynamics can be traced at the organizational level and the nature of party systems within a federation. Whereas in some federal systems there exists a comparatively high degree of vertical integration between the federal and the state level of a party, in others these links can range from weak to practically nonexistent. In this respect, the emergence of regionalist or non-nationwide parties is also an important indicator of changing dynamics (Hepburn 2009; Swenden and Maddens 2009; Jeffrey and Wincott 2010). Moreover, party systems within a federation might become more congruent or incongruent over time.

As mentioned above, federalism is constantly in motion. However, it is usually not the system as a whole that is changing at once, but only particular layers in particular arenas. Grasping federalism as a multidimensional regime thus allows us to pinpoint how, within a given unit of time, certain elements become subject to change while others remain unaltered. Yet change does not only affect one or several dimensions, but also tends toward a certain direction. For example, political actors can attempt to enhance the scope for autonomous action on the level of constituent units through decentralization reforms or, alternatively, to foster collaboration through arrangements of joint decision-making. Hence, federal dynamics are not only multidimensional but also multidirectional. To identify and gauge dynamic processes in federal systems, it is necessary to systematically determine potential directions of change. As indicated in Figure 1.1, it is possible to delineate a spectrum of

Federal Dynamics

Variety of Federalism Pole I: "Loosely coupled federalism"	Federal Layer	Variety of Federalism Pole II: "Tightly coupled federalism"
Societal		
Territorially defined cleavages pronounced, strong center-periphery conflicts, polycephalic structure	← →	Functionally superimposed territorial cleavages, weak center-periphery conflicts, monocephalic structure
Institutional		
Separation of powers/self-rule	← →	Power-sharing/shared rule
Normative/Ideational		
Communitarian foundations, multinational, compact theory	← →	Individualist foundations, mononational, unitary orientations
Constellation of Actors		
Unilateral adjustment, competition and voluntary cooperation Intra-party linkages weak or non-existent	← →	Enforced negotiations and joint decision-making Parties vertically integrated

Figure 1.1. Directions of change in the varieties of federalism

opposite directions for each individual layer. Developments in federal regimes can then be assessed empirically as to which direction they may be moving toward. Although preliminary and by no means exhaustive, the figure attempts to display endpoints of multiple directions within which federal dynamics unfold. They span a continuum demarcating the varieties of federalism from what we call a more "loosely coupled federalism" on the one hand and a rather "tightly coupled federalism" on the other.

1.3 Sources and Mechanisms of Change

What factors, then, ultimately drive continuity and change in federal regimes? In order to explain diverging federal dynamics, we follow Gerber and Kollman (2004), who suggest distinguishing between sources and mechanisms of change. This distinction indicates two sets of causes of change within federal regimes. The notion of sources refers to more foundational factors that stimulate demand for change, whereas mechanisms are more proximate and immediate causes of change.

An increasing demand for change can have its roots in exogenous and endogenous developments.⁴ As noted above, a federal organization of the

⁴ The distinction between exogenous and endogenous sources is not without problems. First, what is exactly conceived as exogenous or endogenous varies depending on the theoretical

state institutionally registers the territorial structures of politics. While modern state formation has been a highly centralizing endeavor, the reconfiguration of the so-called Westphalian order in recent decades has had a profound impact on how political space is organized (Caporaso 2000; Jeffrey and Wincott 2010). The centralizing impetus of modern state building has become weaker since the external boundaries of the state have become more permeable. This, in turn, has led to a realignment of center–periphery relationships, to a reorientation of loyalty structures and, ultimately, to different modes of political restructuring (Bartolini 2005). The changing nature of the modern state can therefore be regarded as a fundamental and rather exogenous source of change affecting both unitary and federal systems. As for the former, old and new peripheries have increasingly found themselves in an opportunity structure that puts them in a position to claim more autonomy from the established center, either by means of decentralization within a unitary framework or through federalization. As for the latter, the changing external environment has contributed to reinforce demands for reforms in many federal systems, though with quite different intentions and directions. Finally, the European Union can be considered as an emerging new type of “coming-together” federation within the post-Westphalian context (see Burgess 2006; Hueglin and Fenna 2006; and Thomas Hueglin, Chapter 2, in this volume).

Apart from external developments, federalism is also subject to pressures from within. Tensions and frictions can emanate from the interplay of different arenas and layers of a federal regime. As Lieberman (2002) or Orren and Skowronek (2004) suggest, these dimensions are usually not synchronized. For one, they stem from different historical origins, operating at their own pace, and carrying within themselves distinct logics which are not necessarily connected with each other in a coherent or functional way (Lieberman 2002: 702). In particular, pronounced tensions often exist between the social, ideational, and institutional layers within federal systems (Benz 1984; Schultze 1990; Broschek 2010, 2011). Ideas can, at least in part, legitimize and solidify the asymmetrical distribution of power emanating from institutionalized authority relationships. Conversely, ideas—even the same ones employed as a source of legitimacy—can just as well be resorted to as a means to discredit and delegitimize the existing order. Moreover, changing historical context conditions can lead to a growing gap between the federal institutions, on the one hand, and their legitimizing ideas on the other.

perspective. For example, while the sociological approach considers social change as endogenous, institutionalists would regard it as a rather environmental factor. Second, it is often difficult to distinguish empirically between exogenous and endogenous forces of change. Is, for instance, Europeanization a process that affects federal systems exogenously or endogenously? (See also Harty 2005: 60.)

Federalism often implies dichotomies: between centripetal and centrifugal forces, between unitarian and competitive orientations, or between federalists and confederalists. Ideas give contextual meaning to such frictions in individual federations, thereby constructing distinct legitimation problems and corresponding reform imperatives. The Canadian Senate is a good example for an increasing mismatch between institutional and ideational layers. At least in formal-constitutional terms, the Senate is a relatively powerful second chamber. Yet senators are not elected, but rather appointed by the governor general on advice of the prime minister. The appointment mechanism has been subject to strong and ongoing criticism since the twentieth century as it obviously does not meet the requirements of democratic legitimacy anymore.

Such “misfits” between institutions and ideas do not, however, necessarily translate into “fits.” Again, the Canadian Senate provides a case in point. Senate reform has continuously been on the political agenda since the early twentieth century, but substantial reform initiatives have not been met with success so far. Frictions and tensions, therefore, translate in often divergent patterns of adjustment.⁵ Hence, explaining federal dynamics requires going beyond the identification of potential sources of change. It is necessary to also trace how exactly demands for change (or “inputs”) are causally connected to distinct patterns of change (or “outcomes”).

Mechanisms can help us to open the “black box” and to specify the causal relationship between sources and patterns of change in federal systems. The concrete meaning and ontological status of causal mechanisms is disputed in the literature (Gerring 2007; Falleti and Lynch 2009). For the purpose of this book, we follow John Gerring’s suggestion to depart from a minimal core definition. According to Gerring (2007: 178) a mechanism can basically be understood as “the pathway or process by which an effect is produced or a purpose is accomplished.” Process-tracing then allows for reconstructing how mechanisms can account for the translation of sources of change into distinct patterns of dynamic adaptation in federal regimes (Figure 1.2).



Figure 1.2. Sources and mechanisms of federal dynamics

⁵ In the case of the Canadian Senate, adjustments have indeed transpired, but through convention and self-restraint rather than formal constitutional amendment. In accordance with its lack of democratic legitimacy, the Senate, despite its considerable formal legislative powers, has transformed in practice to a more consultative body, a chamber of “sober second thought” than a co-legislator with the House of Commons. However, precisely this practice has not quelled the reform demands, not least since it raises the question of its redundancy.

Different theories of federalism not only explain various facets of federal dynamics, but also build on different theoretical propositions about why change occurs in federal systems. Therefore they employ various causal mechanisms at different levels of analysis. Accordingly, we can, in a rather illustrative way, assign different causal propositions found in the literature on comparative federalism to the three categories that inform Parts II, III, and IV of our book. These categories sometimes cross-cut theoretical divisions, as their rationale is the particular feature of federal dynamics factored in by individual accounts rather than the type of explanation itself. Our chapters address:

- the temporal development and evolution of federalism through a historical lens (Part II);
- society–state relationships and political structuring; that is, the complex interplay of federal institutions with their social environment, most notably social cleavages, parties, and party systems (Part III), and
- federal dynamics as an ongoing process of deliberate policy and institutional reforms (Part IV).

The first group represents perhaps the most coherent array of theoretical propositions. They can all, in one way or another, be subsumed under the label of historical institutionalism. This type of account emphasizes sequencing and path dependence when explaining federal dynamics. It basically highlights the causal impact of unintended consequences emanating from institutional origins, which are assumed to shape the scope of available alternatives at later points in time. Hence, studies assembled in this category all have in common that they take an animated, “moving picture view” of politics (Pierson 2004), tracing federal dynamics over an extended period of time. In this vein, studies have illuminated the unintended consequences of policy preemption on social policy development in federal systems (Pierson 1995; Obinger, Leibfried, and Castles 2005), the consequences of reform sequences for long-term dynamics (Falleti 2005, 2010), historically constructed ideas that direct reform paths into certain directions (Béland and Lecours 2011), or the path-dependent evolution of different types of federalism (Broschek 2010, 2012).

A second strand of scholarship factors in the complex interplay of federal institutions and their social environment (see Table 1.1). Modern theories of federalism have a particular approach to dealing with society–state relationships in federal systems and employ distinct causal claims about the sources and mechanisms that elicit diverging federal dynamics. William Livingston’s (1956) societal approach, recently carried forward in the work of Jan Erk (2008), contends that federal dynamics are basically shaped through the configuration of territorially defined cleavages. Depending on whether federal systems are embedded into an either mono- or multinational social context,

they are likely to emerge on centralizing or decentralizing institutional and policy trajectories. From that perspective, incongruence between society and institutions appears to be the major source of federal dynamics. Other scholars within this category are concerned with parties and party systems as an important link between society and federal institutions. Building on William Riker's (1964) groundbreaking work, this school of federalism has shed light on how parties and party systems are an important driving force of change in federal systems, and vice versa. Unlike Livingston, Riker was rather skeptical of the direct causal influence of social conditions. Instead, he identified the degree of centralization built into parties and party systems as a causal mechanism that produces centralizing or decentralizing dynamics. Filippov et al. (2004), for instance, stress this point even further. Rather than considering parties as intermediary factors between society and the federal system, as Riker did, they view them as integral parts of the federal system itself. The source of change, in this account, is the ongoing threat posed by actors who seek to renegotiate the original balance achieved through the federal bargain. A horizontally and vertically integrated party system serves as an endogenously enforced mechanism, curbing such destructive dynamics and making federal institutional designs self-sustainable. Chhibber and Kollman (2004) or Thorlakson (2007, 2009), on the other hand, stress that causality can also work in the opposite direction. From that angle, it is the institutional characteristics of federal systems that drive party system change and not vice versa.

Finally, perhaps the bulk of theoretically informed literature in comparative federalism is concerned with federal dynamics resulting from ongoing processes of institutional and policy change. Unlike historical-institutionalist explanations in the first category, the accounts assembled here take a "snapshot view" of federal dynamics. They are a-historical insofar as history is treated as a context rather than a cause. While most accounts falling into this category are anchored in an institutionalist theory, we also include Martin Landau's system theory of federalism. Similar to Filippov et al. (2004), Landau is basically interested in the question of how a stable (not static) federal organization can be maintained. He acknowledges both the existence of external and endogenous sources of change that can shatter the smooth operation of dynamic adjustments in federal systems. However, systemic features such as redundancy or overlap can protect them from disturbance and contribute to the attainment of what he calls "multistability." Other approaches addressing internal dynamics in federal arenas are based on a rational choice perspective. A good example for this type of explanation is Barry Weingast's theory of "market preserving federalism" (Weingast 1995). This approach predicts a convergent trend yielding efficient market performance and a sustainable federation among those federal systems whose parameters prevent revenue maximizing and opportunistic actors from

“encroaching upon the market.” The source of change, therefore, is the latent threat of opportunistic behavior on behalf of both the constituent units and the federal government. Institutional constraints, then, operate as mechanisms that, if well designed, direct federal dynamics in the direction of a self-enforcing, equilibrated federation. A highly sophisticated approach which combines features of positive political theory and system theory has been developed by Jenna Bednar (2009). Like in Weingast’s theory, sources of change derive from opportunistic behavior inherent to federal systems. In order to prevent federal systems from performing suboptimally, Bednar highlights the causal impact of configurations of safeguard mechanisms that foster productive behavior. It is thus the interplay of safeguard mechanisms on the

Table 1.1. Sources and mechanisms of federal change: Illustrative examples

Historical Perspective		
<i>Sources</i>	<i>Mechanisms</i>	<i>Reference</i>
Early contingent alignments; unintended consequences of institutional decisions (e.g. policy pre-emption)	Positive feedback, increasing returns, self-reinforcement	Pierson 1995
Context dependent reform imperative (e.g. neoliberalism)	Sequencing of reforms	Falleti 2005, 2010
Institutional and policy problems	Historically constructed, dominant ideas as concretization of societal basis of federalism	Béland and Lecours 2011
Frictions between layers	Historically constructed institutional mechanisms	Broschek 2010; 2012
<i>Society–State Perspective</i>		
<i>Sources</i>	<i>Mechanisms</i>	<i>Reference</i>
Incongruence between society and political institutions	Adjustment of constitution of policies	Livingston 1956;
Redistributive nature of federal institutions; permanent threat of renegotiating federal bargain through disruptive coalitions	(Dis)incentives for authority migration built into parties and party systems	Riker 1964; Filippov, Ordeshook, and Shvetsova 2004; Erk 2008
Incongruence between distribution of powers and party structure	Vote-maximizing parties focus on level where salient competencies are located	Chhibber and Kollman 2004; Thorlakson 2007, 2009
<i>Institutional-Systemic Perspective</i>		
<i>Sources</i>	<i>Mechanisms</i>	<i>Reference</i>
Disturbance, irritation from systemic environment and from within; failure of functions	Feedback and learning in redundant and overlapping structures	Landau 1973
Revenue maximizing actors; opportunistic behavior	Institutional constraints directed at market preservation	Weingast 1995
Opportunistic behavior: encroachment, shirking, burden-shifting	Systemic interplay of institutional (structural, political, judicial, popular) safeguards	Bednar 2009
Coordination problems, suboptimal policy-solutions	Compulsory negotiations in system of joint decision-making	Scharpf 1988

systemic level that ultimately causes [it is the interplay that causes different patterns. JB] different patterns of federal dynamics. Another variant is actor-centered institutionalism, featured most prominently in the work of Fritz W. Scharpf (1997). This account is particularly interested in the dynamics of intergovernmental cooperation and its impact on policy-making. It emphasizes the role of the institutional context for creating distinct actor constellations, which in turn shape political outcomes. One particular instance of such institutionally constructed actor constellations is joint decision-making (Scharpf 1988; Benz 2011). Joint decision-making systematically generates suboptimal policy solutions and tends to prevent political actors from tackling coordination problems effectively. As no single actor is able to unilaterally exit this institutional constellation, and veto points systematically benefit those actors who support or defend the status quo, it is almost impossible to alter the institutional conditions upon which this particular constellation of actors is built upon. Such institutional settings, therefore, are inclined to end up in the joint-decision trap.

1.4 Patterns of Federal Dynamics

Our focus on dynamics highlights that federalism is continuously in motion. The way federal regimes move through time can take, however, quite different forms. Encoding the “grammar” of federal regimes thus not only requires revealing the sources and mechanisms of continuity and change, but also the regularities found in the way they respond to various demands for change. What is needed, then, are analytically fruitful concepts that help to scrutinize how exactly federal regimes change over time and allow us to systematically describe and distinguish the varying, yet often consistent and regular patterns of change they exhibit.

The literature on institutional change offers a broad set of assumptions on how different dynamical modes can be distinguished (Streeck and Thelen 2005; Mahoney and Thelen 2010). As outlined above, we start from a definition that conceives of federal dynamics as an ongoing process comprising simultaneously features of continuity and change. In other words, what we find particularly interesting here is the question of how the combination of continuity and change shapes the performance of federal regimes within a period of time. Patterns of federal dynamics, then, basically differ in terms of how continuity relates to change within a given period of time. At times, federal regimes may get swept into processes of far reaching change, while at other times they reveal only minor adjustments. In addition, dynamics sometimes surface in a passive mode of adaptation as a result of unintended consequences, whereas in other instances change takes shape as a deliberate and actively carried out reform (Benz and Colino 2011).

Federal dynamics, therefore, always display a temporal dimension as we proceed, at least implicitly, from a predefined timeframe to which our observations of continuity and change relate. Whether or not the temporal dimension, however, is theoretically relevant per se depends on the theoretical interests and ontological premises of the researcher. Loosely borrowing from Karen Orren and Stephen Skowronek (2004), we can distinguish two different analytical perspectives that acknowledge this multifaceted nature of federal dynamics.

First, *federalism in time* takes the snapshot view, zooming in on the temporal coincidence of continuity and change within a rather short episode. At any given point in time, federalism thus establishes political order through authority relationships that attempt to control behavior within and outside the boundaries of various institutionalized sites. Irrespective of the theoretical account employed, studies applying the federalism in time perspective are basically interested in both the multiple sources that generate a particular demand of change as well as the variety of ordering mechanisms responsible for channeling and tempering such pressures.

Second, *federalism through time* represents the animated perspective, tracing federal dynamics over an extended period of time, asking how broad spans of history are causally connected. This grasp, therefore, acknowledges the causal relevance of the temporal dimension by considering how past and present politics are linked through a multidimensional federal regime. Here, the importance of ordering mechanisms is recognized as well. However, federalism through time is more genuinely interested in the formative and developmental pathways of varying patterns of change in federal systems. Accordingly, this perspective does not primarily ask how continuity and change is achieved in time, but rather how federal regimes evolve and adjust over the course of time, thereby yielding identifiable patterns that make them comparable.

This raises the question of how such regular patterns of federal dynamics could best be identified. According to Orren and Skowronek (2004: 11), it is "... the mode of change itself [that] suggests a certain kind of continuity, a more encompassing regularity operating at some deeper level that calls for identification and explanation in its own right." Federal regimes, therefore, are assumed to encourage and prompt typical modes of adjustment, which in turn are contingent upon the distinct features of their underlying architecture. Different strands of scholarship have identified various modes of continuity and change that can be deployed in order to more systematically study patterns of federal dynamics. Regularities within temporal processes usually involve some form of repetition. In this vein, Berins Collier and Mazzuca (2006: 475–6) distinguish three types of repetitive processes. *Replication* is a process defined as repetition across different places. As a distinct pattern of

federal dynamics, replication can surface as a uniform pattern of institutional or policy innovation taking place in different constituent units or federal regimes. *Recurrence* is defined as repetition over time within the same place. As federal institutions often remain highly contested from the very beginning, they do not necessarily exhibit one equilibrated, stable long path, but often oscillate between two or more alternatives. Recurrent or cyclical processes thus indicate that federal regimes might be switching back and forth between centralization and decentralization. Finally, *reproduction* is a special instance of recurrence. Whereas recurrent processes presuppose a temporal distance or separation of repetitive phenomena, this temporal lag “telescopes to zero” in case of reproduction. It is thus a continuous form of repetition like in the case of path dependence. For example, federal institutional settings, once set in place, might become self-reinforcing as political actors can take advantage from historically constructed power asymmetries in order to stabilize established authority relationships over time. A federal institutional order, then, becomes “locked-in” since it generates increasing returns for those working within the institution and simultaneously raises the costs of those trying to change it. In other cases, early events are counteracted due to “negative feedback” (Bennett and Elman 2006). Federal dynamics, then, become subject to balancing processes: what is amplified are reactions against developments that had happened early in a sequence.

The literature thus offers different solutions for how to capture changing patterns within processes of continuity. What is important to underscore here is that continuity obviously is not the same as stasis, on the contrary. The stability of federal systems always presupposes a built-in capacity of the federal architecture to translate sources of change into distinct patterns of adjustment. Patterns of federal dynamics, understood as a repetitive or non-repetitive process, then refer to the question of how continuity relates to change within a certain temporal unit. This perspective requires analyzing how the scope and speed in which the status quo is altered or even reversed differ across temporal and/or spatial units. In some cases, change prevails over continuity, and we can observe a significant deviation from the historically established status quo. In other cases, continuity prevails over change. Whether or not, however, different processes foster the overall stability of federal systems by generating continuity or discontinuity is highly contingent upon the contextual conditions of the individual case at hand.

1.5 Outline of the Book

While the individual chapters are primarily concerned with advancing theory rather than providing empirical evidence, our book does not aim to provide a

new theory of federalism. However, we propose a perspective which contrasts to prevailing views of federalism. While scholars often talk about its dynamic character, they usually look at politics and policy-making in federal systems, they trace developmental paths of federal systems or they focus on particular mechanisms of change which are assumed to affect the system as a whole, pushing it in a particular direction. In contrast, we suggest a more differentiated perspective. This involves, first and foremost, highlighting dynamics as an essential feature of federalism that come about on account of its multidimensional character. It therefore, second, follows that we have to take into consideration the varieties of federalism. While the ideas and norms underlying federal constitutions may be reduced to a limited number of “models,” the effects of continuity and change operating between particular dimensions of institutions, actor constellations, and social structures amount to different patterns of dynamics, and ultimately, result in variations of federal regimes. Third, in order to understand this complexity of federal dynamics, we suggest linking theories which have evolved in different fields of research and cover particular aspects of federal dynamics. In particular, this book brings together scholars who work on distinct aspects such as the historical evolution of federal regimes, social change and the political structuring of federal politics as well as the internal dynamics and institutional reforms in federal regimes. We believe that exchange between these strands of research, which so far have evolved in largely separated scientific communities, can advance our understanding of federal dynamics and stimulate theoretical discourses.

Based on these considerations, we have divided this volume into four sections. While the first section lays out a general framework for analyzing federal dynamics, the following three sections are divided along the main strands of academic discourses on political dynamics which we intend to make fruitful for the research on federalism. Drawing on different theoretical traditions and examining distinct facets of change, the contributions to this volume variously tackle the three core questions mentioned above. Ultimately, we believe that focusing on these three questions—what changes within federal systems, why, and how—also provides a common frame of reference for the analysis of federal dynamics.

The chapters collected in the first section outline various conceptual models of federalism, categorize the varieties of existing democratic federal regimes and emphasize their multidimensional structures. They link the comparative perspective with perspectives on continuity and change. Thomas Hueglin introduces a new typology of concepts of federalism in Chapter 2. Thus from the outset we are instructed that federalism and federal dynamics refer to distinct models emerging from the historical evolution of reasoning and the pragmatic building of institutions. Hueglin also describes the rise of “treaty federalism,” which not only indicates an important change in practice, but also requires a

differentiation in conceptualizing federalism. Treaty federalism, according to Hueglin, is shaped more by political processes than by legal norms. Obviously, implementing these concepts has important consequence for the dynamics of federalism. While Hueglin defines models of federalism, César Colino (Chapter 3) starts from a systematic look at the varieties of federalism across the world and elaborates a perspective that aims at comparing continuity and change in particular federal regimes. He identifies distinct patterns of federalism and asks how they tend to yield different dynamics. Finally, Chapter 4 by Arthur Benz emphasizes the multidimensional structure of federalism and outlines how historical development, the impact of changing societal conditions, and institutional politics are influenced by different patterns of federalism, and how these factors play a part in increasing variety. All three chapters emphasize the complexity of federalism, the inherent tensions between different dimensions and the interplay of stabilizing and destabilizing dynamics; that is, of continuity and change.

The chapters included in the second section place particular emphasis on the historical dimension of continuity and change. While they explore rather distinct aspects of change in federal regimes, all share an interest in the temporal effects of early developments on successive federal trajectories. Jörg Broschek, Kathleen Thelen and Sebastian Karcher, and Tullia Falleti provide theoretical approaches for analyzing causes and mechanisms driving change. Broschek (Chapter 5) focuses on the interplay of different institutions and ideas and analyzes multidimensional dynamics in federal systems in a historical-institutionalist perspective. In a similar vein, Thelen and Karcher, in their case study on Germany (Chapter 6), illustrate how institutions and patterns of collective action evolve over time. They reveal varying dynamics occurring at different layers of the federal order and conclude that periods of political transformation go along with institutional continuity, whereas in periods of political stability, institutional change is more likely to happen. The importance of distinguishing periods of development and “timing” of institutional decisions, as highlighted in these two chapters, is further elaborated by Falleti in Chapter 7, who shows how the outcome of federalization depends on the particular sequences of political, administrative, and fiscal decentralization. Falleti thus reveals the relevance of disaggregating the multidimensionality of federalism into distinct institutional arenas. The chapters by Mikhail Filippov and Olga Shvetsova (Chapter 8) and by Anthony Sayers and Andrew Banfield (Chapter 9) look at the interplay of other arenas, namely of the vertical organization of federalism and the “intra-governmental” structure of democracy. Both chapters on the historical evolution deal, from this particular perspective, with multidimensionality that presents itself as endogenous tensions inherent in federal regimes. Both chapters reveal different patterns of dynamics which are highly contingent upon the varieties of federalism.

The third section of the book is concerned with the complex interplay of federal institutions and their environment, most notably social cleavages, parties, and party systems. Unlike the previous chapters, the authors thus focus on the impact of society on political structuring more generally, and federal change in particular. This way, they avoid a deterministic theory and help to overcome the confrontation of “state-centered” and “society-centered” views on federalism. Daniel Béland and André Lecours (Chapter 10) reveal how economic change causes redistributive conflicts in welfare systems, which in turn are variously shaped and mediated through the interplay of ideas and federal institutions. Lori Thorlakson’s Chapter 11 deals with the complex interplay of changing party systems (reflecting change in society) and federal structures. Wilfried Swenden and Simon Toubeau (Chapter 12) present theoretical reasoning and empirical data on how demands for regional autonomy in societies are transformed into federal change via party competition and intra-party politics.

The fourth section is concerned with dynamics caused by ongoing policy-making and constitutional reform. This section is introduced by Jenna Bednar in Chapter 13, who departs from a theoretical approach that grasps federalism as a complex system. The chapter identifies internal sources of dynamics that cause stability and instability and asks how system properties perform as mechanisms responsible for moving dynamics in one direction or another. Bettina Petersohn contributes with Chapter 14 comparing constitutional change in unitary and federal states. She explains that stagnation or change is not only affected by institutions with veto powers for certain actors, but also by the fact that actors demand and often achieve revised amendment rules. This perspective on sequences and different types of rules is contrasted by Nicole Bolleyer’s analysis of intergovernmental structures in Chapter 15. She illustrates how *intra*-governmental patterns of democracy affect institutional dynamics and sometimes produce paradoxical effects. Finally, Dietmar Braun and his co-author Philipp Trein (Chapter 16) focus on the interplay of policy change and federal dynamics. They ask how the exogenously induced policies responding to the global financial crisis systematically prompt different modes of adjustment in federal systems. Again, these contributions consider the varieties of federalism and cover the multidimensional and complex character of federal regimes when explaining continuity and change.

In the conclusion we try to explain how the different perspectives and theoretical approaches can be linked in order to improve our understanding of the dynamics of federalism. In light of the complexity of the subject, we do not intend to construct a new theory of federal dynamics. Instead, we will explain how researchers can use different analytical and theoretical tools introduced in the book to “theorize” about federalism and federal dynamics. As regards theory building, we intend to propose “modules” of concrete

theories (covering particular sources, causes, and mechanisms of dynamics relevant for understanding or comparing particular patterns of federalism) that can be applied in further research.

References

- Amoretti, Ugo and Bermeo, Nancy (eds.) (2004), *Federalism and Territorial Cleavages* (Baltimore: Johns Hopkins University Press).
- Bartolini, Stefano (2005), *Restructuring Europe: Centre Formation, System Building, and Political Structuring between the Nation State and the European Union* (Oxford: Oxford University Press).
- Bednar, Jenna (2009), *The Robust Federation: Principles of Design* (New York: Cambridge University Press).
- Behnke, Nathalie and Benz, Arthur (2009), "Federalism and constitutional change," in *Publius: The Journal of Federalism* Special Issue 39 (2), 213–40.
- Béland, Daniel and Lecours, André (2011), "The ideational dimension of federalism: The 'Australian Model' and the politics of equalisation in Canada," *Australian Journal of Political Science* 46 (2), 199–212.
- Bennett, Andrew and Elman, Colin (2006), "Complex causal relations and case study methods: The example of path dependence," *Political Analysis* 14, 250–67.
- Benz, Arthur (1984), "Zur Dynamik der föderativen Staatsorganisation," *Politische Vierteljahresschrift*, 25 (1), 53–73.
- (2011), "Escaping joint-decision traps: National and supranational experiences compared," in Gerda Falkner (ed.), *The EU's Decision Traps: Comparing Policies* (Oxford: Oxford University Press), 199–216.
- Benz, Arthur and Colino, César (2011), "Constitutional change in federations: A framework for analysis," *Regional and Federal Studies* 21 (4), 381–406.
- Berins Collier, Ruth and Mazzuca, Sebastián (2006), "Does history repeat?" in Robert E. Goodin (ed.), *The Oxford Handbook of Contextual Political Analysis* (Oxford: Oxford University Press), 472–89.
- Bolleyer, Nicole (2009), *Intergovernmental Cooperation: Rational Choices in Federal Systems and Beyond* (Oxford: Oxford University Press).
- Braun, Dietmar (2000), "The territorial division of power in comparative public policy research: An assessment," in Dietmar Braun (ed.), *Public Policy and Federalism* (Aldershot: Ashgate), 27–56.
- Broschek, Jörg (2010), "Federalism and political change: Canada and Germany in historical-institutionalist perspective," *Canadian Journal of Political Science* 43 (1), 1–24.
- (2011), "Conceptualizing and theorizing constitutional change in federal systems: Insights from historical institutionalism," *Regional and Federal Studies* 21 (4–5), 539–59.
- (2012), "Historical institutionalism and the varieties of federalism in Germany and Canada," *Publius: The Journal of Federalism* 42 (forthcoming).

- Burgess, Michael (2006), *Comparative Federalism: Theory and Practice* (London: Routledge).
- Caporaso, James A. (2000), "Changes in the Westphalian order: Territory, public authority, and sovereignty," *International Studies Review* 2 (2), 1–28.
- Chhibber, Pradeep and Kollman, Ken (2004), *The Formation of National Party Systems: Federalism and Party Competition in Canada, Great Britain, India, and the United States* (Princeton: Princeton University Press).
- Elazar, Daniel J. (1987), *Exploring Federalism* (Tuscaloosa: The University of Alabama Press).
- Erk, Jan (2007), "Comparative federalism as a growth industry," *Publius: The Journal of Federalism* 37 (2), 262–78.
- (2008), *Explaining Federalism: State, Society and Congruence in Austria, Belgium, Canada, Germany, and Switzerland* (London: Routledge).
- Erk, Jan and Swenden, Wilfried (eds.) (2010), *New Directions in Federalism Studies* (London: Routledge).
- Falletti, Tulia and Lynch, Julia F. (2009), "Context and causal mechanisms in political analysis," *Comparative Political Studies* 42 (9), 1143–66.
- Falletti, Tulia G. (2005), "A sequential theory of decentralization: Latin American cases in comparative perspective," *American Political Science Review* 99 (3), 327–46.
- (2010), *Decentralization and Subnational Politics in Latin America* (Cambridge: Cambridge University Press).
- Filippov, Mikhail, Ordeshook, Peter C., and Shvetsova Olga V. (2004), *Designing Federalism: A Theory of Self-Sustainable Federal Institutions* (Cambridge: Cambridge University Press).
- Fossum, John E. and Menéndez, Agustín J. (2011), *The Constitution's Gift: A Constitutional Theory for a Democratic European Union* (Lanham: Rowman & Littlefield).
- Friedrich, Carl J. (1968), *Trends of Federalism in Theory and Practice* (New York: Praeger).
- Gerber, Elisabeth R. and Kollman, Ken (2004), "Introduction—Authority migration: Defining an emerging research agenda," *PS: Political Science & Politics* 37 (3), 397–401.
- Gerring, John (2007), "The mechanistic worldview: Thinking inside the box," *British Journal of Political Science* 38 (1), 161–80.
- Gibson, Edward (2004), "Federalism and democracy: Theoretical connections and cautionary insights," in Edward Gibson (ed.), *Federalism and Democracy in Latin America* (Baltimore: Johns Hopkins University Press), 1–28.
- Hall, Peter and Soskice, David (eds.) (2001), *Varieties of Capitalism: The Institutional Foundations of Comparative Advantage* (Oxford: Oxford University Press).
- Harty, Siobhán (2005), "Explaining institutional change," in André Lecours (ed.), *New Institutionalism: Theory and Practice* (Toronto: University of Toronto Press), 51–79.
- Hepburn, Eve (2009), "Introduction: Re-conceptualizing sub-state mobilization," *Regional and Federal Studies* 19 (4), 477–99.
- Hooghe, Liesbet, Marks, Gary, and Schakel, Arjan H. (2008), "Regional authority in 42 democracies, 1950–2006: A measure and five hypotheses," *Regional and Federal Studies* 18 (2–3), 111–302.
- Hueglin, Thomas O. and Fenna, Alan (2006), *Comparative Federalism: A Systematic Inquiry* (Peterborough: Broadview Press).

- Jeffery, Charlie and Wincott, Dan (2010), "Beyond methodological nationalism: The challenge of territorial politics," in Colin Hay (ed.), *New Directions in Political Science: Responding to the Challenges of an Interdependent World* (Basingstoke: Palgrave Macmillan), 67–88.
- Keating, Michael (2008), "Thirty years of territorial politics," *West European Politics* 31 (1&2), 60–81.
- King, Desmond and Lieberman, Robert C. (2009), "Ironies of state building: A comparative perspective on the American state," *World Politics* 61, 547–88.
- Landau, Martin (1973), "Federalism: Redundancy and system reliability," *Publius: The Journal of Federalism* 3 (2), 173–96.
- Lieberman, Robert C. (2002), Ideas, institutions, and political order: Explaining political change," *American Political Science Review* 96, 697–712.
- Livingston, William S. (1956), *Federalism and Constitutional Change* (Oxford: Clarendon Press).
- Mahoney, James and Thelen, Kathleen (2010), "A theory of gradual institutional change," in James Mahoney and Kathleen Thelen (eds.), *Exploring Institutional Change: Ambiguity, Agency, and Power* (Cambridge: Cambridge University Press), 1–37.
- Nicolaïdis, Kalypso and Howse, Robert (eds.) (2001), *The Federal Vision: Legitimacy and Levels of Governance in the United States and the European Union* (Oxford: Oxford University Press).
- Obinger, Herbert, Leibfried, Stephan, and Castles, Francis G. (eds.) (2005), *Federalism and the Welfare State: New World and European Experiences* (Cambridge: Cambridge University Press).
- Orren, Karen and Skowronek, Stephen (2004), *The Search for American Political Development* (Cambridge: Cambridge University Press).
- Parsons, Craig (2007), *How to Map Arguments in Political Science* (Oxford: Oxford University Press).
- Pierson, Paul (1995), "Fragmented welfare states: Federal institutions and the development of social policy," *Governance* 8 (4), 449–78.
- (2004), *Politics in Time: History, Institutions, and Social Analysis* (Princeton: Princeton University Press).
- Riker, William H. (1964), *Federalism: Origin, Operation, Significance* (Boston: Little, Brown).
- Scharpf, Fritz W. (1988), "The joint decision trap: Lessons from German federalism and European integration," *Public Administration* 66 (3), 239–78.
- (1997), *Games Real Actors Play: Actor-Centered Institutionalism in Policy Research* (Boulder: Westview Press).
- Schmidt, Vivien A. (2010), "Taking ideas and discourse seriously: Explaining change through discursive institutionalism as the fourth 'New Institutionalism'", *European Political Science Review* 2 (1), 1–25.
- Schultze, Rainer-Olaf (1990), "Föderalismus als Alternative? Überlegungen zur territorialen Reorganisation von Herrschaft," *Zeitschrift für Parlamentsfragen* 21, 474–90.
- Streeck, Wolfgang and Thelen, Kathleen (2005), "Introduction: Institutional change in advanced political economies," in Wolfgang Streeck and Kathleen Thelen (eds.),

Beyond Continuity: Institutional Change in Advanced Political Economies (Oxford: Oxford University Press), 1–39.

Swenden, Willfried and Maddens, Bart (2009), *Territorial Party Politics in Western Europe* (Basingstoke: Palgrave-Macmillan).

Thorlakson, Lori (2007), "An institutional explanation of party system congruence: Evidence from six federations," *European Journal of Political Research* 46 (1), 65–95.

— (2009), "Patterns of party integration, influence and autonomy in seven federations," *Party Politics* 15 (2), 157–77.

Weingast, Barry R. (1995), "The economic role of political institutions: Market-preserving federalism and economic development," *The Journal of Law, Economics, & Organization* 11 (1), 1–31.

This page intentionally left blank

Part I

**Models, Varieties, and Dimensions
of Federalism**

This page intentionally left blank

2

Comparing federalism: Variations or distinct models?

Thomas O. Hueglin

2.1 Introduction

After years of relative neglect, there seems to be a new interest in comparative federalism studies (Behnke and Benz 2009; Fenna 2011). We are doubtless learning more about how federal systems work, about the stability or even robustness of federal design, as well as about success and failure of constitutional change. There even have been a few efforts at comprehensive comparative inquiry (Watts 1999; Burgess 2006; Hueglin and Fenna 2006) alongside with a new collection of classical texts of federalist political thought (Karmis and Norman 2005).

For a variety of reasons, however, it seems that our conceptual knowledge of federalism has remained more confused than refined. The first of these is what appears to be the almost infinite variety of the federal form. Formally constituted federalism not only governs approximately 40 percent of the world's population and 45 percent of the world's landmass. Federalism also is now almost routinely invoked as a solution to the world's most intractable conflict areas, from the Middle East to Afghanistan, and from Bolivia to North Africa. While the term "federation" has taken on "special meaning and magic" for associations of slum-dwellers in Mumbai (Appadurai 2001: 32), some purists of the classical federal form would deny its applicability even to Spain (Loughlin 2008: 476). And while the European Union now is commonly included in comparative federalism studies, as a "new federal model" (Burgess 2006: 247), the new multilevel governance approach will have none or very little of this: governance in the European Union at best "echoes federalist thought," and even that holds true only for part of its overall "dynamics of authoritative decision making" (Bache and Flinders 2004: 5).

The usual way out of this infinite variety conundrum is typological escapism. Ronald Watts, for instance, distinguishes between twelve decentralized unions, twenty-four federations, four confederations, ten federacies, seven associated states, one condominium, and seven leagues, an array of joint functional intergovernmental organizations, not even to mention hybrids (2005: 235–7). As an exercise in sorting out the non-unitary variety of political arrangements in the world, this is entirely useful. But it yields very little if any theoretical insight as to what federalism actually is. It is a bit like Aristotle collecting 150 constitutions without then writing the *Politics*.

The second reason points almost into the opposite direction. The prevalent view about federalism still is centered on the classical American model as the principal yardstick. Everything else, according to this view, amounts to incomplete or quasi-federalism. It had its beginning in K. C. Wheare's 1964 landmark study of federal government. Wheare began by stating that "the modern idea of what federal government is has been determined by the United States of America" (Wheare 1964: 1). Then, taking aim at neighboring Canada, he pointed out a number of significant constitutional differences, such as the federal power of disallowance, and surmised that Canada at best had a "quasi-federal constitution" (Wheare 1964: 19). Because, however, the federal government wisely abstained from using this power, Wheare concluded that "although Canada has not a federal constitution, it has a federal government" (Wheare 1964: 20). Ironically, one can also turn the argument around: Because of nearly unrestrained Congressional supremacy, it would appear that the United States has a federal constitution but no federal government.

The point is, however, that the American model approach yields as little conceptual insight as the infinite variety approach. According to Jacob Levy, for instance, "real federalism" in order to be effective requires "a very high level of stability," as well as "constitutional rigidity," and territorial units of "a pretty substantial size" in a two-level rather than multi-level setting (Levy 2007: 462–5). If so, this would just about leave out the federal realities of federal systems such as Canada, Belgium, South Africa, or even Switzerland—not even to mention the European Union. The universality of the American model has been challenged only more recently. But systematic efforts at thinking "beyond the U. S. model" (Stepan 1999; Nicolaidis and Howse 2001) have remained the exception.

A third reason why federalism remains under-theorized has to do with the meteoric rise of the multilevel governance approach in European Union and globalization studies. This rise came about for two obvious reasons: One was the necessity to give expression to what appeared to be novel forms of governance beyond the state. The other was the inapplicability of the federalist terminology as long as it remained narrowly centered on the American

model of the two-tiered, centralized, constitutional federal state. By describing and analyzing multilevel governance as a wide-open process of governance dispersal, however, federalism as one of its subcategories yet again appears reduced to the limited model of a conventional federal state with powers divided among a few durable general-purpose jurisdictions (Marks and Hooghe 2004). And by emphasizing “process over institution” (Peters and Pierre 2004: 77), the multilevel governance approach moreover ignores normative questions of institutional design that are fundamental for the idea and practice of federalism: equality among the constituent members of a federation (horizontal dimension), and balance of power between the two, three, or more orders of government (vertical dimension).

What is needed, then, for an adequate understanding of federalism in comparative perspective is a conceptualization that is wider than can be derived from the classical American model yet more principled than either the infinite variety or the multilevel governance approach. Such a conceptualization needs to identify a minimum of institutional and procedural elements essential to qualify a political system as “federal” without, however, precluding different combinations: power allocations according to general and particular objectives, existential guarantees safeguarding the rights of all constituent members, and a mechanism of negotiating compromise on the basis of member equality. The resulting combinatory variations can be grouped into two distinct models, an American-type model of constitutional federalism, and a European-type model of treaty federalism.

2.2 Power Allocations

There are two main variations of vertical power allocation in federal systems: either the separation of exclusive policy powers and their allocation to different levels of government, or the sharing of powers by different levels of government within the same policy area (Scharpf 2009: 121). The former has been called dual or divided federalism; the latter may be dubbed functional or integrated federalism.

The American constitution was meant to be the model of dual federalism. Each level of government takes full responsibility for legislation, implementation, and administration within its constitutionally assigned areas of jurisdiction. The result is meant to be a clean separation of jurisdictional spheres. This is the model. In practice, of course, its duality has given way to what has been termed cooperative federalism but what really amounts to coercive federalism (Kincaid 1990), the imposition of Congressional supremacy upon the original constitutional design, by means of a number of general clauses in the constitution, such as the “general welfare,” “commerce,” and “necessary and proper”

clauses of Article I, Section 8, alongside with the “supremacy” clause of Article VI (see Zimmerman 2008).

Some see in this erosion of states rights a constitutional intention of concurrency (Watts 1999: 38). I would argue that it is a concurrency resulting from unintended consequences in the original constitutional design. That design was never changed, and the result is the need for what has become the hallmark of American federalism: intergovernmental relations. But these cooperative mechanisms, mostly at the sub-political level of policy coordination and administration, are the result of continued and unmitigated legislative dualism rather than of a principled organization of power sharing.

Power sharing can be organized in one of two ways: either by allocating at the federal level of government the powers of so-called framework legislation, or by concurrency (Scharpf 2009: 122). The combination of both, together with a regime of administrative federalism whereby national legislation is routinely implemented and administered by the subnational units, constitutes what can be identified as the German model of functional or integrated federalism.

In the revised formulations resulting from the 2006 constitutional reforms, concurrency does not just mean, as in the American case, that both levels of government have the right to legislate as they please. Indeed, the tight regulations governing concurrency as laid down in Article 72 of the Basic Law would probably upset many Americans as much as the regulatory impact of President Obama’s healthcare reform.

- First, Article 72(1), states that the *Länder* can only legislate as long as, and insofar as the federal government has not pre-empted the field with its own legislation. This goes for all thirty-three policy fields identified in the concurrency list of Article 74.
- Then, 72(2) singles out ten concurrency fields including a wide array of social and economic powers in which the federal government can only legislate if this is deemed necessary for the establishment of equitable living conditions, or for the preservation of legal or economic unity throughout the federation. Moreover, according to a recent constitutional court decision, this necessity clause means that the federal government can legislate in these specified fields only in a reactive but not in a proactive way (Scharpf 2009: 93–8).
- Finally, 72(3) identifies six policy fields in which the *Länder* can legislate in deviation of existing federal law. These are fields primarily under European Union regulation for which the federal government possessed the powers of framework legislation before the 2006 reforms. Framework legislation as enshrined in the old Article 75 of the Basic Law meant that the federal government had the power to legislate general guidelines,

purposes, or goals, which then had to be put into practice by more detailed *Länder* legislation. The rationale for abolishing Article 75 was to enable the federal government to comply with EU framework regulations more directly. The deviation provision of Article 72(3), however, was meant to leave some flexibility of implementation to the *Länder*.

The German constitutional reform of 2006, including the abolition of framework legislation under Article 75, was meant as an effort at legislative disentanglement, including the reduction of federal laws requiring approval of the *Bundesrat*. By all accounts (Benz 2008; Scharpf 2009), it was met with rather limited success. In fact, I would argue that German federalism continues to provide an exemplary model of shared-power federalism characterized if no longer by the explicit institution of framework legislation, then by the implicit notion of subsidiarity.

In explicit terms, of course, subsidiarity defines the European Union model of power-sharing federalism. In fact, I would argue that subsidiarity in its European Union reincarnation must be added to the catalogue of federalist power-allocation variations in its own right, as a procedural rather than legal way of sorting out, not so much of who should do what, but of who should do how much of what (Hueglin 2008: 156–7).

When subsidiarity was first adopted formally in the 1993 Maastricht Treaty, it was meant to alleviate fears of central power usurpation in a system of multilevel governance that had avoided both the enumeration and specific allocation of powers. As the Union could in principle act concurrently upon any matter covered as a general community goal under the treaties, subsidiarity was to limit such action by means of what amounted to a threefold test of principles (see similarly Peterson 1996: 123–4): The Community had to demonstrate that its proposed action was indeed covered under the treaties (treaty principle), that the intended objective could not be achieved better by national or local action (subsidiarity principle), and that its intended intervention would be limited to the necessary minimum (proportionality principle).

What was quickly dismissed in many quarters as a meaningless political cop-out at worst, and a “technocratic code of conduct” (Peterson 1996: 125) at best, eventually moved from contested concept to leading image in the constitutional draft of 2004. And as transmogrified into the consolidated Lisbon Treaties of 2009, the threefold test principles are now identified as conferral, subsidiarity, and proportionality (Article 5 TEU). These principles do remain the paramount operational mechanism for Union governance even though the Lisbon Treaty now has followed a path of enumerating exclusive and concurrent powers.

At least since the Edinburgh European Council of 1992, the Union also sought to establish operational rules for the application of subsidiarity and proportionality. These are now enshrined in Protocol (No. 2) annexed to the consolidated Lisbon Treaties. In essence, and apart from detailed regulations for consultation and voting procedures as well as adjudication by the European Court of Justice, the Protocol lays out how the Commission has to justify any legislative proposal “with regard to the principles of subsidiarity and proportionality.” In particular, its statements to this effect must “contain some assessment of the proposal’s financial impact” and, in the case of a directive, of its “implications for the rules to be put into place” by member states or by regional legislation; the necessity for Union action must be “substantiated by qualitative and, wherever possible, quantitative indicators;” and all legislative acts must “take account of the need for any burden, whether financial or administrative, falling upon the Union, national governments, regional or local authorities, economic operators or citizens, to be minimised and commensurate with the objective to be achieved” (Article 5).

These provisions amount to more than a mere technocratic code of conduct. They lay out procedural rules the violation of which can be contested in a court of law. Already in a 1998 landmark decision concerning Article 5 TEU, *United Kingdom v. Council*, the European Court of Justice held that while it “cannot substitute its assessment for that of the Council” in determining the lawfulness of a Union act as such, it can and it will determine “whether the relevant procedural rules have been complied with, whether the facts on which the contested choice is based have been accurately stated, and whether there has been a manifest error in the appraisal of those facts or a misuse of power” (C-150/94).

In terms of power allocation as a principled effort at institutional design, then, it seems to me that at least three different variations of federalism can be distinguished. One is divided power federalism based on the American constitutional tradition. Another is shared power federalism as entrenched in the German tradition. And the third one is subsidiarity federalism as it evolving in the European Union as a substantive variant of shared power federalism.

2.3 Existential Guarantees

One of the most distinctive characteristics of federal political systems is that they come into existence by means of carefully negotiated agreements among constituent members. At the centre of these agreements lies a guarantee of existence for all members. This guarantee extends both to territorial integrity and to the allocation of powers. The main mechanism for changing this

original agreement is an amending formula requiring a particularly high threshold of qualified majority voting.

The German Basic Law appears to contain one of the lowest thresholds for constitutional change—at least as evidenced by the number of amendments undertaken over the years. Between 1951 and 1996, forty-three laws for constitutional amendment were passed by the German federal legislator, and since each of these typically pertained to several articles in the Basic Law, the actual number of amendments is in the hundreds (Laufer and Münch 1998: 366–9). This amendment proclivity probably has not so much to do with the two-thirds requirement for constitutional changes in both houses, *Bundestag* and *Bundesrat* (Article 79(2)), as it can be attributed to the direct participation of the *Länder* governments in the *Bundesrat* instead of a second round of *Länder* ratification, and to the general disposition toward compromise thus organized into German political culture.

At the other end of the spectrum we find the American model yet again. The three-fourths ratification requirement on the part of the states (Article V) has only yielded twenty-seven amendments in over 200 years. One could even argue that there have been only seventeen amendments over the course of US political history because the first ten, known as the Bill of Rights, were already proposed and promised before final passage of the constitution. Moreover, none of the amendments directly addressed changes in the allocation of powers. It probably can be hypothesized again that political culture plays a big role as well. The American constitution is regarded to be a complete work of art, not a pragmatic workhorse like the German Basic Law, and its parsimoniously crafted seven articles do not lend themselves to the kind of log-rolling, let alone pork-barreling, otherwise typical of the Congress.

However, while one cannot deny that the German constitution and its amendment provisions have shown themselves as at least moderately adaptive to the needs of changing time and circumstance, the same cannot be said about the American case. If that case indeed can be characterized as one of coercive federalism, then this is so because the existential guarantee of States rights in the 10th Amendment proved ineffective against the constitution's general clauses in favor of the federal government, against the Supreme Court's predominant interpretation of those clauses in favor of the federal government according to the perceived needs of time and circumstance, and, most importantly for our purpose of comparative inquiry, against the lack a more flexibly adaptive mechanism of adjustment in the allocation of powers that would allow a principled intergovernmental discourse.

A particularly instructive case is Canada, which did not even have its own amendment formula until the so-called patriation of the constitution in 1982, the last time Westminster played an active role in the constitutional politics of its former colony. But the Canadian constitution in its revised form of 1982

now contains not one but five amendment procedures: a general qualified majority procedure, which not only includes an opting-out provision with financial compensation in the case of cultural or educational matters, but also a list of matters excluded from the opting-out provision; a unanimity procedure for a list of enumerated matters including language use; a bilateral procedure for matters affecting only one or several provinces; a parliamentary procedure for matters of national governance not affecting the provinces; and a procedure whereby the provinces can amend their own constitutions (Part V, Sections 38–49).

The Canadian case is instructive for several reasons. One is that constitution writing has become much more difficult in the twentieth century than a hundred or two hundred years earlier. Another reason is that the outcome of the 1982 amendment compromise reflects both the bicultural and the regionally asymmetrical character of the country.

In constitutional terms, the Francophone province of Quebec is a permanent minority. Only unanimity can satisfy its concerns over amendments affecting preservation and use of the French language. If, on the other hand, there was agreement, under the general amendment formula, among the required seven of ten provinces, representing at least 50 percent of the Canadian population, to introduce a new federal program in the fields of education or culture, Quebec could opt out with financial compensation to set up its own programs. Likewise, matters affecting only one or several of the provinces due to regional circumstances stemming from history and/or economy, the constitution can be amended without the two-thirds/50 percent requirement. The plural predisposition of the Canadian amendment formula, in other words, appears to adequately reflect the complexity of a culturally and regionally diverse country rather than the simplistic and largely defunct model of the modern centralized territorial nation-state.

A final reason why Canada's amending formula is instructive is that it has been declared to render the Canadian constitution un-amendable nevertheless (Cairns 1997), and at least so with regard to any substantive re-arranging of power allocations. There have been seven bilateral amendments since 1983. For instance, the constitution amendment of 1994 relieved Canada of its duty to provide ferry services to the province of Prince Edward Island after completion of a bridge link; the amendment of 1993 allowed the province of New Brunswick to establish bilingual equality between the English and French speaking communities; and the amendment of 1998 allowed the province of Newfoundland to abolish its denominational school system. But there has been only one instance of an amendment under the 7/50 formula, concerning Aboriginal rights, and this came as a multilateral promise in conjunction with the passage of the 1982 constitutional reform

package similarly to the promised conjunction of the bill of rights amendments with the ratification of the American constitution.

In 1996, to make things even more difficult, the federal government passed the Constitutional Amendments Act, stipulating that no amendment resolution will be introduced in Parliament without the consent from five regions identified as Ontario, Quebec, British Columbia, the Prairies, and Atlantic Canada, which effectively grants each of these regions veto power. Moreover, several provinces have meanwhile passed resolutions requiring referenda in conjunction with constitutional amendment ratification procedures (Hueglin 2008: 143).

The question then is why the much more flexible Canadian disposition toward constitutional amendment does not yield any more substantive results than the much more inflexible American amendment provision. The answer is twofold again.

On the one hand, deliberate inflexibility is enshrined in the two-step process. That was the original American intention. In Canada, two constitutional reform packages after 1982 failed because of that two-step process. The Meech Lake Accord of 1987 died when two provinces failed to ratify in time, and the Charlottetown Agreement of 1992 was rejected in a referendum. If it is reasonable, at least in comparative perspective, to attribute a higher degree of flexibility to the German case, then it surely is so, at least in part, because of the one-step process of amendment. As the *Länder* directly participate in almost all important acts of legislation requiring their approval via the *Bundesrat*, there is a political culture of compromise institutionalized into German federalism. Its prime institutional locus is the Mediation Committee where members of both houses negotiate ordinary legislation of the kind requiring *Bundesrat* approval. But the *modus operandi* also extends to constitutional reform negotiations, which then cannot become unstuck by second-step hindsight once a deal is done.

On the other hand, inflexibility is more importantly enshrined in the idea of constitutional fixity. That was the original American intention as well. Constitutions are more than mere contracts. They are meant to be repositories of first principles and general intentions. They do not lend themselves to the kind of bargaining and package dealing typical for day-to-day politics. Constitutional reform, which is now on the agenda almost everywhere (Bussjäger and Knüpling: 2008) may therefore yield substantive results only under the most extraordinary of circumstances.

In Germany, I would argue, bargaining processes like the one leading to the 2006 constitutional reform package are facilitated by the one-step procedure. There was a reform commission, of course, with wider participation than usual. Yet for the central political players, the process was almost business as usual, or at least it was not much different from the one taking place in the

Mediation Committee on a regular basis. The political culture of bargaining and compromise also reduces the obsession with constitutional fixity.

In Canada, the 1987 and 1992 efforts at constitutional reform failed to a considerable degree because Canadians were repulsed by what appeared to be unprincipled haggling over the constitution, “rolling the dice,” as the then-Prime Minister Mulroney put it in one of the most widely quoted quips on national radio. Since then, there is an almost universal understanding among political elites and ordinary Canadians that the constitution has become untouchable. To a large extent again, this is so because the second step of ratification also allows for second thought. To a large extent also, however, it is so because of constitutional sanctity in principle.

Of course, there is nothing wrong with second thought. But second thought becomes problematic when what is supposed to be written into constitutional stone inevitably is a compromise leaving nobody perfectly satisfied because nobody can be sure, as the framers of the American constitution thought they were, that the outcome will stand up to time and circumstance leave alone satisfy all vested interests.

In the United States, then, the constitutional allocation of powers remained untouched and, without any other principled mechanism to negotiate change in lieu of formal amendment, the federal government as the dominant player could assert supremacy, not only over the states, but, a few resisting moves notwithstanding, ultimately and lastingly also over the Supreme Court. These occasional moves, in any case, from the initial invalidation of President Roosevelt’s New Deal legislation all the way up to the Lopez decision of 1995 (*United States v. Lopez* (93–1260), 514 U.S. 549, 1995), were expressions of ideological battles over individual rights protection versus general welfare rather than over power allocation (Dye and Zeigler 1981: 418–9). Federalism only played the subordinate role of providing the battlefield.

Canadian federalism developed differently for a variety of reasons. In the words of Richard Simeon, “differences in social structure,” and the “inappropriateness of the constitution to contemporary problems and the inflexibility of amendment,” compelled the two orders of government to seek power sharing agreements as part of an ongoing regime of federal–provincial diplomacy (2006: 41–2). This points to a second mode of securing existential guarantees in federal systems, by negotiated agreement rather than rigid constitutional certitude.

The defining issue in Canada was old age security. As inferred from the enumeration of exclusive provincial jurisdiction under Section 92 of the 1867 Constitution Act, pensions fell under the welfare power of the provinces. In 1951, the constitution was amended with unanimous provincial consent so that the federal government could introduce old age pensions. As Section 94a

stipulated, however, the provinces retained paramountcy: federal law would not affect or impede future provincial legislation.

Then, in 1963, the federal government sought to introduce a contributory pension plan for all Canadians. It was now opposed in particular by Quebec, where separatist sentiments were on the rise. Quebec's intention was to introduce its own pension plan, which not only was more generous generally, but also included supplementary benefits for widows and orphans (which the federal government could not do under the restrictions of Section 94a), and the creation of a pension fund to be used for investment in provincial development.

After a prolonged series of intergovernmental conferences over several years, a deal was struck. Quebec agreed to an amendment of Section 94a that allowed the federal government to include supplementary benefits in return for an opting-out clause in the federal pension act so it could set up its own plan. While this opting-out clause applied to all provinces, it would be used only by Quebec. Since Quebec would have control over its own pension fund, the federal government agreed to turn over the federal fund to the provinces in full. At the insistence of Ontario, any province could pull out at any time, and future substantive changes to the plan would require the agreement of two thirds of the provinces representing at least two-thirds of the population—a requirement for change even more onerous than the later 7/50 formula of the general constitutional amendment formula in 1982 (Banting 1987: 49–50; Simeon 2006: 44–65).

The pension settlement became the template for the way in which Canadian federalism would operate henceforth, by allowing the federal government to seize initiative over what it deemed to be an important national agenda, and the provinces to retain co-decision rights for future changes. It put Canada on a trajectory of what might be called treaty federalism rather than constitutional federalism insofar as, in the words of Jonathan Rodden, “the Canadian federal and provincial governments are clearly locked into an ongoing process of intergovernmental contracting that takes place primarily outside of central government institutions” (Rodden 2006: 36–7).

It may be appropriate to speak of treaty federalism rather than federal-provincial diplomacy, on the other hand, because, as Simeon observes, what he described in 1972, when his study was first published, as “an add-on” to the Canadian system of constitutional federalism (Simeon 2006: 327), has by now taken on systemic character in its own right even though, as Simeon notes, little of it has become formally institutionalized (Simeon 2006: 327).

But there is of course another federal system where the characteristics of treaty federalism are not only more pronounced but also institutionalized to a novel degree. Borrowing from Canadian Aboriginal discourse, I had in fact first developed the difference between constitutional and treaty federalism

through a comparison of the United States and the European Union (Hueglin 2000).

At first glance, the European Union two-step mode of treaty change appears less flexible than even the American provision for constitutional amendment. Under the “ordinary revision procedure” (Article 48 TEU) treaty changes unanimously recommended by a convention composed of representatives of national parliaments, the member states’ heads of state or government, the European Parliament, and the Commission, not only require unanimous approval by a conference of government representatives but then the second step of ratification in all member states as well. The ratification the Maastricht Treaty failed in its first attempt when a Danish referendum rejected it in 1992. The Constitutional Treaty was rejected by French and Dutch voters in 2005. And the Nice and Lisbon Treaties of 2003 and 2009 each needed a second referendum in Ireland before final passage was secured.

Yet the point is that there always was a second chance. The flexibility of treaty negotiations always left the door open for asymmetrical accommodation of special interests, opting-out, protocols, and interpretive declarations. Lisbon, for instance, was the second attempt after the failure of the Constitutional Treaty. It aimed at rescuing the main institutional and procedural changes from the Constitutional Treaty by toning down or eliminating the “constitutional language” alongside with a few provisions smacking too much of statism (Church and Phinnemore 2010: 59). And with regard to the second Irish referendum on Lisbon, vague angst about the loss of neutrality as well as a more concrete objection to the loss of a regular commissioner were addressed by various concessions and clarifications which led to a positive outcome of the second referendum (Church and Phinnemore 2010: 49, 60–3).

In terms of existential guarantees, then, two major variations can be distinguished: constitutional and treaty federalism. In practice, they may often be complementary rather than mutually exclusive. Canadian treaty federalism is more than a mere add-on to the constitutional order, but that order continues to shape both the process and the content of negotiated agreements. In Germany, there is of course no elaborate mechanism and practice of treaty federalism. But insofar as German federalism can be characterized as “consent federalism” (Scharpf 2009: 8), because of the relatively homogeneous social structure at least before reunification, because of a more flexible constitutional framework, and because of a cultural as well as institutional predilection for compromise, from *Länder* self-coordination to the Mediation Committee, I would argue that there is a presence of certain procedural elements of treaty federalism engrained in the German system.

A particularly intriguing case escaping easy classification is Spain, which is now almost routinely counted among federations (Watts 1999; Forum of Federations 2002; Hueglin and Fenna 2006). Yet the statutes establishing the

seventeen Autonomous Communities were individually negotiated with the central government and therefore “the autonomy of each community ultimately depends on parliamentary authority” (Harty 2002: 300). Moreover, the Autonomous Communities “have no say in constitutional amendments,” and there is no effective body for intra-federal regional representation (McRoberts 2001: 79). Because of this lack of “guarantee of permanency” and “constitutional status” (McRoberts 2001: 79), John Loughlin has contended that the inclusion of Spain among federations is erroneous (Loughlin 2008: 476). Yet again, the Spanish constitution in Article 2 recognizes “the nationalities and regions which make it up,” the political process is embedded in “elaborate structures of intergovernmental collaboration” (McRoberts 2001: 79), and the Constitutional Tribunal has declared unconstitutional a number of central government efforts at legislating “power-reducing schemes” with regard to community autonomies (Agranoff 1996: 390–1). Spanish federalism, one can conclude with due caution, is a case of treaty federalism without strong constitutional guarantees of existence anchored in a constitutional document. The latter point might be moot in practice since a serious challenge to regional autonomy in Spain might result in another civil war.

In principle, then, constitutional federalism relies on the fixed allocation of enumerated rights. Asymmetrical treatment of different needs or interests among the constituent members of the federation is unlikely. The only way of adapting the constitutional allocation of powers to time and circumstance is perpetual judicial reinterpretation of the constitution, usually in favor of the central government, which can claim to act on behalf of the interests and needs of all citizens. By comparison, treaty federalism relies on periodically renegotiated contract-like agreements. These allow more flexibility for asymmetry and opting-out. It is less likely that the central government will dominate both the agenda and the outcome. It is also less likely that the outcome will be challenged before the courts.

2.4 Negotiating Compromise

The third characteristic of federal systems resulting from both allocation of powers and existential guarantees is the need for negotiated compromise. Again, there are two principal variations in which this need is accommodated in most federal systems. In Canadian parlance, these are intra-state and inter-state federalism (Smiley 1971). Intra-state federalism means that the compromises necessary between the two orders of government occur within the central institutions of the federation. Inter-state federalism denotes that the two orders of government largely operate separately and that compromises have to be worked out through intergovernmental agreement.

The distinction arose in the context of Canadian federalism during the post-war phase of so-called “province-building” (Young, Faucher, and Blais 1984). Because the Canadian provinces and regions were not properly represented in the central institutions of government, mainly due to a flawed second chamber Senate model, the operation of Canadian federalism largely had taken to the streets, so to speak, with provincial governments aggressively strengthening their own power positions in consecutive rounds of inter-governmental conflict. What was thus identified as inter-state federalism was not so much “the dualistic allocation of political authority” (Broschek 2010: 3), as the consequences of such dualism plus the lack of co-decision mechanism for federal legislation; hence the call for more intra-state federalism, via Senate reform, but also with regard to electoral reform, cabinet formation, and the appointment of supreme court judges (Smiley and Watts 1985).

The members of the Canadian Senate are appointed by the Prime Minister according to a wildly uneven regional formula. Because the Canadian Senate thus lacks political legitimacy, its co-equal powers have been politically subdued by self-restraint. Especially the under-represented western provinces have pressed for a “triple-E Senate”: elected, equal, and effective (Smith 1995: 77–85). But apart from equal representation as promoted by some of the provinces, the underlying rationale for Senate reform also was the assumption that more intra-state federalism would provide a more legitimate and efficient locus for negotiating compromise among the two orders of government, and hence a reduction of federal–provincial conflict. The point of reference obviously was the American Senate as the classical locus of intra-state federalism (Smiley and Watts 1985: 37). But is it?

The framers of the American constitution thought of the Senate as the quintessential “federal” institution (Hamilton, Jay, and Madison 2001: No. 39). Senators were to be chosen by the state legislatures. This changed with the XVIIth Amendment in 1913 from when on senators were elected directly by the state populations. This, in John Dinan’s assessment, “brought an end to any sense in which senators might have been viewed as representing state interests” (Dinan 2006: 321). If the American Senate can be seen as an “obstructionist chamber” (Dinan 2006: 322), then this is so because it performs what the framers were concerned with much more than federalism, checks and balances as part of their understanding of republicanism.

To be sure, voting patterns often represent regional differences of ideology, most notably those of southern conservatism versus liberalism. But this is equally so in the House of Representatives and therefore hardly constitutes a strong case for intra-state federalism. In fact, I would be prepared to argue that in terms of negotiating compromise as an institutionalized form of either the intra-state or inter-state variety, and notwithstanding the myriads of

intergovernmental activities by which the states are cajoled into complying with federal law, American federalism hardly qualifies at all.

The most significant and classical case of intra-state federalism doubtlessly is Germany. In fact, it can be argued that is the only case of genuine federalist bicameralism because the *Bundesrat* represents *Länder* government interests not just on occasion but by definition (Hueglin and Fenna 2006: 199). Despite ministerial conferences, both for purposes of self-coordination and with the federal government, which point to the growing importance of an inter-state dimension in German federalism (Lehmbruch 2000: 101), the primary participatory mechanism for political accommodation is the Mediation Committee between *Bundestag* and *Bundesrat*. And despite Gerhard Lehmbruch's classical argument about a structural impasse between consensus federalism and party competition (Lehmbruch 2000: 77–82), the *Bundesrat* generally plays a constructive role leading to compromise even in the case of divergent majorities in both chambers. As Scharpf puts it, even *Länder* governed by the opposition “cannot be interested in a standstill of legislation, in general and over longer periods of time, the consequences of which, in the relationship between state and citizens, they then have to administer themselves” (Scharpf 2009: 51).

The *Bundesrat* as a co-governing council of *Länder* governments points to a further distinction of two variations of intra-state federalism in principle. One is governance by compound majoritarianism. The other is council governance. The idea and concept of compound majoritarianism, as a political form as well as a governing regime, goes back to the famous Connecticut compromise at the Philadelphia Convention of 1787 (Elazar 1987: 18–26; Wilson and DiIulio 1998: 29–32). The parliamentary principle of majority rule was to be maintained, but it was to be compounded by co-decision rules involving two different manifestations of the popular will: following the classical interpretation of Vincent Ostrom: that of local constituencies in the House of Representatives, and that of the states in the Senate—with the national will embodied in the presidency as a third such manifestation (Ostrom 1987: 147–8).

We have already seen that, to paraphrase Immanuel Kant, what may be true in theory does not apply in practice. Overshadowed by ideological rather than regional differences, voting patterns in the American Senate do not substantively differ from those in the House of Representatives. The point has been made succinctly by Linder and Vatter with regard to the Swiss *Ständerat* or Council of the States, which was modeled after the American Senate in 1848. Because the Council of the States represents cantonal constituencies rather than governments, and despite strong cantonal identities, they point out, “it defends mostly the same group interests as can be identified in the [parliamentary] National Council” (Linder and Vatter 2001: 99).

Because of its peculiarly illegitimate Senate construction, combined with a strong sense of regional identity, Canadian federalism has resorted to interstate forms of political accommodation. Once again, the only case for relatively successful compound majoritarianism is Germany—at least insofar and as long as *Länder* interests do not fall victim to what Scharpf has identified as the two other interest motivating voting behavior in the *Bundesrat*: programmatic positions of federal party politics and electoral campaign strategies (Scharpf 2009: 47).

There are many historical reasons why national party politics plays such a strong role in German federalism. Among them is the general trend toward “parliamentarization” since the nineteenth century, and the dual dynamic of “concentration and polarization” since 1949 (Lehmbruch 2000: 37–44). But doubtlessly, relative homogeneity and the belated quest for national unity have been important factors as well. In Australia, by comparison, it has been the combination of social homogeneity and a strong British parliamentary tradition that eliminated whatever federal quality of the upper house was intended (Hueglin and Fenna: 2006: 210–11, 214).

Contrary to Lehmbruch’s classical verdict of a structural impasse between federalism and party system in Germany, I would almost argue the opposite. Insofar as *Länder* behavior reflects both distinct *Länder* interests and distinct interests about how the *Länder* are and ought be situated in the overall political system, and insofar as it still can be assumed that *Land* elections are expressions of voter preferences, party system and federalism can be seen as complementary forces of political accommodation. Party competition, it can be argued, together with the mandatory bloc voting, reinforces the council character of the *Bundesrat*.

The prime example of council governance, however, obviously is the European Union. While the *Bundesrat* as a council only possesses near-equal powers in German bicameral federalism, the Council of the Union, consisting of the various Councils of Ministers, was originally designed as the dominant if not exclusive governing authority, and it has remained so even after Lisbon, albeit to a lesser extent. Two arguments can be made in support of this view.

First, the European Parliament still does not have co-decision power over all aspects of Union legislation. Most importantly, it does not have the most traditional of parliamentary powers, full power over the budget. Of the three provisions in the Treaty on the Functioning of the European Union regarding the budgetary process, the generation of own resources (Article 311), the multiannual framework (312), and the annual budget (313–16), the EP has co-decision powers only over the multiannual framework and that annual budget, but not over the generation of own resources.

Second, the EP is and remains a representative body with diffuse multiparty and multinational loyalties as well as second-order status among both

European politicians and citizens (Scully 2010: 165–74). More than in conventional parliamentary settings, its opinions and eventual co-decisions are preformed by pressures from national ministers, COREPER, and the Commission (Warleigh-Lack and Drachenberg 2010: 216). In other words, it does not play opposition to a clearly defined government position but has to face up to what at least is a three-headed government hydra. Just like the Canadian Senate, the EP simply lacks the political legitimacy to oppose European law initiatives when these command substantive support in the Council.

So European governance is council governance and it should be. The combination of parliamentary majority rule and federalism has always been an awkward one. In the United States, Congressional compound majoritarianism has little if anything to do with federalism. This verdict applies even more to Australia where the parliamentary tradition is reinforced by the retention of a tradition of party discipline; so it is in Canada, and hence the need there for the extra-constitutional practice of treaty federalism.

Council governance as practised in the European Union straddles the borderline between intergovernmentalism and supranationalism (Hueglin and Fenna 2006: 202–8). The most significant directional move from one toward the other came with the adoption of qualified majority voting as the prevalent mode of decision-making after the hiatus of Community development under the Luxembourg compromise. At the same time, however, the Council has retained its tradition of negotiating controversial issues to the point of near-unanimity. In fact, QMV is a “relatively uncommon occurrence” (Lewis 2010: 151). The Council, therefore, “is both an institution with collective EU functions and the creature of member governments” (Helen Wallace cited in Lewis 2010: 145). The Council, in other words, as the central institution of European federalism, also straddles the borderline of intra-state and inter-state federalism.

In terms of negotiating compromise within an existing constitutional or treaty framework, then, two principal variations of political accommodation can be distinguished again. Inter-state federalism will be the prevalent mode when participation of the constituent units in the central legislative process is weak or absent. Intra-state federalism by comparison denotes the strong presence of member unit interests in the central process of legislation, typically by means of second chamber compounded majoritarianism. Council governance, finally, as practiced in the European Union, points to a novel variant of intra-state confederalism with unanimity or near-unanimity requirements among the member units. Council governance in this sense is an appropriate modification of federal governance in complex plural societies more generally. In the European Union where and as long as citizens’ loyalties remain anchored in national societies, council governance clearly is the most legitimate form of governance, all the exasperation of transparency and

accountability problems notwithstanding. What has been called executive federalism (Brock 1995) as the prevalent mode of governance under Canada's regime of extra-constitutional treaty federalism can be understood as a variation of quasi-council inter-state governance.

2.5 Many Variations, Two Distinct Models

The principles are always the same. All federal systems, in order to qualify as federal systems, are characterized by the plural allocation of powers among different orders of government. This is what distinguishes federal systems from unitary systems. All federal systems must provide existential safeguards against involuntary power transfers from one order of government to another. This is what distinguishes federalism from decentralization. And all federal systems rely on built-in mechanisms of negotiating compromise on the basis of member equality. This is what distinguishes federal governance from regimes of multilevel governance.

Such general principles allow for significant but limited variations in institutional design. In terms of power allocation, three variations can be distinguished. One is divided-power federalism based on the American constitutional tradition. Another is shared-power federalism as entrenched in the German tradition. And the third one is subsidiarity federalism as it evolving in the European Union as a substantive variant of shared-power federalism. Constitutional federalism with its fixed allocation of enumerated rights, and treaty federalism, which relies on periodically renegotiated contract-like agreements, provide the two principal variants of existential guarantees in federal systems. And the two main mechanisms for the negotiation of compromise are inter-state and intra-state federalism, with council governance as a novel variant of intra-state federalism indicating a move from federalism toward confederalism in complex systems with strongly divided loyalties.

It is possible to sort these variations into two distinct models in ideal-typical fashion. One is the classical American model of constitutional federalism with its divided allocation of powers and weak mechanisms of intra-state federalism. The other is the European model of treaty federalism with its reliance on subsidiarity as a procedural rather than rights-based means of power allocation, and with a predilection for council governance as the dominant mode of negotiating compromise. In real-typical fashion, the institutional design of existing and established federal systems likely will follow their variable and path-dependent trajectories. But one might prognosticate that in a globalizing world of complex diversity, the European model of treaty federalism will gain in significance.

References

- Agranoff, Robert (1996), "Federal evolution in Spain," *International Political Science Review* 17 (4), 385–401.
- Appadurai, Arjun (2001), "Deep democracy: Urban governmentality and the horizon of politics," *Environment & Urbanization* 13 (2), 23–43.
- Bache, Ian and Flinders, Matthew (2004), "Themes and issues in multi-level governance," in Ian Bache and Matthew Flinders (eds.), *Multi-level Governance* (Oxford: Oxford University Press), 1–11.
- Banting, Keith G. (1987), *The Welfare State and Canadian Federalism* (Kingston: McGill-Queen's University Press).
- Behnke, Nathalie and Benz, Arthur (2009), "Federalism and constitutional change," *Publius: The Journal of Federalism*, special issue 39 (2), 213–40.
- Benz, Arthur (2008), "The 2006 reform of German federalism," in Roland Czada and Kenji Hirashima (eds.), *Germany and Japan after 1989* (Tokyo: University of Tokyo, Institute of Social Science), ISS Research Series No. 33, 39–54.
- Brock, Kathy L. (1995), "The end of executive federalism?" in François Rocher and Miriam Smith (eds.), *New Trends in Canadian Federalism* (Peterborough: Broadview Press), 91–108.
- Broschek, Jörg (2010), "Federalism and political change: Canada and Germany in historical-institutionalist perspective," *Canadian Journal of Political Science* 43 (1), 1–24.
- Burgess, Michael (2006), *Comparative Federalism: Theory and Practice* (London: Routledge).
- Bussjäger, Peter and Knüpling, Felix (eds.) (2008), *Können Verfassungsreformen gelingen?* (Vienna: Braunmüller).
- Cairns, Alan C. (1997), "Constitutional reform: The god that failed," *Transactions of the Royal Society of Canada* 6–7, 47–66.
- Church, Clive and Phinnemore, David (2010), "From the constitutional treaty to the Treaty of Lisbon," in Michele Cini and Nieves Pérez-Solórzano Borragán (eds.), *European Union Politics* (Oxford: Oxford University Press), 48–67.
- Dinan, John (2006), "United States of America," in Katy Le Roy and Cheryl Saunders (eds.), *Legislative, Executive, and Judicial Governance in Federal Countries* (Montreal: McGill-Queen's University Press), 316–43.
- Dye, Thomas R. and Zeigler, L. Harmon (1981), *The Irony of Democracy* (Monterey: Duxbury Press).
- Elazar, Daniel J. (1987), *Exploring Federalism* (Tuscaloosa: The University of Alabama Press).
- Fenna, Alan (2011), "Form and function in federal systems," *Australian Journal of Political Science* 46 (1), 167–79.
- Forum of Federations (ed.) (2002), *Handbook of Federal Countries 2002* (Montreal: McGill-Queen's University Press).
- Hamilton, Alexander, Jay, John, and Madison, James (2001), *The Federalist* (ed. and intro. George W. Carey and James McClellan) (Indianapolis: Liberty Fund).

- Harty, Siobhán (2002), "Spain," in Forum of Federations (ed.), *Handbook of Federal Countries 2002* (Montreal: McGill-Queen's University Press), 296–313.
- Hueglin, Thomas O. (2000), "From constitutional to treaty federalism: A comparative perspective," *Publius: The Journal of Federalism* 30 (4), 137–52.
- (2008), "Working around the American model: Canadian federalism and the European Union," in Linda A. White, Richard Simeon, Robert Vipond, and Jennifer Wallner (eds.), *The Comparative Turn in Canadian Political Science* (Vancouver: University of British Columbia Press), 140–57.
- Hueglin, Thomas O. and Fenna, Alan (2006), *Comparative Federalism: A Systematic Inquiry* (Peterborough: Broadview Press).
- Karmis, Dimitrios and Norman, Wayne (eds.) (2005), *Theories of Federalism* (New York: Palgrave Macmillan).
- Kincaid, John (1990), "From cooperative to coercive federalism," *The Annals of the American Academy of Political and Social Science* 509, 139–52.
- Laufer, Heinz and Münch, Ursula (1998), *Das föderative System der Bundesrepublik Deutschland* (Opladen: Leske + Budrich).
- Lehmbruch, Gerhard (2000), *Parteienwettbewerb im Bundesstaat* (Wiesbaden: Westdeutscher Verlag).
- Levy, Jacob T. (2007), "Federalism, liberalism, and the separation of loyalties," *American Political Science Review* 101 (3), 459–77.
- Lewis, Jeffrey (2010), "The Council of the European Union," in Michele Cini and Nieves Pérez-Solórzano Borrágán (eds.), *European Union Politics* (Oxford: Oxford University Press), 141–61.
- Linder, Wolf and Vatter, Adrian (2001), "Institutions and outcomes of Swiss federalism: The role of cantons in Swiss politics," *West European Politics* 24 (2), 95–122.
- Loughlin, John (2008), "Federalism, regionalism and local government: Comparative perspectives on transforming the nation-state," *European Political Science* 7, 472–82.
- Marks Gary and Hooghe, Lisbet (2004), "Contrasting visions of multi-level governance," in Ian Bache and Matthew Flinders (eds.), *Multi-level Governance* (Oxford: Oxford University Press), 15–30.
- McRoberts, Kenneth (2001), *Catalonia: Nation Building without a State* (Don Mills: Oxford University Press).
- Nicolaidis, Kalypso and Howse, Robert (eds.) (2001), *The Federal Vision* (Oxford: Oxford University Press).
- Ostrom, Vincent (1987), *The Political Theory of a Compound Republic* (Lincoln: University of Nebraska Press).
- Peters, B. Guy and Pierre, Jon (2004), "Multi-level governance and democracy: A Faustian bargain?" in Ian Bache and Matthew Flinders (eds.), *Multi-level Governance* (Oxford: Oxford University Press), 75–89.
- Peterson, John (1996), "Subsidiarity: A definition to suit any vision?" *Parliamentary Affairs* 47 (1), 117–32.
- Rodden, Jonathan A. (2006), *Hamilton's Paradox: The Promise and Peril of Fiscal Federalism* (Cambridge: Cambridge University Press).
- Scharpf, Fritz W. (2009), *Föderalismusreform* (Frankfurt: Campus).

Comparing Federalism: Variations or Distinct Models?

- Scully, Roger (2010), "The European Parliament," in Michele Cini and Nieves Pérez-Solórzano Borragán (eds.), *European Union Politics* (Oxford: Oxford University Press), 162–75.
- Simeon, Richard (2006), *Federal-Provincial Diplomacy* (Toronto: University of Toronto Press).
- Smiley, Donald V. (1971), "The structural problem of Canadian federalism," *Canadian Public Administration* 14 (3), 326–43.
- Smiley, Donald V. and Ronald L. Watts (1985), *Intrastate Federalism in Canada* (Toronto: University of Toronto Press).
- Smith, Jennifer (1995), "The unsolvable constitutional crisis," in François Rocher and Miriam Smith (eds.), *New Trends in Canadian Federalism* (Peterborough: Broadview Press), 67–90.
- Stepan, Alfred (1999), "Federalism and democracy," *Journal of Democracy* 10 (4), 19–34.
- Warleigh-Lack, Alex and Drachenberg, Ralph (2010), "Policy making in the European Union," in Michele Cini and Nieves Pérez-Solórzano Borragán (eds.), *European Union Politics* (Oxford: Oxford University Press), 209–24.
- Watts, Ronald L. (1999), *Comparing Federal Systems* (Kingston: Institute of Intergovernmental Relations).
- (2005), "Comparing forms of federal partnership," in Dimitrios Karmis and Wayne Norman (eds.), *Theories of Federalism: A Reader* (New York: Palgrave), 233–53.
- Wheare, Kenneth C. (1964), *Federal Government* (New York: Galaxy).
- Wilson, James Q. and DiIulio, John J. Jr. (1998), *American Government* (Boston: Houghton Mifflin).
- Young, Robert A., Faucher, Philippe, and Blais, André (1984), "The concept of province-building: A critique," *Canadian Journal of Political Science* 17 (4), 783–818.
- Zimmerman, Joseph F. (2008), *Contemporary American Federalism* (Albany: State University of New York Press).

3

Varieties of federalism and propensities for change

César Colino

3.1 Introduction: Linking Varieties of Federations and Propensity for Change

Despite the appearance of convergence or similarity in trends on account of decentralizing reforms in several federations and despite increasing legal or fiscal decentralization indicated by aggregate data, federations actually change in many different ways, across various dimensions and at different paces. If we analyze different systems in detail, we can observe how institutional trajectories and processes of change display more variation than is often assumed. Since most federations are subject to similar external and internal pressures, the relative propensity to change and the mode and pace at which their institutions change have repercussions on their problem-solving capacity, their ability to resolve conflict, the extent of power redistribution or balance, and the legitimacy they may achieve in the context of social change and exogenous circumstances.

However, although most institutionalist approaches seem to agree that institutions affect political outcomes, there is no agreement in the comparative federalism literature on *which* institutions matter. Nor is there consensus on what the importance of institutions themselves is compared to intentional action or the strategies of the actors in explaining institutional change or persistence. This raises the theoretical and empirical question about the effects of institutional arrangements in institutional change itself, understood as the ability to adapt or reform formally or informally. In other words: what is the influence of existing institutional arrangements vis-à-vis other factors on the evolution of a federal system? The study of the evolution of federal institutions, which are always under pressure to change and yet relatively

stable and different across countries, can provide a good way to explain differences across federal countries, how and why institutions change over time, and how and why deliberate changes occur within otherwise relatively stable institutions.

With respect to this theoretical question, some studies have considered the type of federal institutions as one of the key explanatory factors of a federation's development. This discussion has been influenced by the recent neo-institutionalist literature in comparative politics and political economy. First, the debate has revolved around the extent to which the evolution of federations and, therefore, its persistence or performance, is simply determined by its history or institutional path dependence, by its own institutional logic, and its degree of institutionalization. Some studies have argued that institutional choices at the founding stage or at certain critical moments determine the possible trajectories of change and institutional persistence (Lehmbruch 2000, 2002). They also posit that certain types of institutions would be more likely to produce greater stability and a lower federal institutional or legitimacy conflict, and at the same time will have more reform capacity than other types of federation (Braun 2002a, 2002b).¹ In this view, the evolution of federal institutions would acquire its own logic independent of the intentions of the original designers of the federal constitution, so that the effects of the institutions could not be foreseen by the actors; that is, the unintended consequences. This logic would lead certain federal arrangements to persist even when they have become obsolete or dysfunctional. Institutions could thus not be explained in retrospect either by the role played at the beginning or by the original intentions of political actors.²

One of the problems in explaining the consequences of institutions and institutional configurations in federal systems is the difficulty of measuring variations in federal institutional arrangements and of establishing the institutional dimensions that account for different outcomes. There have been some attempts to link the types of federations with different outcomes, such as policy outputs or results, and with different degrees of reform capacity and innovation. For instance, there has been a vague assumption in most of these studies that the so-called competitive, multinational, parliamentary, inter-state federations are more prone to change than the other types (cooperative, mononational, presidential, intra-state, etc.). However, it has remained unclear as to how and why this is so and whether there is really a different propensity of change and reform to be attributed to different types of

¹ For an example of this argument for the types of legislative-executive relations, see De Raadt (2009).

² For a typical formulation of this argument of path dependence, see Pierson (1996). In the case of the Canadian federation, see Watts (2002); Broschek (2009).

federation. This neglect in the literature is partly due to several pitfalls and methodological problems that have plagued a number of studies in comparative federalism thus far. At the same time, this issue arguably has been dealt with more successfully in other subdisciplines such as in research on comparative political economy (Hall and Thelen 2009), the welfare state (Palier 2010), or public management reform (Pollitt and Bouckaert 2011).

First, most of the usual typologies of federalism or federations have not been created within a clear theoretical perspective, and the types are not clearly defined, which renders it difficult to assign the different empirical cases to them. No typology has been devised yet with the explicit purpose of linking the configuration or type of federation and the propensity of change that specifies what type and degree of change we should expect from different configurations or varieties of federalism. Besides that, the simplicity of existing typologies, mostly dual or two-dimensional, makes it difficult to attribute clear consequences to a federation being categorized in one of those types. Third, most of those typologies were designed to explain different outcomes that have nothing to do with explaining institutional change capacity. Hence, to surmount the shortcomings of existing typologies of federal institutions, a new typology of federal institutional configurations is needed that allows us to analyze federal dynamics and change. In order to do so, it needs to integrate factors related to structures and processes, the formal and informal configurations that are the objects of change and that can be measured empirically, and establish how different types of federations have different potential for change.

Supplementing the work of Hueglin (see his chapter in this volume), who identifies basic criteria and principles that have historically distinguished various types of federations as well as federal from non-federal polities, this chapter seeks to go beyond the basic constitutional principles of federal design. In the following, I will explore empirical variation in institutional arrangements as well as the working relationships between actors within federal systems. This variation is supposed to account for the variation in the dynamics of institutional change and reform. This is done through a multidimensional typology that aims at identifying degrees of variation across federations and derives some theoretical implications on their propensities for change. Thus, this chapter proposes a typology of federations based on configurations of what I refer to here as varieties of federalism.³ It can be defined as the subsystem of the political system comprising the group of institutions and relationships reflecting those intergovernmental structures and processes that mediate between the social, historical, and structural

³ Admittedly, I am not the first to apply the term to the study of federations. It has been occasionally utilized by other authors in recent studies on federalism (e.g. Noël 2004; and Broschek 2010b), but with a slightly different and less explicit sense.

characteristics of a society and its government and that link several tiers of territorial jurisdiction in a country.

This concept, an approximate emulation of the well-established concept of *varieties of capitalism* in political economy literature (Hall and Soskice 2001; Amable 2003; Becker 2009) is conceived as an ideal type in the Weberian sense, entailing several empirically appraisable attributes of the structures and the processes of a federation. Within the varieties of federalism, I distinguish between two main groups of dimensions and variables: those pertaining to the *formal institutional framework*, and variables that can be categorized as pertaining to *federal relations* which are more related to informal institutional processes and dynamics of federal systems. The empirical operationalization of these two dimensions, it is argued here, will allow us to locate and compare all real existing federal systems in a two-dimensional analytical space of attributes and to measure their evolution over time.

In the next section, I review some of the existing typologies of federal institutional arrangements and their shortcomings. In the third section, I present my fourfold multidimensional typology of varieties of federalism, drawing on a combination of some of the established typologies as well as on two main measurable dimensions of variation. In the fourth section, I propose several factors that are related to the varieties of federalism and describe their hypothetical effects on the propensities for change, seeking to posit some causal mechanisms by which they have an impact. The final section then concludes with a brief overview as well as an outlook for further research.

3.2 Typologies of Federal Systems and their Usefulness for Understanding Federal Dynamics

The study of federal systems has produced several typologies that have tried to put some order in the complexity and manifold variation among federations. Each of these typologies, however, has been based on a particular perspective and has emphasized particular features, seeking to explain, whether explicitly or implicitly, specific aspects of how federal systems work in general and how they develop.

The more traditional typologies have been based on one dimension such as the representative institutions and executive–legislative relations. They distinguish between parliamentary and presidential federations (for example, Verney 2002). Another frequently used criterion has been the mode of formation, with a typical distinction between integrative, evolutionary or union federalism, on the one hand, that Stepan, for instance, has dubbed *coming-together federalism* (for example, US and Switzerland), emerging among separate states or regions for the common defense or economic

reasons, and, on the other, more devolutionary, disintegrative federal-building, or *holding-together federalism* (for example, Spain and Belgium), which often occurs as a response to counteract disintegrative pressures in a state such as the risks of secession from dissenting regions within a unitary state. Also with regard to the original purpose of federalization, Schultze (1990) distinguished along a continuum of organizational forms from a centralized unitary state to a more loose, chiefly economic alliance of states.⁴ Regarding the type of predominant intergovernmental relations or the degree of interlocking or cooperation between levels of government, the most frequent distinction has been made between a *cooperative, collaborative, power-sharing, or integrated model* of federation on the one hand and the *dual, competitive, and separation model* (for example, Scharpf 1995; Simeon 1998; Börzel and Hosli 2003) on the other. Others such as Painter (1991) categorized collaborative, competitive, and mixed systems, although most systems can be considered mixed (Baldi 1999) in any case. Finally, a number of typologies have used the distinction originated in Canadian federal studies between *intra-state* and *inter-state* institutional configurations (see Théret 2005; Broschek 2009, 2010b).

While still one-dimensional, there are other typologies that take into account the impact of social dynamics, emphasizing the degree of politicized or mobilized social and ethnic diversity, or the structure of citizen's preferences or identities within different constituent units. It has been common to distinguish between mononational and multinational federations (Linz 1999; Stepan 2001; Norman 2006; Burgess and Pinder 2007; Erk 2008), congruent and incongruent federations (Lijphart 1999), cultural, ethnic federations or ethno-federalism versus non-ethnic federations or territorial federalism, based on whether constituent units reflect ethnic, religious, or linguistic cleavages or not (Kymlicka 2006; Roeder 2007). Nevertheless, it remains an open question whether societal dynamics translate into federal dynamics.

While these typologies are focused on particular research interests and thus can only provide a limited guide for studying federal dynamics, also some two-dimensional typologies have been proposed with more theoretical orientation. One encompasses both the institutional structure of the federation and the type of party system (Grande 2002). Likewise, another typology has combined the type of democratic system or regime and the type of intergovernmental system of government (Benz 2003a, 2004). This author has placed all the traditional federations along several forms of the intergovernmental relations system such as mutual adaptation, voluntary

⁴ See also Aroney's (2009) distinction between integrative and disintegrative federations.

negotiation, and institutionalized compulsory negotiation, and along several types of democratic regime such as consensual democracy, majoritarian democracy, and dual systems, all of them with theoretical implications.⁵ Other typologies have combined political and fiscal or financial dimensions and have revolved around the existence and degree of fiscal redistribution, the different politics of intergovernmental transfers, or the entrenchment of solidarity or cohesion as a principle embedded in the federal configuration (Théret 2005; Gordin 2009; see also Hueglin, Chapter 2, in this volume).

Taking a more comprehensive approach, Hueglin and Fenna (2006) specify several dimensions of federalism such as the justification of the system (whether cultural or territorial), the separation of powers (presidential or parliamentary), the division of powers (legislative or administrative), the representation of the constituent units at federal level (senates or councils), and the style of policy-making (cooperative or competitive). Accordingly, they identify three main models of federation: the US model, which includes the US and Switzerland; the Canadian model of the British Empire, with Canada and Australia; and the German model, which includes the German federation and the EU model. A variation of these is, for example, the model of Catholic federalism in Latin America (Mexico and Brazil), considered a sub-type of the American model.

A recent attempt to derive theoretical implications on centralizing or decentralizing trends from a typology of federations is proposed by Braun (2011), who draws on the usual distinction between cooperative versus dual federations and cultural versus territorial federations and logically arrives at four types of federal systems: a) cooperative territorial, b) cooperative cultural, c) dual territorial, and d) dual cultural. Among all of them, clear tendencies toward centralization or decentralization can be theoretically predicted in the more congruent cases (a and d) and similar tendencies, but alongside some counter-tendencies are to be expected in the hybrid cases (b and c).

Although many of these typologies may have real empirical and comparative merit and are grounded in multiple relevant dimensions of variation, many of them are based on formal legal typologies, ignore para-constitutional elements absent from the formal constitutional design, and cannot reflect or predict the functioning or the evolution of federations, leaving many federations outside their scope.⁶ For this reason, the available typologies are not totally appropriate for analyzing federal change in a comparative perspective. Taking advantage of the insights provided by some of the

⁵ For other typologies with institutional configurations as main dimensions, see Kelemen (2004); Braun (2011).

⁶ On the methodological issues regarding typologies, see Théret (2005); Collier, Laporte, and Seawright (2008).

mentioned theoretically oriented typologies (such as Benz 2004; Théret 2005; Hueglin and Fenna 2006; Braun 2011; etc.), it seems then necessary to devise a new typology that is guided by relevant empirical research questions on federal dynamics. Such typology could and should serve several purposes, namely, to identify theoretically and empirically typical drivers and trajectories of evolution and to account for the possible different impact of federal structures and processes on the outcomes of public policy, in terms of management of social or political conflict and of the propensity to change and adaptation capacity. The next section seeks to propose precisely this sort of new typology.

3.3 A Multidimensional Typology: Varieties of Federalism, Formal Frameworks, and Federal Relations

A useful definition of a federal system must cover not only its dynamic character, but also consider federalism as a set of institutions and processes or an arrangement of relations that are the empirical manifestation of inter-governmental structures and processes that mediate between the social, historical, structural factors and government. These federal institutions and relations are mutually dependent and together they determine specific federal dynamics in each federation.⁷ The range of possibilities and directions of evolution of a federation may be usefully captured by studying change in two dimensions: the formal institutional framework and the federal relations.⁸

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 collectively binding 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 involve an incentive structure for actors to act strategically, creating a particular dynamic in the policy process, and a particular form of federal relations, thereby affecting the substance of policies and their results as well as the possibilities for institutional change.

⁷ Political science studies of federations have traditionally distinguished between structures and processes in federations (see Elazar 1987). Unfortunately, Elazar did not provide us with many useful empirical dimensions or variables that allow for a measurement of the different types of federal structure or federal process.

⁸ By *federal relations*, I refer to something broader than the traditional concept of “inter-governmental relations” since I include the actions and interactions of political parties at different levels and other societal actors and forces.

3.4 Integration and Centripetality of Federal Arrangements as Main Dimensions of Variation⁹

The formal framework will usually show a greater or lesser *degree of institutional integration or disintegration*.¹⁰ 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 (see Table 3.1).

First, the degree of intra-stateness of the constitutional design will be the result of the type of regional participation in federal decisions, the type of powers distribution (functional versus sectoral), the concurrency or exclusivity of legislative competencies, the presence of asymmetry in legislative competencies, and the assignment of residual powers. Second, the degree of interdependence in the intergovernmental structure of decisions and resources will reflect the (de)centralization of spending and resources, the revenue autonomy and fiscal responsibility, 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 existing 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 rules alone, however, do not regulate the real-life work of administrators, policy-makers, groups, and citizens. Informal structures and interactions develop to compensate for the constraints posed by constitutional design. Bureaucrats and politicians have frequent interactions and working relationships in the course of adopting and implementing policies.

Table 3.1. Dimensions and variables of the formal framework

	Dimensions	Operational Variables
Formal Framework	Constitutional design Intergovernmental structure of decisions and resources Intergovernmental decision-making rules	Degree of intra-stateness Degree of interdependence Degree of hierarchy

⁹ In this section, I draw heavily on Colino (2010).

¹⁰ For a similar concept of institutional configuration based on decisional and resources interlocking, see, for example, Grande (2002) and his typology of federations.

Models, Varieties, and Dimensions of Federalism

Table 3.2. Dimensions and variables of federal relations

	Dimensions	Operational Variables
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

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*. Centrifugality and centripetality reflect the system in action; that is, how actors adapt their strategies and formal or informal interactions to the environment (including the institutional set-up), 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 (see Table 3.2).

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 can be assessed on the basis of 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 constituent units (see Colino 2010).

3.5 Ideal-typical Varieties of Federalism

If we keep all of these variables and their typical clustering or configurations in mind, we may propose four basic ideal-typical varieties of federalism that may or may be not found empirically among the approximately twenty-seven federations that exist in the world. By crossing these two proposed dimensions of the formal framework and the federal relations along with their possible values, four ideal types of federal systems or varieties of federalism can be

Table 3.3. Varieties of federalism according to formal framework and federal relations

		Formal framework	
		Disintegrated	Integrated
Federal relations	Centripetal Centrifugal	“Balance” Segmented	Unitary “Accommodation”

Sources: author’s elaboration.

obtained in the resulting attribute space. Table 3.3 shows the possible values and four ideal types according to degree of integration and centripetality.

These varieties of federalism typically vary across several historical, social, value or ideational and structural dimensions of a political system apart from the more or less integrated formal frameworks and the more or less centrifugal federal relations. These dimensions are, for example, the origin and the mode of federalization, the relation between territorial and social basis, the value priorities of the system, and the associated executive-legislative subsystem. These shall be explored in more detail as follows.

3.5.1 *Variety I: “Balance” Federalism*

Usually formed by aggregation of formerly (semi-)sovereign political communities or states and sometimes coming from a previously confederal arrangement, its original constitutional pact usually established institutions that guarantee or at least declare in more or less effective ways the original power or sovereignty of the founding members of the federation. The main objectives consist of benefiting from the advantages of the union, escaping the problems of disunion, and avoiding the possible abuse of the central power. The main value is thus the balance of powers. In the “balanced” variety, the constitutional design is normally inter-state and the intergovernmental structure of decisions and resources is of the independent type. The strategies of governmental actors tend to be self-assertive, with conflict lines and intergovernmental coalitions being more of the party-oriented type but occasionally also territorially based. Cases that in practice come close to this ideal type, although none do so in all their dimensions and at all their developmental stages, would be the US, Australia, Switzerland, Brazil, and, to an extent, the EU.

3.5.2 *Variety II: Unitary Federalism*

This type usually has its origin in the creation of sub-central units from a previously centralist state, or through the renewal of a federal tradition previously abandoned in the past due to a totalitarian or authoritarian phase. Often established in the wake of national crisis or war as a means to reconstructing a

country, the primary purpose or value of the system is to guarantee the consensus and cooperation among the units. Its second value is safeguarding the rights of individuals and their equality in the whole territory, followed by the autonomy and cultural affirmation of the constituent members. It usually appears in culturally homogeneous societies and cohabits with arrangements of consensual type of parliamentary system and with proportional electoral systems.

This variety of federal system shows an intra-state constitutional design in which second chambers of the council or the senate type exist and representatives of the component governments or parliaments 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 tend to be executed by the constituent units. The intergovernmental rules of decision are usually hierarchical, dominated by federal initiative and obligatory joint decision. In their daily operation, interaction styles are normally collaborative while conflict lines and coalitions are more partisan rather than territorial. Federations that resemble this ideal type, although empirically to different degrees throughout many of its phases, are Germany, Austria, South Africa, and to some extent, Spain.

3.5.3 *Variety III Segmented Federalism*

This type of federal system may originate in confederal experiences, although it more immediately stems from the decentralization of a unitary or otherwise centralized state. It is characteristic of federations where two or more different cultural communities coexist, one of which may even represent a majority. Thus, given the need for survival of the union and of the founding communities, cultural affirmation is among the primary values of this system, followed by autonomy, balance of powers, cooperation, and finally harmonization. The typical executive–legislative configuration is parliamentary government.

The segmented variety typically has a constitutional design that is inter-state in which agreements between the leaders of the culturally different communities and intergovernmental institutions prevail. The intergovernmental structure of decisions and resources is characterized by strong independence 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 nature. The strategies of governmental actors tend to be self-assertive, with conflict lines and intergovernmental coalitions being predominantly of the territorial type. The features of this ideal type can be found to some extent in several phases of the evolution of Canada or Belgium but also Switzerland.

3.5.4 *Variety IV “Accommodation” Federalism*

This sort of federalism usually originates in societies with a certain degree of cultural heterogeneity and through a process of devolution or disaggregation of a centralist state as an instrument for preserving the polity. Its typical values tend to be the autonomy of the units and cultural affirmation, while it is usually associated with asymmetric arrangements for meeting various kinds of self-government demands. At the same time, consensus and cooperation between the central level and the constituent units is also sought, pursuing harmonization or equality also in the whole federation. Finally, the balance of powers is regularly guaranteed by a constitutional court. The typical configuration of the executive or legislative system of government is of the parliamentary type with proportional electoral systems.

The “accommodation” variety usually has a constitutional design of the inter-state type, with a weak second chamber due to the origin of the system and the devolutionary process controlled by the national government. The intergovernmental structure of decisions and resources is 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 or type of constituent units. For instance, in regions with strong and mobilized regional identities, the governmental actors’ type of strategies 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 are Spain and India during some stages of their evolution.

This typology allows us to compare countries along several dimensions and to ascertain to what extent they deviate in practice 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 fosters different institutional evolutions or types of change. Each of these types will show varying propensities for change, tend toward different directions of reform, and display typical mechanisms and paces of transformation. Table 3.4 summarizes the attributes of these four ideal types.

3.6 Varieties of Federalism and Propensities for Change

Building on the varieties of federalism typology above, this section seeks to briefly theorize on some implications of this typology for understanding dynamics of federations and the current or future state to which some of

Models, Varieties, and Dimensions of Federalism

Table 3.4. Four varieties of federalism and their institutional and interaction dimensions

Defining Variables	Type I: balance	Type II: unitary	Type III: segmented	Type IV: accommodation
Constitutional design	inter-state	intra-state	inter-state	inter-state
Intergovernmental structures	independent	interdependent	independent	interdependent
Intergovernmental decision rules	partnership	hierarchical	partnership	hierarchical
Interaction and joint decision styles	competitive/ collaborative	collaborative	competitive	competitive/ collaborative
Governmental actors' strategies	self-assertive	solidarity- oriented	self-assertive	self-assertive/ solidarity oriented
Conflict lines and inter-governmental coalitions	party/territory oriented	party-oriented	territory- oriented	territory/party- oriented

Source: author's elaboration.

them are heading. It proposes several general theoretical hypotheses and mechanisms by which different varieties of federalism are bound to change and the main assumptions on the effect of the institutional and interactive components of federal systems on institutional change. Apart from the historical and external factors that may explain the existence of a particular formal framework, the main factor affecting its evolution is the very type of formal framework that constitutes each federal variety. Constitutional design and intergovernmental policy-making structures will influence the behavior, interactions, and strategies of actors within the federal arrangements. The first assumption here 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.

In addition to this, this typology assumes that the formal framework influences federal relations and that federal relations in turn influence the direction and scope of change of the formal framework toward more or less integration. The two dimensions interact in such a way that we could assume different change propensities depending on the shape and interaction of the formal framework and the federal relations. Thus, we will find, on the one hand, varieties which could be considered self-reinforcing or stable, for example, varieties of federalism displaying formally integrated systems with centripetal relations or formally disintegrated systems with centrifugal federal relations. On the other hand, we can define varieties of federalism which could be predicted to be more unstable, such as formally integrated systems with centrifugal federal relations or disintegrated systems with centripetal relations.

3.6.1 *Types of Formal Framework and their Effects on Federal Change*

One of the most relevant differences among formal frameworks that would explain the propensity for change would be their openness or rigidity (for a similar argument, see Broschek 2009, 2010a). This rigidity may be determined by the configuration of the three aforementioned variables of the formal framework. Some federations display closed and rigid formal frameworks that combine intra-state, interdependent frameworks with hierarchical rules of decision that are also observable in their decisions about institutional change. Therefore, variations in change propensity can be captured better through a differentiation of formal frameworks between varieties of federalism that produce an open and uncoupled “system’s logic” vis-à-vis those that produce a closed system’s logic. The former demonstrate for instance inter-state designs, independent intergovernmental structures and non-hierarchical decision rules in formal reform decisions, while the latter comprise more intra-state and interdependent designs with a high degree of joint decision structures and hierarchical decision rules for pursuing formal institutional reform.

These characteristics of the formal framework affect change through two possible mechanisms of causal influence. First, they have an impact on the decision-making capacity or integrative capacity which different types of more or less open formal frameworks entail in terms of formal change decisions. In this fashion, different degrees of coupling or interlocking among institutional elements and the complementariness of other institutions and institutional subsystems (for example, the parliamentary, party, and administrative subsystems) generate different costs and render decisions involving formal change more complex. In most tightly coupled formal frameworks, it will not be enough to change just one of the elements of a particular subsystem since, given their mutual dependence and “affinity,” altering a feature of one subsystem usually triggers the need to readjust pertinent features of other subsystems.

Decision-making capacity and integrative capacity can be considered two basic attributes both of federal systems and political systems at large. The first relates to the capacity to adopt and implement policies, and the second to the ability to build consensus or to represent, integrate or accommodate conflicting views. These capabilities will become largely determined by the degree of integration and interdependence of the institutional framework and will therefore vary in different federal systems. Along these lines, some authors (Braun et al. 2003: 1; see also Braun and Trein, Chapter 16, in this volume), when analyzing the capacity of different systems to make decisions in federal fiscal policies, hypothesize that in the power-sharing type of federal system (cooperative or integrated), the federal governments show a greater capacity to coordinate, but a low capacity to act, while the separation of power-type provides enough

Models, Varieties, and Dimensions of Federalism

freedom of maneuver to the federal governments, but often with a limited scope and possibly with an underdeveloped capacity for coordination. For his part, Simeon also points out that whether or not it is necessary to resort to formal constitutional amendment will depend in part on the nature of the original constitutional design. The greater the extent of powers and responsibilities assigned to “relatively tight compartments” is, the more complicated it will be to achieve adaptation by political or administrative means. Conversely, where the constitution provides for broad areas of shared or concurrent competence, informal adjustments will be more feasible (Simeon 2001).

For some authors, the institutional arrangements of inter-state federalism have proved to be less resistant to change than intra-state federalism. This is well illustrated by the Canadian case (Broschek and Schultze 2003; Broschek 2009, 2010b). Braun also notes how the decision-making impasse in reform attempts evident in some federations is determined by the historical path of the model of federalism a country has adopted (Braun 2002b: 326). External shocks can make that path more difficult or lead to a dead-end, but often the original path is taken up again after some time. Table 3.5 compares ideal-typical capacities which could be assumed as a hypothesis in the four varieties of federalism identified above:

From the perspective that the formal institutional framework is decisive for these capacities follows that change, for instance, will occur less frequently in those varieties of federalism that exhibit a greater degree of integration of the formal framework (such as the unitary or accommodation variety). Moreover, actual change will often be informal since the coalitions necessary for formal reform will not always be present, even in the face of changing external factors. In the unitary type change will be even more difficult than in the accommodation one, as there will be a number of conditions that favor institutional persistence such as veto points, consensual rules, multilateralism, and the basic consensus with the founding institutions. In addition, the direction of change will presumably be toward a reinforcement of the unitarian path or a path toward an accommodation system in case federal relations were to change in a more centrifugal direction. On the other hand, change would

Table 3.5. Different decision-making and integrative capacities of the four varieties of federalism

	Decision-making capacity	Integrative capacity
<i>“balance”</i>	+	-
<i>unitary</i>	-	+
<i>segmented</i>	-	-
<i>“accommodation”</i>	+ -	+ -

Source: author’s elaboration.

more likely move toward the “balance” variety in case an external change induced an alteration in some aspect related to the degree of integration such as interdependence in the resource or decision structure.

Federal systems may have a relatively large number of veto points, but how (and how much) they are used by actors in either case can vary considerably, depending on their interests in different types of decisions (Braun 2002b: 326; Benz 2003b). Thus a more integrated, but centrifugal variety will have difficulties with policies of institutional reform and with policy coordination. However, it will perform better in policies that seek redistribution by the center and those that aim at conflict resolution or accommodation of different interests. A less integrated system will lead to more difficulties in some typical goals of solidarity and integration. Each variety of federalism will be more likely to use specific types of reform policies. For example, in very diverse systems such as the accommodation variety, the reform policies of integration, decentralization, and differentiation will dominate.

Another similar hypothesis about change relates to the fact that different varieties of federalism pursue different policy goals and political logics and are therefore confronted with specific challenges or syndromes; that is, sets of pathologies.¹¹ That also means that each specific variety of federalism produces specific constellations of institutional interests, which also implies that its typical pressures for change, its need for adaptation, and its potential direction of change are somehow predetermined. The different varieties will then typically experience different sequences of reform (see Falleti 2010) or reform “trajectories,” as well as a specific combination of federal reform policies (symbolic, integrative, redistributive, devolutionary, etc.).

In those more integrated and interlocked frameworks, reform decisions will depend more on the interdependent interests between the central and the regional levels. This accordingly leads to a specific content of reform proposals, usually displaying lowest common denominator solutions in the direction of greater integration in common decisions of both levels. In those more open, less integrated systems, reform interests will differ in scope and content, and regions’ interests will tend to show more unilateralism, which may lead more easily to decentralization, disentanglement, or disintegration of the formal framework. Also, it could be assumed that the “balance” variety of federalism, given its high degree of decision-making capacity and its lower

¹¹ For example, more integrated formal frameworks such as unitary or accommodation varieties will tend to produce a lack of autonomy among governmental units or decisional deadlock, while less integrated varieties such as the balance and segmented type will tend to generate a certain lack of coordination, more duplication and collusion, or unilateralism and risks of secession. These pathologies will tend to be compensated through the demands articulated through the federal relations, bearing a more or less centrifugal quality.

degree of integrative capacity, will have problems of disintegrative competition among constituent units and the central level will tend to advocate for policies that compensate this competition for the weakest ones.

The unitary variety, given its high integrative but low decision-making capacity, will tend toward blockage and deficient autonomy for the constituent units, so that regions will usually advocate policies that seek disentanglement and devolution. The segmented variety of federalism, given its low capacity for both integration and decision-making and the high degree of informal conflict, will see attempts from the central level to implement policies that strengthen integration and regional participation in common federal institutions. The “accommodation” variety of federalism, given its medium degree of both integrative and decision-making capacity, will experience attempts by the central level to implement coordination policies on the one hand and by the regional level to pursue differentiation policies on the other, depending on the point in time and the direction of the external pressures involved.

Finally, we can also assume that different federal formal frameworks imply different degrees of interrelations and interdependencies with other subsystems of the political system, due to different degrees of integration between institutional arrangements. This means that those more complex and integrated arrangements will be more resistant to formal change and more prone to inertia but more flexible for partial informal change. The complementarity of a set of institutions can generate high levels of interdependence, since the effectiveness of each depends on the existence and operation of the others.

3.6.2 *Types of Federal Relations and their Effects on Federal Change*

Beside the effects emanating from the external environment, a number of internal factors can determine long-term federal change with regard to direction, scope, or formal and informal character, among others. They include the shape of federal relations themselves, that is, the degree of collaboration or competition among constituent units, or the nature of conflict lines. First, federal relations, together with the specific formal framework and its typical pathologies, will structure the dominant issues and the discussions and ideas on reform. Taken together, they filter exogenous pressures such as economic crisis, supranational influences, or paradigmatic changes of policy or institutional ideas. For example, more centrifugal federal relations will produce different patterns of support and opposition or veto toward specific federal policies that would endanger the power position of sub-national actors. A type of party competition that is mainly based on territorial issues and conflict lines among state-wide and regional parties will set the incentives that shape

parties' and voters' choice of venue for political organization and cognitive orientations. One such consequence could be an increased push toward voting for regional parties and advocating decentralization policies (see Thorlakson, Chapter 11, this volume).

The extent of self-reinforcement or instability produced by the congruence between the formal framework and the federal relations will also have an influence on the type and scope of change. The mechanisms that explain the influence of this characteristic are manifold. First, there is the mechanism of positive or negative feedback or the tendency to certain equilibrium between the formal framework and the federal relations. The greater the incongruence is between the structure and the process (more or less integrated frame and more or less centripetal or centrifugal relations), the more unstable the system will be while pressure for change will increase. Conversely, the higher the self-reinforcement or congruence between the formal framework and federal relations is, the more likely the persistence or reproduction of the formal framework becomes. The incongruence between formal and process aspects will lead to greater pressures for change, since federal relations will either tend to compensate or seek to neutralize the effects of the formal framework and vice versa.¹²

It could be assumed that in the two varieties of federalism where there is incongruence between the formal framework and the federal relations (that is, the "balance" variety and the "accommodation" variety), we may predict structural tensions between formal institutions and processes to compensate for the imbalance, in one of them toward centralization (the balance type), and in the other toward decentralization (the "accommodation" type). In both self-reinforcing varieties, a positive feedback in the same direction of the system can be predicted, toward more integration in the unitary variety and to further segmentation in the segmented variety.

Second, each of the varieties of federation will respond to different societal pressures and different structures of opportunities for formal reform. Consequently, they each tend to utilize different mechanisms of implicit or explicit constitutional change, from formal constitutional policy-making, intergovernmental competition, and/or "paradigmatic" shifts in constitutional ideas and values, to "implicit" change of intergovernmental rules or change in legal interpretation.¹³ Here we may posit another mechanism at work, namely formalization or subsequent constitutionalization of informal or implicit changes. Furthermore, we can assume that more self-reinforcing

¹² For a similar argument but based, not on the characteristics of process as such but rather on cultural characteristics of society such as language, see Erk and Koning (2010).

¹³ For a recent discussion of different types and mechanisms of change and evolution of federal systems, see Benz (2011) and Benz and Colino (2011).

varieties of federalism will tend to first experience informal change coming from federal relations that seek to compensate for the probable persistence of the formal framework. The formal framework will normally change through reforms aimed at formalizing the previously manifest and consolidated informal change. In unstable systems formal change will be attempted from time to time in order to achieve closer congruence between the formal frame and federal relations, and thus formal change will usually precede informal changes, which may come about at a later point.

3.7 Conclusion

This chapter's main objective was to contribute to the discussion of federal dynamics, its sources, mechanisms, and consequences by highlighting the need and relevance of a new typology. To do this, it outlined several theoretical implications concerning the importance of different varieties of federalism in the propensities and kind of change and dynamics that various federations may experience.

Based on the critique of some previously existing typologies, I have proposed a fourfold typology of ideal-typical varieties of federalism, namely: balanced, unitary, segmented, and accommodation. These types are characterized by specific institutional configurations as well as process of interaction and have particular institutional complementarities, reflecting different degrees of integration and centripetality. Then, on the basis of their characteristics, I have posited several plausible effects of their configurations on the type and scope of change and reform they may generate. Of course, much more work is needed in order to substantiate empirically many of these propositions with reference to the institutions and operation of several real-existing federations. In turn, the framework laid out above will hopefully represent a useful framework for future research on federal dynamics.

References

- Amable, Bruno (2003), *The Diversity of Modern Capitalism* (New York: Oxford University Press).
- Aroney, Nicholas (2009), *The Constitution of a Federal Commonwealth: The Making and Meaning of the Australian Constitution* (New York: Cambridge University Press).
- Baldi, Brunetta (1999), "Beyond the federal-unitary dichotomy," Working Paper 99-7, Institute of Governmental Studies, University of California, Berkeley, CA.
- Becker, Uwe (2009), *Open Varieties of Capitalism: Continuity, Change and Performances* (Basingstoke: Palgrave Macmillan).

- Benz, Arthur (2003a), "Föderalismus und Demokratie. Eine Untersuchung zum Zusammenwirken zweier Verfassungsprinzipien," *Polis-Heft*, 57/2003 (Hagen: FernUniversität Institute for Political Science).
- (2003b), "Konstruktive Vetospieler in Mehrebenensystemen," in Renate Mayntz and Wolfgang Streeck (eds.), *Die Reformierbarkeit der Demokratie. Innovationen und Blockaden* (Frankfurt a. M./New York: Campus), 205–36.
- (2004), "Institutionelle Regime in Bundesstaaten und in der Europäischen Union," in Stefan Marschall and Christoph Strünck (eds.), *Grenzenlose Macht? Politik und Politikwissenschaft im Umbruch, Festschrift für Ulrich von Alemann* (Baden-Baden: Nomos), 173–92.
- (2011), "Das Zusammenspiel der Ebenen beim expliziten und impliziten Verfassungswandel," in Christoph Hönnige, Sascha Kneip, and Astrid Lorenz (eds.), *Verfassungswandel im Mehrebenensystem* (Wiesbaden: VS Verlag für Sozialwissenschaften), 21–40.
- Benz, Arthur and Colino, César (2011), "Constitutional change in federations: A framework for analysis," *Regional & Federal Studies*, Special Issue "Federalism and Constitutional Change: Theoretical and Comparative Perspectives" 21 (4–5), 377–402.
- Börzel, Tanja. A. and Hosli, Madeleine. O. (2003), "Brussels between Bern and Berlin: Comparative federalism meets the European Union," *Governance: An International Journal of Policy and Administration* 16 (2), 179–202.
- Braun, Dietmar (2002a), "Hat die vergleichende Föderalismusforschung eine Zukunft?" in Europäisches Zentrum für Föderalismus-Forschung Tübingen (ed.), *Jahrbuch des Föderalismus 2002. Föderalismus, Subsidiarität und Regionen in Europa* (Baden-Baden: Nomos), 97–115.
- (2002b), "Reform- und Entscheidungsblockaden des schweizer Föderalismus im Vergleich zu Deutschland," in Uwe Wagschal and Hans Rentsch (eds.), *Der Preis des Föderalismus* (Zürich: Orell Füssli), 319–35.
- (2011), "How centralized federations avoid over-centralization," *Regional & Federal Studies* 21 (1), 35–54.
- Braun, Dietmar, Wälti, Sonja, Bullinger, Anne-Béatrice, and Ayrton, Robert (2003), *Fiscal Policies in Federal States* (Aldershot: Ashgate).
- Broschek, Jörg (2009), *Der kanadische Föderalismus. Eine historisch-institutionalistische Analyse* (Wiesbaden: VS Verlag für Sozialwissenschaften).
- (2010a), "Critical junctures, path dependence and the varieties of federalism," Paper presented at the CPSA Annual General Meeting 2010, Concordia University, June 1–3, 2010.
- (2010b), "Federalism and political change: Canada and Germany in historical-institutionalist perspective," *Canadian Journal of Political Science* 43 (1), 1–24.
- Broschek, Jörg and Schultze, Rainer-Olaf (2003), "Föderalismus in Kanada: Pfadabhängigkeiten und Entwicklungswege," in Europäisches Zentrum für Föderalismus-Forschung (ed.), *Jahrbuch des Föderalismus 2003. Föderalismus, Subsidiarität und Regionen in Europa* (Baden-Baden: Nomos), 333–66.
- Burgess, Michael and Pinder, John (eds.) (2007), *Multinational Federations* (London: Routledge).

- Colino, César (2010), "Understanding federal change: Types of federalism and institutional evolution in the Spanish and German federal systems," in Jan Erk and Wilfried Swenden (eds.), *New Directions in Federalism Studies* (London: Routledge, ECPR Studies in European Political Science), 16–33.
- Collier, David, LaPorte, Jody, and Seawright, Jason (2008), "Typologies: Forming concepts and creating categorical variables," in Janet M. Box-Steffensmeier, Henry E. Brady, and David Collier (eds.), *The Oxford Handbook of Political Methodology* (New York: Oxford University Press), 152–74.
- De Raadt, Jasper (2009), "Contestable constitutions: Ambiguity, conflict, and change in East Central European dual executive systems," *Communist and Post-Communist Studies*, 42 (1), 83–101.
- Elazar, Daniel J. (1987), *Exploring Federalism* (Tuscaloosa: University of Alabama Press).
- Erk, Jan (2008), *Explaining Federalism: State, Society and Congruence in Austria, Belgium, Canada, Germany and Switzerland* (London: Routledge).
- Erk, Jan and Koning, Edward (2010), "New structuralism and institutional change: Federalism between centralization and decentralization," *Comparative Political Studies* 43 (3), 353–78
- Falleti, Tulia (2010), *Decentralization and Subnational Politics in Latin America* (Cambridge: Cambridge University Press).
- Gordin, Jorge P. (2009), "The politics of fiscal decentralization revisited: A typology and comparative evidence," *Fédéralisme Régionalisme* 9 (2), <http://popups.ulg.ac.be/federalisme/document.php?id=839>
- Grande, Edgar (2002), "Parteiensystem und Föderalismus: Institutionelle Strukturmuster und Politische Dynamiken im internationalen Vergleich," in Arthur Benz and Gerhard Lehmbuch (eds.), *Föderalismus. Analysen in entwicklungsgeschichtlicher und vergleichender Perspektive, Politische Vierteljahresschrift, Sonderheft 32/2001* (Wiesbaden: Westdeutscher Verlag), 179–212.
- Hall, Peter A. and Soskice, David (2001), *Varieties of Capitalism: The Institutional Foundations of Comparative Advantage* (Oxford/New York: Oxford University Press).
- Hall, Peter A. and Thelen, Kathleen (2009), "Institutional change in varieties of capitalism," *Socio-Economic Review* 7 (7), 7–34.
- Hueglin, Thomas and Fenna, Alan (2006), *Comparative Federalism: A Systematic Inquiry* (Peterborough: Broadview Press).
- Kelemen, R. Daniel (2004), *The Rules of Federalism: Institutions and Regulatory Politics in the EU and Beyond* (Cambridge, MA: Harvard University Press).
- Kymlicka, Will (2006), "Emerging models of multinational federalism: Are they relevant for Africa?" in David Turton (ed.), *Ethnic Federalism: The Ethiopian Experience in Comparative Perspective* (Oxford: James Currey), 32–64.
- Lehmbuch, Gerhard (2000), "Pfadabhängigkeit und Veränderungsspielräume im deutschen Föderalismus," in Europäisches Zentrum für Föderalismus-Forschung (EZFF) (ed.), *Jahrbuch des Föderalismus 2000. Föderalismus, Subsidiarität und Regionen in Europa* (Baden-Baden: Nomos Verlag), 71–93.
- (2002), "Der unitarische Bundesstaat in Deutschland: Pfadabhängigkeit und Wandel," in Arthur Benz and Gerhard Lehmbuch (eds.), *Föderalismus. Analysen in entwicklungsgeschichtlicher und vergleichender Perspektive, Politische Vierteljahresschrift, Sonderheft 32/2001* (Wiesbaden: Westdeutscher Verlag), 53–110.

- Lijphart, Arendt (1999), *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries* (New Haven: Yale University Press).
- Linz, Juan J. (1999), "Democracia, multinacionalismo y federalismo," *Revista Española de Ciencia Política* 1 (1), 7–40.
- Noël, Alain (2004), "Introduction: Varieties of capitalism, varieties of federalism," in Alain Noël (ed.), *Federalism and Labour market Policy: Comparing Different Governance and Employment Strategies* (Montreal and Kingston: McGill-Queen's University Press), 1–23.
- Norman, Wayne (2006), *Negotiating Nationalism: Nation-building, Federalism, and Secession in the Multinational State* (Oxford: Oxford University Press).
- Painter, Martin (1991), "Intergovernmental relations in Canada: An institutional analysis," *Canadian Journal of Political Science* 24 (2), 269–89.
- Palier, Bruno (2010), "Ordering change: Understanding the 'Bismarckian' welfare reform trajectory," in Bruno Palier (ed.), *A Long Goodbye to Bismarck? The Politics of Welfare Reforms in Continental Europe* (Amsterdam: Amsterdam University Press), 19–44.
- Pierson, Paul (1996), "The path to European integration: A historical institutionalist analysis," *Comparative Political Studies* 29 (2), 123–63.
- Pollitt, Christopher and Bouckaert, Geert (2011), *Public Management Reform: A Comparative Analysis. New Public Management, Governance, and the Neo-weberian State* (Oxford: Oxford University Press).
- Roeder, Philip G. (2007), *Where Nation-States Come From: Institutional Change in the Age of Nationalism* (Princeton: Princeton University Press).
- Scharpf, Fritz W. (1995), "Federal arrangements and multi-party systems," *Australian Journal of Political Science*, Special Issue 30, 27–39.
- Schultze, Rainer-Olaf (1990), "Föderalismus als Alternative? Überlegungen zur territorialen Reorganisation von Herrschaft," *Zeitschrift für Parlamentsfragen* 21 (3), 475–90.
- Simeon, Richard (1998), "Considerations on the design of federations: The South African Constitution in comparative perspective," *SA Public Law* 13 (1), 42–72.
- (2001), "Adaptability and change in federations," *International Social Science Journal* 53 (1), 145–52.
- Stepan, Alfred (2001), "Toward a new comparative politics of federalism, (multi)nationalism, and democracy: Beyond Rikerian federalism," in Alfred Stepan (ed.), *Arguing Comparative Politics* (Oxford: Oxford University Press), 315–61.
- Théret, Bruno (2005), "Du principe fédéral à une typologie des fédérations. Quelques propositions," in Jean-Francois Gaudreault-Desbiens and Fabien Gélinas (eds.), *Le fédéralisme dans tous ses états. Gouvernance, identité et méthodologie* (Brussels and Montréal: Bruylant and Carswell).
- Verney, Douglas V. (2002), "Choosing a federal form of governance for Europe," in Andreas Heinemann-Grüder (ed.), *Federalism Doomed? European Federalism between Integration and Separation* (New York/Oxford: Berghahn Books), 17–37.
- Watts, Ronald L. (2002), "Federal evolution: The Canadian experience," in Arthur Benz and Gerhard Lehmann (eds.), *Föderalismus, Analysen in entwicklungsgeschichtlicher und vergleichender Perspektive, Politische Vierteljahresschrift, Sonderheft 32/2001* (Wiesbaden: Westdeutscher Verlag), 157–76.

4

Dimensions and dynamics of federal regimes

*Arthur Benz**

4.1 Introduction

Federal systems express political bargains creating compound structures. In democratic federations they combine governments and bureaucracies on different levels, thus constituting multiple checks and balances in a structure differentiated along territorial and functional lines. Regarding this complexity, theorists have always spelled out the challenges of governance in federal systems (Tocqueville 1987: 239) and the problem of keeping the balance of powers (Riker 1964). Others have considered federalism as process, determined to continuously accommodate unity and diversity (Friedrich 1968).

Usually, when scholars characterized federalism as dynamic, they either intended to describe reality or referred to problematic consequences and made recommendations on how to cope with dynamics. Rarely have scholars provided a theory explaining the mechanisms causing dynamics or revealing the driving forces. William Livingston (1956), for example, regarded federalism as a constitutional framework that is continuously affected by change in society, but he never clearly explained how social change caused federal dynamics. William Riker (1964) was the first to suggest an approach which revealed causal mechanisms. He saw federal systems determined by a power game among rational actors. This approach was recently revived in rational choice theories on federalism (Filippov et al. 2004). In a different way, dynamics of federalism has been accounted for in historical approaches elaborated to understand the evolution and change of institutions (Broschek 2010).

* This chapter has benefited greatly from suggestions and comments by Jörg Broschek, Fritz W. Scharpf, and Campbell Sharman. Moreover, discussions with participants of two workshops in Hagen (May 6–8, 2010) and Darmstadt (June 3–4, 2011) helped me to clarify the analysis.

These approaches have their strength and limits. By focusing on a micro-level analysis of actors, interaction, and decision-making, rational choice theories can identify motivations, preferences and powers of actors to advance or prevent change in federal systems. However, they often neglect particular patterns of interaction or institutional constraints. Moreover, they illuminate decisions and outcomes of specific processes, but do not cover developments over a longer timespan. Historical institutionalism considers politics in and through time; that is, it takes into account historical situations and long-term developments. Moreover, it puts emphasis on the effects of institutions. But while this approach may produce good analytical descriptions of historical processes, it tends to overestimate institutional constraints. Hence the theory explains continuity rather than change (Mahoney and Thelen 2010: 6). Finally, both approaches also draw attention to internal structures and processes and disregard the influence of society. Jan Erk's (2008) work has contributed to fill this gap in theorizing on federalism. However, as important as those factors may be, his emphasis on linguistic and cultural diversity underrates the impact of economic development and change in political cleavages.

In the following sections, I suggest combining historical and actor-centered institutionalism with a society-centered perspective in order to explain dynamics of federal institution and politics. This chapter in particular intends to explain the evolution, continuity, and change of different models and varieties of federalism. In contrast to the two previous articles, I try to understand how patterns and mechanisms of dynamics have an impact on institutions of federalism, or, to be more precise, on the particular structures of "federal regimes." Following Jörg Broschek (2009: 19), I use the concept of federal regimes to describe the multidimensional character of federalism, including institutional settings, actor constellations, and societal embedding. In order to understand how these regimes evolve, I look at historical sequences of state formation, nation building, and democratization, on mechanisms of state–society relations, and on patterns of constitutional policy. As it is not the aim of this chapter to explain particular cases, it is not necessary to include all potentially relevant variables or conditions. My focus is on mechanisms of dynamics and their impact on institutions. These mechanisms interact, and it is their interplay which makes up a particular regime type. Moreover, as will be explicated in the following sections, dynamics of federalism should not be conceived as a linear trend, moving in one direction or another. Rather, they are part of a complex process driven by different trends, simultaneously causing continuity and change, affecting different institutional dimensions in various ways, combining to different sequences with effects differing over time.

4.2 Federal Regimes and Contradictory Institutionalization

According to the standard definition, federalism is a pragmatic principle for organizing politics, which aims at dividing power between levels of governments, and at enabling shared rule for common purposes. This definition emphasizes the territorial structure of a polity, the vertical allocation of powers to different levels, and the independent or coordinated application of powers by governments who are formally autonomous. Federalism constitutes a political society either in one nation or encompassing diverse nations. Usually, definitions of federalism do not include the internal organization of governments forming a federal system, although it is acknowledged that it makes a difference. Thus federalism can coexist with both democratic and autocratic regimes. This intra-jurisdictional dimension—or institutional “layer” (Streeck and Thelen 2005)—is particularly relevant in democratic federations. As the founders of the American federal constitution had clearly expressed, federalism entails an “intergovernmental” dimension of divided powers in a compound republic, in addition to the limitation of government by a division between legislative, executive, and judiciary institutions. This multidimensional structure constitutes the particular complexity of federal regimes.

As a constitutional form of a state, federalism is determined to balance centralization and decentralization of powers as well as self-rule and shared rule. Constitutional decisions on the structure of a federation reflect a political “bargain” (Riker 1964), which has to accommodate conflicting interests and principles and can be guided, but not determined, by normative reasons. In democratic federations, decisions on decentralization and centralization are often based on ambivalent reasoning. Democracy stipulates equality among individual citizens, but also requires acknowledging minority rights of territorially organized communities. Therefore, democratic federations are confronted with “a continual tension between persons and places” (Kincaid 2002: 134). The principle of equality of citizens vested with individual rights tends to require uniform decisions and justifies centralization of power. Hence liberal democracy appears to conflict with federalism which aims at decentralization and self-rule of lower level governments. However, citizens’ participation in democratic processes can be improved by decentralization of power, not least in multilingual states.

As a principle for integrating society, federalism aims at supporting the plurality of societal interests and at protecting minorities concentrated in territories. In modern societies, political structuring of interests can interfere with the allocation of powers in federal systems. Societies dominated by class conflicts, expanding markets, or functional differentiation tend to cause centralization of power, whereas they contradict the existence of regional communities

in a decentralized federation (Laski 2005 [1939]). On the other hand, the rise of a new regionalism with territorial variation of economic and social structures and assertive sub-state nationalism challenges centralization of power and shared rule in federalism (Keating 2001). Decentralization and self-rule enables groups to pursue their particular common goals, thus constituting a “demos-enabling” federalism (Stepan 1999), while it limits opportunities to deal with problems requiring coordination across boundaries of jurisdictions and between levels.

The organization of democracy not only increases the complexity of institutions in federal systems, it also creates an additional “contradictory potential of institutions” (Onoma 2010: 65). A democratic government is founded on sharing of power between citizens and their representatives in public offices; rules of democracy divide powers of executive and legislative institutions, and bind them to law interpreted by court decision in case of dispute. Thus democracy requires a differentiated structure of powers to set the public agenda, to make laws and to implement laws by actors who are accountable to citizens. The territorial division and sharing of powers between levels of government can interfere with the “intra-governmental” checks and balances in democracy; for example, by extending the domain of executives or courts. Tensions may vary with the particular patterns of democracy and federalism, but cannot be avoided entirely by constitutional design.

It could be assumed that, in the long term, institutional reforms and evolution of federalism tend to decrease these tensions by mutually adjusting the allocation of powers, the intergovernmental organization, and patterns of intra-jurisdictional democracy. However, as historical institutionalism explains, these tensions persist for two reasons. First, institutional components of federal systems are often created at different times and are influenced by varying historical “legacies.” Even in times of system transformation, when all components of a political system are formed or amended at the same time, decisions on federalism and democratic institutions are regularly influenced by ideas emerging from particular contexts. For these reasons, we cannot expect a coherent institutional design of a compound political system. Rather federal constitutions entrench compromises on rules and the allocation of powers to different groups of actors. More often than not, these compromises establish conflicting mechanisms of collective action in multidimensional institutional structures.

Second, the inertia of the different institutional components of democratic federalism varies. The relevance of shared rule and self-rule usually is determined by constitutional law. Nevertheless, effective intergovernmental relations are continuously adjusted according to functional needs of coordination and according to interests of executives and other actors to cooperate (Bolleyer 2009). Dynamics of power structures are limited by constitutional rules, as

well. To a certain extent, the degree of centralization or decentralization can be adjusted through normal policy-making means and is subject to tendencies of “authority migration” (Bednar 2004), but effective change requires a renegotiation of the federal compact. Barring exceptional circumstances, these negotiations are doomed to fail due to incompatible interests of actors and high decision costs causing more or less constitutional rigidity. And yet attempts to amend federal constitutions end up succeeding more often than one would otherwise expect. In contrast, patterns of democracy are rather stable since they are based on a particular combination of political structuring of societies and an institutional compromise that balances majority with minority rights and effective governance with stability of government. Any change to these structures turns out a zero-sum game.

Thus federal regimes combine patterns of multilevel institutions of a territorial state and patterns of democracy in more or less integrated or divided societies. The tensions built into these regimes are a source of dynamics since stability, effectiveness, and legitimacy can only be maintained by continuous flexibility and change. The particular constellation of a federal regime results from mechanisms outlined in the ensuing sections.

4.3 Sequential Institutionalization

Given the asynchrony of historical development and the varying inertia of institutions in democratic federalism, “politics in time” (Pierson 2004), that is, the sequence of change in the individual components, has a decisive impact on the structure of a federal regime. History matters insofar as the continuity of previously established structures constrains later change. Following Stefano Bartolini (2005), we can trace back the formation of a federal system to three macro-political developments:

- state building—that is, the drawing of territorial boundaries, the creation of governance capacities, and the concentration or division of powers,
- the integration of nations based on identities and/or solidarity among fellow citizens,
- the development of democratic structures and institutions.

For federalism, it makes a difference whether the state had been in place before processes of national integration or democratization commenced, or whether patterns of democracy had been determined before nations were formed or state capacities were established and organized. The two models distinguished by Thomas Hueglin (in this volume) are a consequence of particular histories. The model of US federalism is determined by early democratization and national integration before state capacities evolved. In contrast, the model

of treaty federalism with sharing of powers and council governance is based on earlier state formation and later national integration. The timing of nation building and democratization apparently shapes federal regimes, too, and causes tensions and variations. A few examples should illustrate this reasoning.

A first sequence shaped federalism in continental Europe, where state building preceded processes of national integration and democratization. Nonetheless we find different sequences. In states like Belgium and Spain, for instance, democratization of a centralized unitary state revealed the fragility of unfinished national integration, which led to a revival of regional nationalism and decentralization. German federalism evolved in a sequence of decentralized state building, followed by the formation of a united nation before democratization became effective. Contrasting the history of federalism in North America, this case is particularly instructive.

After the decline of the feudal order, the German Empire was territorially fragmented since rulers of cities and principalities successfully impeded a centralization power. When during the nineteenth century, the German nation state was created, this was a unification of established states with a fully developed administration. As the powerful state governments were unwilling to surrender their power to a federation, unification did not overturn administrative decentralization. In the federal bargain, the states (*Länder*) retained executive powers including rights to implement federal laws, but also achieved veto powers in federal-level legislation via the Federal Council, the *Bundesrat* (Ziblatt 2006).

The German unification of 1871 was driven by nationalist ideas, especially by the assumption of a common German culture. However, effective national integration was fostered by the Bismarck government's efforts to manage class conflicts by welfare provisions. While the system of universal male suffrage divided the nation along class lines and failed to generate a wider sense of community due to the continuation of rather autocratic rule, social insurance managed to link Germans by solidarity. These policies, as well as economic regulation and large-scale infrastructure provided by the state, required uniform legislation in order to regulate fiscal contributions of employers and employees. Nonetheless, administrative capacities remained decentralized. The resulting functional division of competences and shared rule has persisted until the present.

Democratization started during the early twentieth century in Germany, but it was not until the Weimar Republic established after World War I that a parliamentary system came into existence in federal and *Länder* governments. During this period, the War and the ensuing international conflicts reinforced national integration, but internally the political cleavages of the industrialization era prevailed. After World War II, parliamentary democracy was

re-established with these political structures persisting. While regional differentiation diminished, the left–right division dominated in the parliamentary system. The intended system of federal-level representation of regional interests via *Länder* governments in the *Bundesrat* has been increasingly shaped by cross-cutting party politics. Since the 1970s, German voters have tended to use *Länder* elections in order to strengthen the opposition in the federal parliament via the *Bundesrat*. As a consequence confrontation between parties has overshadowed federal–*Länder* negotiation in legislation, and has turned intergovernmental relations into “antagonistic cooperation” (Scharpf 1989).

At the end of this sequential development, German federalism could be characterized as a political system which combines three—at times contradictory—patterns of politics. First, due to the functional division of powers between centralized legislation and decentralized administration, many policies require “joint decision-making” of federal and *Länder* governments. Second, national integration has created a centralized and integrated political organization of society (Katzenstein 1987). Third, in parliamentary democracy, actors involved in joint decision-making represent political parties competing for votes at both levels of government (Lehmbruch 2000). In a nutshell, German federalism aims at both decentralization and nationwide coordination in compulsory intergovernmental negotiations among competitive actors.

The evolution of federalism in the US took a quite different route. Here, the democratic revolution preceded the development of a modern state with its administrative capacities. Federalism aimed at supporting liberal democracy by dividing powers in order to limit government. Hence party politics was organized in the constituent states. One of the consequences of decentralized democracy was that the deep conflict on slavery could not be settled by, but rather was entrenched in the federal structures. The “People” who established the Constitution did not really share a common identity as one nation. The conflict over States’ rights and federal constitutional supremacy was settled by force in the Civil War. Since then, the constitution and liberal democracy have facilitated the integration of the nation. The war also resulted in a significant step toward reinforcing the central state (Skowronek 1982). A second period of state building set off with the New Deal reforms of the 1930s, laying the foundation for the American type of welfare state.

During this period America saw a rise of intergovernmental relations and a shift of power from the elected legislatures to the executive and the courts. This development, however, had quite different consequences compared to what occurred in German federalism. Due to decentralization of party politics and the early entrenchment of a division of powers, intergovernmental relations

neither came into conflict with party competition, nor did the institutional setting bring about an arrangement of compulsory joint decision-making. American federalism was based on duality of federal and state democracies with the effect that coordination remained informal, flexible, and driven by functions, not by formal rules. Nonetheless, patterns of multilevel governance caused tensions with democratic processes. Encroachment by the federal government into states' and local autonomy was always contested. Attempts to expand state capacities continuously raised conflicts on the nature of federalism. Despite its constitutional rigidity, US federalism created variations of a particular model (Walker 1995).

The history of Canadian federalism also started with democratic governance, by a transfer of the British institutions of parliamentary democracy, at a time, when significant functions of the state were still either fulfilled by the British government or by private companies. State building set off with infrastructure policies and industrialization in the late nineteenth century. In contrast to the US history, Canadian federalism remained burdened by a territorial divide. One reason was the linguistic and cultural diversity between Anglophone Protestant provinces and the Francophone Catholic province of Quebec. In addition, the provinces, not central government started with welfare policies, and relations of solidarity now also separate Quebec and the "rest of Canada."

The Canadian model of federalism diverged from the American model by providing the central government with a stronger role which was reinforced during the period of state building.¹ As in the US, dual federalism turned into intergovernmental policy-making, initiated and led from the center. However, when Quebec nationalism emerged, it clashed with the Canada-wide patterns of governance.

Thus, federal regimes vary, but all reveal conflicts entrenched in structures. They can be traced back to an asynchronous evolution of specific institutional elements and institutional inertia. The constraining effects of established structures on later developments make sequences a mechanism of change. The resulting conflicts of structures constitute a source of dynamics on their own. They compel actors to cope with contradictory "rule systems" and allow political entrepreneurs to strategically modify rules (Sheingate 2010), as has been shown in studies on multilevel governance and policy-making (Benz 2009). Thus while changes in history become entrenched in institutions, institutions in turn cause dynamics of politics and policy-making.

¹ This is illustrated for instance by comparing Section 91 of the Constitution Act of Canada, which grants the federal government residual powers, with the 10th Amendment of the US Constitution, which reserves powers with the states.

4.4 Dynamics of State–Society Relations

A historical perspective reveals overlapping sequences of change and continuity causing incoherent evolution in the multidimensional structures of federal systems. By elucidating tensions, the inherent forces behind dynamics of federalism become apparent. Yet this should not lead us to neglect the impact of social change.

For a long time, sociological theories of state and federalism have emphasized the relevance of social change for understanding the institutions and operation of government. Theories following a Marxist tradition have regarded the state as dependent on resources of economic actors. Some scholars have applied this theoretical concept to the study of federalism (e.g. Stevenson 2004: 72–92). Other theories of federalism focus on the impact of culture and linguistic divides in societies (e.g. Livingston 1956; Erk 2008). Proponents of a state-centered and those of a society-centered view of federalism have disagreed on the direction of causality (Cairns 1977; Smiley 1984; Thorlakson 2003). While these theories mainly refer to determinants and do not exactly carve out the causes of structural effects, the society-centered view is also confronted with the problem that most theories of modern society have declared territorial differentiation obsolete. At the same time, we lack coherent and convincing explanations of rescaling and regionalization emphasized by recent sociological analyses.

To avoid these complications, we need to focus on mechanisms linking processes in society to territorial structures of a state. As to society, it is the dynamics of collective action rather than a given structure that is relevant. Such a theory can build on the work of Albert O. Hirschman. As outlined in his seminal book, people are linked to organizations by exit/entry, loyalty, and voice (Hirschman 1970). These modes of actions and their collective effects can be applied not only to firms and parties, but also to the state (Rokkan et al. 1999; Bartolini 2005): Exit/entry (or mobility of actors) transgresses territorial boundaries set by political systems and affects governance capacities of the state. It is driven by attempts of actors to exploit opportunities or reduce constraints and it accumulates to collective action by mutual adjustment in an “anarchic field” (Scharpf 1997: 98), or in competition for scarce resources. Individuals, who are willing to identify with others or to achieve common goods, are bound by loyalty to a group or to political leaders representing a group. Resulting from mutual adjustments of individual norms and values, and from communication among members of a group, loyalty is mainly supported by a joint vernacular or by affiliation to a religion or culture, even if individual decisions are not determined by these factors. Voice is expressed by actors who wish to pursue their interests in collective action. For this

purpose, actors have to organize, negotiate on a common interest, and select leaders who act for them in political processes. Clearly, these three mechanisms relate to changes in economy, culture, and party politics, thus covering three basic sectors of society. At the same time they allow us to understand how these changes affect federal dynamics.

Federal systems are affected by each of these three mechanisms of collective action. Increasing mobility determines the scope of societal activities and, as a consequence, of problems governments have to deal with. On the one hand, exits from and entries into a territory, regardless of whether real or perceived, may cause external effects which cannot be managed by decentralized government. On the other hand, mobile economic activities accumulate to regional clusters of production and strengthen the role of territorial governance. As a rule, mobility affects regions in different ways and causes fiscal imbalances in federal systems. Thus the effects of exit and entry can justify centralization or decentralization of powers. Usually, the contrasting shifts in boundaries of social spaces call for intergovernmental coordination, if not a reorganization of territories.

Closely connected to processes of exit and entry across territorial boundaries are changes in loyalties. For democratic systems, group loyalty constitutes a prerequisite of general support, which is essential for legitimizing redistributive decisions. The increasing mobility across political borders in a global society can reinforce or weaken particular identities of groups, depending on whether these processes result in social plurality in a particular territory or whether they give rise to defensive nationalism. Which effect prevails is determined by different conditions; in particular, the responsiveness of political leaders to loyalty claims. As a consequence, processes of changing loyalty can either support demands for uniform policies in a federal system or can give impulses to strengthen multinational federalism.

Finally, voice has effects on federal structures, mainly via the party system.² In order to win elections, parties focus on salient issues and allocate organizational resources onto the level where relevant powers are wielded (Chhibber and Kollman 2004). But parties also stand for particular collective goals of social groups and reflect social cleavages. If they organize class conflicts or functional differentiation, their structures cut across territorial differentiation in federalism. Parties can also organize interests of groups living in a specific region. Both patterns of political structuring can prevail in the same federal system. Therefore, we often find party systems which combine nationwide and regional parties (Hepburn 2009). Social change can alter the relative

² Structures of associations and patterns of interest intermediation have to be considered as well. However, in order to reduce complexity of the analysis, I focus on party politics.

Models, Varieties, and Dimensions of Federalism

strength of the parties, which in turn can shift the power balance in favor of one type of parties, with considerable impact on politics in federal systems.

So far, the theory describes mechanisms linking society and federalism in an abstract way (see Table 4.1). Rather than explaining the operation or development of a particular federal regime, it shows how society affects federal dynamics. In order to take into account spatial and temporal variations of federalism, we have to include effects resulting from institutional constraints and from historical legacies. Institutions define in particular territorial boundaries including their tightness or permeability, they set rules acknowledging distinct groups as “nations” as well as preventing or enabling groups to pursue particular aims and interests, and they establish rules of election and decision-making in democratic processes which influence the chances of parties to gain power and, as a consequence, changes of party systems.

Institutions cause path-dependence, but so do mechanisms of societal change. Actors moving between places and jurisdiction influence economic and social structures which determine future processes of exit and entry. Firms form clusters of production reducing transaction costs; declining regional economies induce firms to change their location to stronger regions; rural or peripheral areas suffer from emigration of younger people, leaving an aging population behind. Loyalty creates even more stable social structures due to the persistence of communities which are held together by language, beliefs, and values. These communities are reinforced by entries of persons who identify with distinct groups, while they discourage other individuals from seeking access. Political structuring is determined by the existing organization of parties and associations, which more often than not profit from support by governments or institutional rules. This way, cleavages in societies are “frozen” in party systems. These processes of self-reinforcement also help to solidify existing varieties of federalism.

However, state–society dynamics imply contradictory challenges and outcomes for federal regimes. The increasing territorial scope of economic and social problems in a globalized world goes along with regional differentiation of economies and societies. Hence mobility simultaneously calls for centralization and decentralization of powers. Open societies become more

Table 4.1. Mechanisms of state–society dynamics

Mechanism	Dynamics of society		Federal dynamics
	Driving force	Collective action	Impact on federal systems
<i>exit/entry</i>	search for options	accumulated individual action, competition	<i>scope of problems, redrawing of boundaries, fiscal balance</i>
<i>loyalty</i>	search for community	mutual adjustment, communication	<i>mononational or multinational federalism</i>
<i>voice</i>	pursuit of interests	negotiation, corporate action	<i>political cleavages, party system</i>

pluralistic in terms of norms and values; citizens develop multiple identities; in the “information society” they communicate across boundaries of nations and regions (Braman 2009: 117–166). But these changes also give rise to defensive reactions by nations and regional communities trying to maintain their distinct character. While governments have to pursue coordinated policies in larger areas, regional nationalism surfaces in some regions where communities claim minority rights or autonomy. These asymmetries are reflected in party systems, although issue specific, non-regionally based parties are on the rise, too.

When analyzing the effects of these mechanisms on federal dynamics, we have to distinguish between the dimensions of politics, policy, and polity. As Jan Erk (2008) has explained, the immediate effects of society on federalism concern politics and policy-making. They give rise to new conflicts among parties and interest groups, but also among governments of different levels. The need for central regulation and regional provision of public goods and services leads to tensions in intergovernmental politics, and so do demands for more regional autonomy or pressure from regionalist parties. In policy-making, these conflicts apparently find expression in “contested federalism” (Bakvis et al. 2009; Rabe 2011), that is, policy competition between federal and regional governments, and they are met by new arrangements of multilevel governance determined to cope with increasing interdependence between levels and territories. Despite calls for autonomy and separation of powers, various patterns of inter-jurisdictional coordination have mushroomed in all federal systems. Along with this trend, we observe a shift in power from parliaments to the executive and, in some federal systems, also to the courts. In contrast to politics and policy dynamics, institutional change does not necessarily occur, in particular since effects on different levels or arenas often increase conflicts in institutional policy, which in federal systems includes many veto players.

Nonetheless, many federal countries have reformed their constitutions, and numerous unitary states have taken the path of federalization during the last four decades (Marks et al. 2010). Many of these reforms have been induced by societal changes, which have reinforced contradictory effects of existing institutions. However, we should not assume a unidirectional causality. The mechanisms of federal dynamics described so far evolve in parallel to institutional reform, and reform and evolution interact in different ways, constituting varying patterns of institutional continuity and change in federal regimes.

4.5 Institutional Dynamics: Reform and Evolution

Structure-induced tensions in democratic federations and dynamics of society first and foremost have to be dealt with in multilevel policy-making. To a

certain extent, actors can manage conflicting requirements resulting from different rule systems in a “compound republic” and from shifts in scope of activities, loyalties, and political structuring. In the long run, these efforts generate standard procedures of decision-making and patterns of interaction which shape the operation of particular institutional constellations of federalism.

For German federalism, Fritz W. Scharpf and his research team (Scharpf et al. 1976; see also Scharpf 2009) have identified patterns of interaction and policy-making in federalism. In case studies on intergovernmental relations, they revealed how federal and *Länder* governments with support from competing parties come to decisions in areas where they are compelled to negotiate policies (“joint decision-making”). Under these conditions, governments tend to avoid redistributive issues and far-reaching policy changes. They prepare policies in informal negotiations, often by including experts, thus depoliticizing decisions (summarized in Kropp 2009). Moreover, governments often circumvent the dilemma of joint decision-making and accountability in parliament by going to the Constitutional Courts or by defining disputed issues as a matter of constitutional amendment. In both cases, policies are shifted to arenas shielded from intergovernmental bargaining or party politics.

Similar patterns of multilevel governance can be observed in other federations. In the US, sector-specific intergovernmental relations of bureaucrats and inter-state cooperation allow for coordination despite a separation of competences for interdependent policies. In Canada, bilateral intergovernmental accords and opt-outs by provinces from agreements are used to avoid deadlocks in the divided federation. Moreover, policies are shifted between the arena of constitutional politics and ordinary policy-making, with the first move increasing the pressure for an agreement while the second move can leave issues in abeyance or ambiguity (Painter 1991; Bakvis et al. 2009). During the last two decades, intergovernmental coordination between provinces gained in importance, while the federal government has increasingly tried to govern by setting standards, and by initiating policy transfers and competition for best practices.

By moderating conflicts entrenched in institutions, these patterns of governance make a federal system work. However, they regularly lead to incremental drifts of powers to the executives, to experts or to the courts, while institutional drifts caused by change in society mainly affect the balance of power between levels and structures of politics. At a certain point, these creeping changes provoke counter-reactions by those losing power. Therefore, the continuous change of governance in federal regimes from time to time calls for explicit institutional change, a revision of forms (that is, a reform), which often requires constitutional amendments. Analytically, institutional

or constitutional reform should not be defined as radical transformation and contrasted to gradual change. Most institutional amendments have limited structural effects, even if we also find substantial and far-reaching reforms. Moreover, it is often difficult to distinguish normal legislation and constitutional amendment if we consider the formal hierarchy of law. However, institutional reform requires an explicit modification in the frame of reference of policy-making which is based on a differentiation of policy-making and the rules that determine the former, or between governance and meta-governance. If actors refer to this frame and shift decisions to the meta-order, they set an agenda for institutional politics and explicitly negotiate on decision rules and on a reallocation of powers.

In view of the complexity of federal institutions and the ongoing change in the social context, agendas of institutional reforms necessarily are selective. Ambitious as they may be, reforms never address all institutional dimensions, but only partial elements of federal systems. One reason for this selectivity is the relative autonomy of the institutional layers which had evolved in different historical contexts. As for the rules determining the allocation of powers, the extent and institutionalization of shared rule and the pattern of democratic government, each of these “layers” of a federal system follows its own logic of change. Second, society develops incrementally, and its effects on federal structures do not become immediately visible, but unfold during the actual operation of a federal system (Erk 2008: 9). Moreover, as mentioned above, these effects may not concern all institutional dimensions and they can bring about contradictory challenges. Third, a reform agenda is negotiated by governments or parties in parliament. Usually, actors making first proposals determine the point of departure and the frame of reference of reform processes. They exploit their agenda-power defined by institutions and situations in order to pursue their particular interests rather than to achieve a common goal or to react to objective needs for change. Hence agenda-setters respond to pressure for reform in a selective way.

Agendas are not fixed during the reform process. They are extended or restricted, depending on the structure of negotiations and the impact of external events. Although they express collective ideas on institutions guiding reforms, actors’ interests are the main forces influencing their content and scope. Institutional constraints and interests raised in particular policy sectors contribute to how reform agendas are shaped. To what extent and in which direction they expand or contract is mainly dependent on how negotiations on institutional reform and policy-making in particular sectors interfere. If reform negotiations are clearly separated from arenas of ordinary intergovernmental relations or party politics, the agenda will probably remain stable. If these arenas overlap, agendas can be overloaded with particular issues or

narrowed down to what is achievable in light of veto powers and the selective attention of actors involved.

Regardless of the type of a federal system, negotiations on institutional change have to include all governments. Moreover, as no government can alter the form of federal institutions by autonomous decisions, change requires unanimous or nearly unanimous agreements. Only in rare cases can the federal government change the federal constitution against the will of lower-level governments. Thus the structure of governance in institutional policy corresponds to the model of “joint decision-making” (Scharpf 1997: 143); that is, multilateral compulsory negotiations in the shadow of intra-governmental democratic politics. Considering the fact that institutional reforms regularly imply a redistribution of power and resources, we have all reasons to expect marginal change at best, if not deadlock. Reform policies seem to be doomed to end in the “joint-decision trap” (Scharpf 1988).

This is obviously the case in US constitutional federalism, where change mainly results from reinterpretation of the constitution by government or the Supreme Court. In many other federal states, we find surprisingly high rates of constitutional change (Lorenz 2008: 26–7). Usually, only small amendments occur, but during the last decades, we have also observed a number of significant reforms (Behnke and Benz 2009). Patterns of constitutional change reveal the variety of federalism. Identity conflicts in multinational federalism are much more difficult to settle by constitutional change than attempts to reallocate powers in mono-nation states. Moreover, the separation of arenas of normal politics and constitutional politics and the sequential and functional differentiation of reform processes are a decisive factor for explaining the scope of change. It is not only the development of reform agendas, but also the mode of negotiations which is affected by this differentiation. If actors negotiating on institutional reforms act in the same context as they negotiate on day-to-day political conflicts, they tend toward bargaining behavior and convene, if at all, at the lowest common denominator. If negotiations on institutions take place in an arena shielded against interests and conflicts in the particular situation, actors are more likely to focus on institutional rules, to search for solutions of general governance problems and to cooperate in the “arguing” mode (Benz 2011).

The first pattern can be observed in the 2006 and 2009 reforms of German federalism. To negotiate the reform, federal and *Länder* governments set up a special joint committee of the federal parliament and the *Bundesrat*. What appeared as a new arena separating constitutional negotiations from normal legislation essentially institutionalized the usually informal patterns of federal-*Länder* politics and reflected the balance of power in parliament. As a consequence, coalitions of *Länder* governments and party coalitions tried to pursue their interests in bargaining processes. Moreover, experts from

bureaucracies had considerable influence on negotiations and introduced their particular issues. In this structure, the ambitious agenda of reform evolved in two directions: On the one hand, it was extended to particular policy issues requested by policy specialists of the federal government. These issues were included in detailed package deals. On the other hand, those proposals which did not find agreement in party coalitions or the coalition of the *Länder* governments were removed from the agenda. Therefore, issues of reallocation of taxation power and fiscal equalization had not been dealt with (Benz 2008; Scharpf 2009).

Federal reform in Switzerland, which started in 1993 and ended in 2004 with significant changes, revealed a different pattern of dynamics. At a glance the organization of constitutional negotiations mainly reflected the ordinary pattern of Swiss consensus democracy. A closer analysis uncovers a differentiated structure separating negotiations on basic principles from negotiations on the details of the reform. Moreover, neither parliaments nor the final veto-player, the Swiss population, directly participated in the reform process. Representatives of both parliaments and citizens had a say only when the basic elements of the amendment proposal had been set. As it turned out, the agenda, which at outset focused on fiscal grants, was extended and finally included the allocation of powers and rules for inter-cantonal cooperation. The comprehensive reform followed a coherent concept and finally passed parliaments and the obligatory referendum (Braun 2009; Freiburghaus 2012).

In Canada, the process ending with the Charlottetown Agreement started with an open agenda and deliberation in different arenas, including members of parliaments of all levels as well as civil society organizations and citizens in conferences, hearings, and other forms of communication (Stein 1997; Verrelli 2012). The issues raised and proposals made were finally dealt with in intergovernmental bargaining among heads of governments. The Accord on which governments agreed set a framework for a revised constitution. Again this case demonstrates the effects of differentiation of processes on the scope of a reform. However, it also illustrates the risk of failure, if actors elaborating a proposal have no power to control ratification, as is the case if a constitutional amendment has to pass a referendum. In Canada, the Charlottetown Accord did not find a majority in a consultative referendum after a campaign dominated by opponents of the reform revived the deep conflicts of a divided society.

But negotiated agreements among parties and governments may be implemented by “implicit constitutional change” (Voigt 1999: 145–76). The Canadian federal change probably reveals a pattern typical for multinational federal regimes (Lerner 2011). Here, governments implemented parts of the Charlottetown Accord in a “non-constitutional renewal” (Lazar 1997). With the basic conflict on the guiding idea of federalism left unresolved, important elements of the accord found their way into intergovernmental agreements,

resolutions of parliaments, or ordinary legislation. They are accepted under the condition that each parliament can at any time deviate from the preliminary consensus.

In general, institutional change never can be reduced to a single process which succeeds or fails. Rather it results from a sequence of passed and failed amendments with effective changes accumulating over time. Proposals which are not implemented in a reform usually re-emerge on the agenda of later reforms. In this process, informal rules, which have been practised for a long time, may eventually become entrenched in formal rules. Therefore, reforms are also embedded in a sequence of informal and formal change (Héritier 2007), or of implicit and explicit constitutional change (Behnke and Benz 2009).

These sequences evolve in the context of historical legacies of institutions and of social change, described in the previous sections. While institutional reform, that is, agenda-setting, negotiations, and ratification are determined by interests of actors, collective ideas, and institutional rules, the complex interplay of federal institutions and society mainly has an impact on the dynamics of institutional evolution. Economic consequences of globalization, rising demands for regional autonomy, and changes in cleavage structures reflected in party systems have been decisive forces that reform attempts respond to. They also influence guiding ideas of federalism. Institutional rules primarily determine how reforms proceed and how they end. But regardless of the results, mechanisms linking institutions to social change continue to affect federal dynamics. Thus, evolution modifies the conditions of a reform, which often builds on previously failed reform attempts or long-lasting discussions on institutional problems. Continuity of institutional structures goes hand in hand with discontinuity of conditions, and any discontinuity of reform sequences is often embedded in a continuity of incremental evolution.

4.6 Conclusion

The approach to federal dynamics outlined in this chapter aims at linking historical perspectives on institutional evolution with a theory of state–society dynamics and an actor-centered view on institutional policy. Although I have started with the historical approach, this chapter mainly intends to comprehend current dynamics of institutional reform and evolution. Therefore, I will sum up my arguments in a reverse order.

When trying to change institutions by reform, actors in federal systems have to manage redistributive conflicts on power and resources in processes of joint decision-making. The outcome of a reform is mainly influenced by decision rules defining who can set the agenda and who has veto power, and by the organization of the negotiation process. While decision rules are fixed

in constitutional law, negotiations can be organized in different ways, thus giving actors discretion to create more or less independent and differentiated arenas for institutional reform. To explain reform processes and their immediate result, these variables (conflicts of interest, agenda-setting and veto powers, patterns of negotiation) suggested by actor-centered institutionalism are necessary, although not always sufficient.

Beyond that, dynamics of federalism result from history and societal change. From a historical perspective, federalism constitutes a complex regime resulting from asynchronous processes of state formation, nation building, and democratization. Different institutional arenas evolved in different historical contexts, and the particular model or variety of a federal system is mainly determined by the sequence of development. The impact of social change can be explained by mechanisms linking actions with structure. For federal structures, actors' exit from and entry into territorial units, the evolution of loyalties to communities, and the organization of political parties to voice interests effectively are the most important causes and factors of change with regard to the effectiveness of territorial boundaries, the identification of citizens with regional or state-wide communities, and the relevance of territorial, functional or social structures of conflicts.

Given the multidimensionality of federal regimes and the diverging interests of actors in institutional politics, reform agendas and results of institutional reforms are always selective. They never transform the federal system on the whole. Therefore internal tensions and social processes continue to drive federal dynamics. Moreover, reforms never succeed or fail in total. Each reform builds on earlier discussions, proposals or partial changes. Sequences of reform are embedded in ongoing institutional evolution, affecting institutional policy in different ways. On the other hand, prevailing ideas or negotiated agreements resulting from reform processes influence the evolution of pattern of governance consolidated in standard operating procedures. This interplay and the sequential shifts between reform and evolution make up the patterns of continuity and change. They vary according to the different structures of federal regimes, which in turn result from historical developments and particular societal conditions.

References

- Bakvis, Herman, Baier, Gerald, and Brown, Douglas (2009), *Contested Federalism. Certainty and Ambiguity in the Canadian Federation* (Don Mills: Oxford University Press).
- Bartolini, Stefano (2005), *Restructuring Europe: Centre Formation, System Building and Political Structuring Between the Nation State and the European Union* (Oxford: Oxford University Press).

- Bednar, Jenna (2004), "Authority migration in federations: A framework for analysis," *PS: Politics & Political Science* 37 (3), 403–8.
- Behnke, Nathalie, and Benz, Arthur (2009), "The politics of constitutional change between reform and evolution," *Publius: The Journal of Federalism* 39 (2), 213–40.
- Benz, Arthur (2008), "From joint-decision traps to over-regulated federalism—Adverse effects of a successful constitutional reform," *German Politics* 17 (4), 440–56.
- (2009), *Politik in Mehrebenensystemen* (Wiesbaden: VS Verlag für Sozialwissenschaften).
- (2011), "Escaping joint-decision traps: National and supranational experiences compared," in Gerda Falkner (ed.), *The EU's Decision Traps: Comparing Policies* (Oxford: Oxford University Press), 199–216.
- Bolleyer, Nicole (2009), *Intergovernmental Cooperation: Rational Choices in Federal Systems and Beyond* (Oxford: Oxford University Press).
- Braman, Sandra (2009), *Change of State: Information, Policy, and Power* (Cambridge, MA: MIT Press).
- Braun, Dietmar (2009), "Constitutional change in Switzerland," *Publius: The Journal of Federalism* 39 (2), 314–40.
- Broschek, Jörg (2009), *Der kanadische Föderalismus. Eine historisch-institutionalistische Analyse* (Wiesbaden: VS Verlag für Sozialwissenschaften).
- (2010), "Federalism and political change: Canada and Germany in historical-institutionalist perspective," *Canadian Journal of Political Science* 43 (1), 1–24.
- Cairns, Alan C. (1977), "The governments and societies of Canadian federalism," *Canadian Journal of Political Science* 10, 695–726.
- Chhibber, Pradeep K. and Kollman, Ken (2004), *The Formation of National Party Systems: Federalism and Party Competition in Canada, Great Britain, India, and the United States* (Princeton: Princeton University Press).
- Erk, Jan (2008), *Explaining Federalism: State, Society and Congruence in Austria, Belgium, Canada, Germany and Switzerland* (London/New York: Routledge).
- Filippov, Mikhail, Ordeshook, Peter C., and Shvetsova, Olga (2004), *Designing Federalism: A Theory of Self-sustainable Federal Institutions* (New York: Cambridge University Press).
- Freiburghaus, Dieter (2012), "Swiss federalism, fiscal equalisation reform and the reallocation of tasks," in Arthur Benz and Felix Knüpling (eds.), *Changing Federal Constitutions. Lessons from International Comparison* (Opladen, Berlin, Toronto: Barbara Budrich Publishers), in print.
- Friedrich, Carl Joachim (1968), *Trends of Federalism in Theory and Practice* (New York: Praeger).
- Hepburn, Eve (ed.) (2009), "New challenges for stateless nationalist and regionalist parties," *Regional and Federal Studies*, Special Issue 19, 4–5.
- Héritier, Adrienne (2007), *Explaining Institutional Change in Europe* (Oxford: Oxford University Press).
- Hirschman, Albert O. (1970), *Exit, Voice, and Loyalty* (Cambridge, MA: Harvard University Press).
- Katzenstein, Peter J. (1987), *Policy and Politics in West Germany: The Growth of a Semi-sovereign state* (Philadelphia: Temple University Press).

- Keating, Michael (2001), *Nations Against the State: The New Politics of Nationalism in Quebec, Catalonia, and Scotland*. 2nd edition. (Houndmills, Basingstoke, Hampshire, New York: Palgrave Macmillan).
- Kincaid, John (2002), "Federalism in the U.S.: A continual tension between persons and places," in Arthur Benz and Gerhard Lehbruch (eds.), *Föderalismus: Analysen in entwicklungsgeschichtlicher und vergleichender Perspektive* (Wiesbaden: Westdeutscher Verlag), 134–56.
- Kropp, Sabine (2009), *Kooperativer Föderalismus und Politikverflechtung* (Wiesbaden: VS Verlag für Sozialwissenschaften).
- Laski, Harold (2005 [1939]), "The obsolescence of federalism," in Dimitrios Karmis and Norman Wayne (eds.), *Theories of Federalism: A Reader* (New York: Palgrave Macmillan), 193–205.
- Lazar, Harvey (1997), "Non-constitutional renewal: Towards a new equilibrium in the federation," in Harvey Lazar (ed.), *Non-Constitutional Renewal* (Kingston: Institute of Intergovernmental Relations), 3–35.
- Lehbruch, Gerhard (2000), *Parteienwettbewerb im Bundesstaat. Regelsysteme und Spannungslagen im Institutionengefüge der Bundesrepublik Deutschland* (Wiesbaden: Westdeutscher Verlag).
- Lerner, Hanna (2011), *Making Constitutions in Deeply Divided Societies* (Cambridge: Cambridge University Press).
- Livingston, William S. (1956), *Federalism and Constitutional Change* (Oxford: Clarendon Press).
- Lorenz, Astrid (2008), *Verfassungsänderungen in etablierten Demokratien. Motivlagen und Aushandlungsmuster* (Wiesbaden: VS Verlag für Sozialwissenschaften).
- Mahoney, James and Thelen, Kathleen (2010), "A theory of gradual institutional change," in James Mahoney and Kathleen Thelen (eds.), *Explaining Institutional Change: Ambiguity, Agency, and Power* (Cambridge: Cambridge University Press), 1–37.
- Marks, Gary, Hooghe, Liesbet, and Schakel, Arian H. (eds.) (2010), *The Rise of Regional Authority: A Comparative Study of 42 Democracies* (New York: Routledge Chapman & Hall).
- Onoma, Ato Kwamena (2010), "The contradictory potential of institutions: The rise and decline of land documentation in Kenya," in James Mahoney and Kathleen Thelen (eds.), *Explaining Institutional Change. Ambiguity, Agency, and Power* (Cambridge: Cambridge University Press), 63–93.
- Painter, Martin (1991), "Intergovernmental relations in Canada: An institutional analysis," *Canadian Journal of Political Science* 24 (2), 269–88.
- Pierson, Paul (2004), *Politics in Time: History, Institutions and Social Analysis* (Princeton/Oxford: Princeton University Press).
- Rabe, Barry (2011), "Contested federalism and American climate policy," *Publius: The Journal of Federalism* 41 (3), 494–521.
- Riker, William H. (1964), *Federalism: Origins, Operation, Significance*. (Boston/Toronto: Little Brown & Co).
- Rokkan, Stein, Flora, Peter, Kuhnle, Stein, and Urwin, Derek W. (1999), *State Formation, Nation-Building, and Mass Politics in Europe: The Theory of Stein Rokkan Based on His Collected Works* (Oxford: Oxford University Press).

- Scharpf, Fritz W. (1988), "The joint decision trap: Lessons from German federalism and European integration," *Public Administration* 66 (3), 239–78.
- (1989), In *Bundesrat und die Kooperation auf der "dritten Ebene,"* in *Bundesrat, 40 Jahre Bundesrat* (Baden-Baden: Nomos), 121–62.
- (1997), *Games Real Actors Play* (Boulder, CO: Westview Press).
- (2009), *Föderalismusreform. Kein Ausweg aus der Politikverflechtungsfalle?* (Frankfurt a.M./New York: Campus).
- Scharpf, Fritz W., Reissert, Bernd and Schnabel, Fritz (1976), *Politikverflechtung. Theorie und Empirie des kooperativen Föderalismus in der Bundesrepublik* (Kronberg/Ts.: Scriptor).
- Sheingate, Adam (2010), "Rethinking rules: Creativity and constraints in the U.S. House of Representatives," in James Mahoney and Kathleen Thelen (eds.), *Explaining Institutional Change: Ambiguity, Agency, and Power* (Cambridge: Cambridge University Press), 168–203.
- Skowronek, Stephen (1982), *Building a New American State: The Expansion of National Administrative Capacities, 1877–1920* (London: Cambridge University Press).
- Smiley, Donald (1984), "Federal states and federal societies, with special reference to Canada," *International Political Science Review* 5, 443–54.
- Stein, Michael (1997), "Improving the process of constitutional reform in Canada: Lessons from the Meech Lake and Charlottetown constitutional rounds," *Canadian Journal of Political Science* 30 (2), 307–38.
- Stepan, Alfred (1999), "Federalism and democracy: Beyond the U.S. model," *Journal of Democracy* 10 (4), 19–34.
- Stevenson, Garth (2004), *Unfulfilled Union: Canadian Federalism and National Unity* (Montreal/Kingston: McGill-Queen's University Press).
- Streeck, Wolfgang and Thelen, Kathleen (2005), "Introduction: Institutional change in advanced political economies," in Wolfgang Streeck and Kathleen Thelen (eds.), *Beyond Continuity: Institutional Change in Advanced Political Economies* (Oxford: Oxford University Press), 1–39.
- Thorlakson, Lori (2003), "Comparing federal institutions: Power and representation in six federations," *West European Politics* 26 (2), 1–22.
- Tocqueville, Alexis de (1987 [1835]), *Über die Demokratie in Amerika, Erster Teil* (Zürich: Manesse).
- Verrelli, Nadia (2012), "Negotiating the Charlottetown Accord in Canada," in Arthur Benz and Felix Knüpling (eds.), *Changing Federal Constitutions: Lessons from International Comparison* (Opladen, Berlin, Toronto: Barbara Budrich Publishers) 161–189.
- Voigt, Stefan (1999), *Explaining Constitutional Change: A Positive Economics Approach* (Cheltenham: Edward Elgar).
- Walker, David B. (1995), *The Rebirth of Federalism: Slouching toward Washington* (New Jersey: Chatham House).
- Ziblatt, Daniel (2006), *Structuring the State: The Formation of Italy and Germany and the Puzzle of Federalism* (Princeton/Oxford: Princeton University Press).

Part II

**Timing, Sequencing,
and Historical Evolution**

This page intentionally left blank

5

Between path dependence and gradual change: Historical institutionalism and the study of federal dynamics

*Jörg Broschek**

5.1 Introduction

This chapter sketches a framework for a historical-comparative analysis of federal dynamics. Being primarily concerned with the causal impact of temporality in politics, historical institutionalism most obviously speaks to the question of how federal systems evolve. So far, however, the “historical turn” in political science has only slowly found its way into the field of comparative federalism. Despite the recent growth of contributions in this field, there are still surprisingly few studies that apply analytical tools from the literature on historical institutionalism.¹ Given the peculiarities of federalism such as multidimensionality, small-N, complex institutional configurations, and the context-dependent diversity of federal trajectories, I suggest that historical institutionalism is particularly well suited for investigating continuity and change within federal systems.

Timing and sequencing are central concerns for historical-institutionalists. Almost inevitably, they direct our analytical focus on the causal relevance of early events for later developments, on the crystallization of history in institutionalized configurations of authority relationships, and on the regularities

* I am grateful to participants of the Workshops on “Federal Dynamics” at the FernUniversität in Hagen in 2010 and at the Technische Universität Darmstadt in 2011, who provoked stimulating and inspiring discussions. In addition, ideas developed in this chapter have benefited a great deal from the close collaboration and intellectual exchange with Arthur Benz over the last years. I would also like to thank Jared Sonnicksen for excellent comments and suggestions.

¹ There are of course exceptions, most notably Pierson (1995); Benz (2002); Lehbruch (2002); Falleti (2005, 2010); Johnson (2006); Ziblatt (2006); Broschek (2009, 2011, 2012).

behind varying, “slow-moving” developmental patterns. Accordingly, historical institutionalism lends itself well to addressing two important questions which are of great importance for our understanding of federal dynamics. The first question refers to the origins of federal systems. *Why and how does federalism take root instead of a unitary system?* The second question is concerned with the evolution of federal systems. *What are the typical patterns of continuity and change within federal systems and how can their prevalence be explained?*

From the viewpoint of path dependence, which arguably is the most prominent tool within the burgeoning literature of historical institutionalism, both questions are inexorably linked. Path dependence emphasizes that early events causally influence later developments (Pierson 2004). The origins of federal systems, therefore, set the stage for their historical evolution. As I argue in this chapter, the impact of sequencing is twofold. First, if a critical juncture produces a federal outcome, this outcome is likely to become subject to self-reinforcement. Path dependence provides that the institutional foundations of a federal order are reproduced over time and defines the basic parameters of the federal trajectory. Second, depending on what type of federal system emerges from a critical juncture, we are also likely to observe different patterns of gradual change within their overarching institutional pathway. Federal dynamics, in short, can best be captured as dual processes of path-dependent reproduction and gradual change (for a similar argument, see Johnson 2006). Entrepreneurial agents, most notably federal governments, constituent units, or political parties, frequently attempt to alter the status quo and push federal systems in new directions. However, they do not act in a historical vacuum. Rather, they are always situated in a historically constructed institutional configuration that is already in place. In some cases, entrepreneurial agents find themselves in a setting that allows them to make use of exit options so as to further enhance autonomy and expand their capacities to act somewhat independently from each other. In other cases, such an exit option is not available. Entrepreneurial agents are then forced to rely on voice-channels and negotiate whether and how change can be pursued. Uncovering how the federal institutional “meta-path” is historically preset, that is, how it combines and reproduces constraining and enabling institutional elements, can thus help to explain how federal systems exhibit different dynamics over time. In other words, it is the historically constructed degree of institutional rigidity built into the basic federal institutional arrangements that shapes the prevalence of certain patterns of gradual adaptation.

The theoretical literature on gradual change, therefore, represents an important complement to arguments stressing critical junctures and path dependence. As will be shown, this literature not only provides us with

valuable tools to explore how federal systems evolve within their path-dependent trajectory, but it also sheds light on how federal systems can develop gradually in the absence of abrupt and order-shattering critical junctures.

The article is divided into four sections. The first section introduces two variants of historical institutionalism and shows how both can contribute to tackling the question of federal dynamics. In the second section, I discuss how each approach can inject fresh impetus into the debate on the origins of federalism. The third section then illustrates their respective contribution to the study of the long-term evolution of federal systems. Building on these insights, the fourth part of the chapter sets out to sketch a conceptual framework for the study of federal dynamics from a historical perspective.

5.2 Federal Dynamics: Historical-institutionalist Perspectives

Even though historical institutionalism rests on a macro- rather than a micro-foundation, historically minded political scientists hardly deny that only actors can bring about political change. Such entrepreneurial agents who push for change as well as those who try to defend their institutional advantage do, however, operate both in an institutional and ideological environment that is historically pre-established. The world, as Stephen Skowronek (1982: p. ix) has put it, is always already institutionalized. Political struggles which might generate change are rooted in and mediated through historically constructed institutional arrangements. Analyzing continuity and change in federal systems at any given point t_x in time thus presupposes the acknowledgement that previous developments are likely to have causally influenced the outcome of interest. Once institutional configurations are in place, they take on a life of their own and shape the goals and available strategies of political actors (Thelen 1999).

Two strands of the burgeoning literature on historical institutionalism are of particular interest for a comprehensive approach to the study of federal dynamics. First, the *critical junctures and path dependence framework* sheds light on the issue of continuity within dynamic processes. This framework is the most prominent strand within the current historical-institutionalist literature. It explains how federal systems emerge from rather contingent initial conditions and how the formal institutional framework is reproduced over time. Analyzing federal dynamics through this lens requires uncovering how temporality affects the creation and persistence of institutional mechanisms. During the early formation of federal systems, small events can push the emerging configuration of institutional mechanisms into one direction or

the other. Path dependence then steers the long-term evolution of the institutional core of federalism. In historical-comparative perspective, this explains why we can observe diverging federal trajectories rather than a broadly converging trend.

Historical institutionalism has been criticized for having a status quo bias. While path dependence provides strong explanations for continuity in politics, it is often said that it cannot properly explain change. More recent contributions have therefore attempted to further our understanding of gradual, yet meaningful patterns of change. An ambitious effort to advance a *theory of gradual change* has been made by, Streeck, Thelen, and Mahoney (Streeck and Thelen 2005; Mahoney and Thelen 2010). This second strand of literature can help to identify different patterns of change in federal systems that occur beneath the level of a path-dependent institutional core. Moreover, it allows us to formulate theoretical propositions about how different institutional mechanisms generate typical patterns of gradual adjustment. Theories of gradual change start from the assumption that, due to their distributive consequences, political institutions are challenged through entrepreneurial agents on an ongoing basis. Depending on whether the political context and the targeted institution create favorable conditions for change or not, entrepreneurial agents have different strategies at their disposal in order to pursue their goals. Accordingly, the analytical angle switches from rather evolutionary and systemic patterns captured by the path dependence framework, to actor-driven, deliberate change in federal systems.

Each of the two strands of literature sketched above has its own merits. Even though considerable overlap exists between them, the two frameworks can contribute in their own way to answering the questions of how and why continuity and change affect federal systems' development (Table 5.1). Taken together, they can provide insight into two important research areas within the field of comparative federalism. First, what prompts a federal outcome instead of a unitary state, and, second, how do federal systems evolve through the interaction of patterns and mechanisms simultaneously generating continuity and change? Recasting the first question through the lens of the critical junctures framework reminds us to look at the institutional alignments that happen early in a sequence. Analyzing these early steps in a temporal sequence is necessary for determining how varieties of federalism emerge from contingent historical origins. Depending on how path dependence generates and maintains federal institutional designs, juxtaposing constraining and enabling elements, it shapes the developmental prospects of entrepreneurial agents seeking to alter the status quo through various strategies of gradual change.

Table 5.1. Variants of historical institutionalism and the study of federal dynamics

	What changes?	Why does change occur (or not)?		How does change unfold?
	Dimensions of federal dynamics	Sources of change	Mechanisms of federal dynamics	Patterns of federal dynamics
<i>Critical junctures and path dependence</i>	System as a whole/ macroscopic: sheds light on the evolution of diverging federal trajectories/ varieties of federalism	Exogenous: generative cleavage, contingent events and antecedent conditions generate self-reinforcing sequence	Power-based mechanisms of reproduction and historically constructed institutional rigidities determine corridor of possible “within-path” adjustments over time	Focus on continuity: path dependent evolution of institutional mechanisms
<i>Theory of gradual change</i>	Parts of the system: change of individual institutional elements within federal systems	Endogenous: power distributional consequences of federal institutions	Properties of federal institutions: constraints entailed in political context and targeted institution	Focus on patterns of gradual change: layering, drift, conversion, displacement

5.3 Federalization: The Origins of Federal Systems

5.3.1 Federalization as Political Structuring

In comparative-historical analysis, the notion of political structuring is used to describe the historical construction of political institutions through which state authority is exercised within a given territory (Flora et al. 1999; Bartolini 2005). As federal institutions register the salience of center–periphery conflicts, federalization basically can be conceived as a contingent outcome within the overarching process of political structuring that establishes institutionalized authority relationships between territorial power holders. The prevalence of territorially defined cleavages urges state builders to establish institutional mechanisms that limit the reach and scope of authority exercised through the central state and, at the same time, provide for constituent units’ representation on the federal level.

At least in Western Europe, political structuring has unleashed highly centralizing forces. Territorially defined cleavages between the centers and the peripheries usually lost relevance and became increasingly superimposed

by functional cleavages. As a consequence, a unitary political structure emerged as one defining feature of most states in Europe. However, where territorial cleavages remained salient, political structuring had not only to be responsive to functional interest, but also to the needs and claims of peripheral political elites. For that reason, political structuring in Switzerland, Germany, or Italy entailed federalization as one contingent solution among others. In continental and territorially expanding societies like Canada and the United States, the federal option was not only fostered by the fact that cultural, economic, and territorially defined cleavages interpenetrated each other in various ways, efforts to establish a strong center were also hampered by their geographical extension and dependence on immigrants. Both conditions made it almost impossible to build a territorially integrated political system (Fabbrini 2007).

Notwithstanding the prevalence of functional cleavages in Western Europe, territorial cleavages have never disappeared entirely. Since the second half of the twentieth century, shifting cleavage structures within many countries and the redrawing of boundaries in the wake of European integration have triggered processes of political restructuring that entail new opportunities for introducing federal elements into unitary political systems (Jeffrey and Wincott 2010). Moreover, the process of European integration itself can be conceived as an attempt to create a new political center on the supranational level. Since the early 1990s the European Union has become more federal in nature and might emerge as a new type of supranational “coming-together” federal order (Hueglin and Fenna 2006; Fabbrini 2007).

Analytically, federalization is a differentiated, two-dimensional process. The first dimension refers to the goal of federalization. Federalism is a viable solution either to merge previously independent and sovereign entities into a new political order or to prevent a unitary system of government from falling apart. This dimension refers to Alfred Stepan’s (1999) distinction of “coming-together” and “holding-together” federations. The second dimension captures the instruments of federalization; that is, how territorial entities are connected institutionally. Basically, there are two types of mechanisms that establish institutionalized linkages between constituent units and the federal level in different ways. Intra-institutional mechanisms establish authority relationships of shared rule by ensuring constituent units’ representation on the federal level. Claims of peripheral actors are acknowledged through institutional “building in” via effective voice mechanisms at the center.² In contrast, inter-institutional mechanisms establish authority relationships emphasizing self-rule by assigning competencies among constituent units

² The distinction between “building in” and “building out” was introduced by Richard Simeon (2009).

and the federal level independently of each other (see also Schultze 1990). Claims of peripheral actors are acknowledged through institutional “building out” via exit options, allowing for a comparatively high degree of autonomy for each governmental tier.

Empirically, outcomes of federalization involve highly contingent alignments which often elude clear-cut classifications. Early sequential developments usually have unintended long-term consequences for the evolution of federal architectures. However, a systematic relationship between goals and instruments of federalization obviously exists. In coming-together federations, authority migrates from the “bottom up,” from constituent units toward the newly established federal level. The scope for independent action of lower-level governmental tiers therefore tends to diminish after a federal solution has been adopted. In order to compensate for transferring competencies upwards to the federal level, constituent units are tied into the decision-making structure at the center through intra-institutional mechanisms. Holding-together federations, in contrast, evolve through authority migration from the “top down.” While unitary states usually provide territorial peripheries with some form of representation at the center, federalization implies some form of de-institutionalizing these intra-institutional mechanisms whereas inter-institutional links are re-institutionalized by devolving competencies downwards.

5.3.2 *Critical Junctures and Federalization*

Most coming-together federations that emerged during eighteenth- and nineteenth-century federalization are a product of critical junctures. Major shifts in the configuration of functional and territorial cleavages can become “generative” and create comparatively brief historical periods during which structural constraints are significantly relaxed (Collier and Collier 1991; Capoccia and Kelemen 2007). This generative cleavage manifests itself in a brief sequence of action (for example, the center pursuing a unitary state) and reaction (for example, peripheral units seeking to prevent their subordination). Depending on the distinct relationship between economic, cultural, and politico-bureaucratic centers within a geographic area where integrative dynamics are at work, a critical juncture might set the path for political structuring along federal lines.

This does not mean, however, that it would be possible to simply read off the outcome of a critical juncture from the prevalent preferences of entrepreneurial agents who are engaged in such formative processes. The concept of critical junctures thus points to various limits of institutional design and avoids circular reasoning, a serious problem that was criticized in William Riker’s (1964) influential framework to the study of state formation (Davis

1978; Burgess 2006; Ziblatt 2006). Instead, the literature highlights the interplay of antecedent conditions and exogenous “shocks.” First, the reconfiguration of cleavage structures might usher in a historical period of loose structural constraints. Yet this does not mean that political action is totally detached from the past. Antecedent conditions generate diverging outcomes but still structure the range of available options (Slater and Simmons 2010). Antecedent conditions are institutional or ideational background conditions responsible for making federalism a viable solution to the problem of state formation. As for institutional antecedents, the literature has emphasized the importance of military or infrastructural capacities that can push the outcome of a critical juncture into the direction of federalism (Riker 1964; Ziblatt 2006). In addition, ideational antecedents may be responsible for a federal solution to appear on the agenda at all. Federalism as an ideational construct can variously mediate between increasingly prevalent center–periphery conflicts on the macro level and possible institutional solutions to that problem on the meso level. For example, in a recently published study, Alison LaCroix (2010) has uncovered how the ideological roots of American federalism emerged from different ideational sources that shaped the drafting of the constitution. Similarly, in Canada, the perception of American federalism has informed competing, sometimes contradictory understandings of federalism during the Confederation Debates between 1864 and 1867 (Smith 1988; Vipond 1989). And finally, in the case of Germany, the literature has highlighted how (con-)federal ideas that developed in the context of the Holy Roman Empire provided political actors with an interpretative framework to cope with the imperative of nation-state formation during the second half of the nineteenth century (Green 2004).

Second, highly contingent events or exogenous shocks can have important long-term consequences. Heightened contingency accompanying a critical juncture implies that federalism is not a necessary outcome since there are always multiple pathways available for realization, including the preservation of the status quo (Capoccia and Kelemen 2007: 352). Most basically, state formation can generate one unitary state, a system of several independent unitary states, different types of federal systems or it can even be subject to setbacks and failure altogether. Under the condition of high uncertainty, unexpected and contingent incidents can end up steering the outcome in one direction or the other. For example, the outcome of the Austro-Prussian War of 1866 was an important contingent event which set the federal trajectory in Germany onto a rather centralizing track primarily based on intra-institutional power-sharing. In a similar vein, the Trent Affair of 1861 in combination with the looming victory of the Union over the Southern Confederacy proved important contingent events, provoking federalization in Canada. The perceived threat of annexation removed Britain’s reservations

about the confederation project and contributed to fostering consensus among the colonial elite. Unlike in Germany, however, intra-institutional mechanisms had become less important in the decades following Confederation. Instead, several waves of decentralization strengthened the inter-institutional character of Canadian federalism (Stevenson 1997; Broschek 2012; Sayers and Banfield, Chapter 9, in this volume).

5.3.3 *Gradual Change and Federalization*

Not all federalization processes emerge from a critical juncture. In particular, holding-together federations that came into existence during the second half of the twentieth century evolved from a rather incremental transformation of authority relationships. Political (re-)structuring today is more likely to take place in a peaceful environment than ever before. Legitimate authority in a democratic context is highly dependent on compliance rooted in a “contingent consent” (Levi 1997). Hence, ideas rather than force often play a decisive role in the normative construction of reform imperatives and serve actively as “weapons” (Blyth 2002; Béland 2009). Introduced into the public discourse by entrepreneurial agents, they mobilize support and generate “frictions” or tensions among “mismatched institutional and ideational patterns” (Lieberman 2002: 697). This might facilitate an incremental transformation of a unitary system into a federal state. Rather than being triggered by an exogenous shock, federalization in such cases occurs as a consequence of a gradual erosion of established authority relationships.

Federalization usually involves some form of explicit constitutional change. The reallocation of competencies and the establishment of provisions facilitating representation of constituent units on the federal level require a constitutional foundation. Even in the case of devolution in the United Kingdom, where federalization is accomplished primarily through statutory law rather than by constitutional means, new institutions have been created such as the Scottish Parliament or the Assemblies for Wales and Northern Ireland.

An important pattern of gradual change driving such federalization processes is layering. Layering occurs when new institutional elements are added to existing institutions, which then yield an incremental process of re-institutionalization. A newly introduced institutional “layer” is expected to skim off support for the old layers or is assumed to destabilize the established institutional configuration (Streeck and Thelen 2005: 31). This pattern of gradual change quite accurately captures transformative processes as they occurred, for example, in the United Kingdom and in Belgium. In the United Kingdom, political structuring initially incorporated regional interest representation into the institutional framework of the center. Regional concerns were primarily dealt with in Westminster; that is, in parliament and the

cabinet through the Welsh and Scottish Office. As an integral part of political restructuring since the mid-1990s, devolution provided that these intra-institutional mechanisms have lost relevance while the newly established inter-institutional arrangements, at least in the case of Scotland, have surfaced as the main locus of territorial politics. Re-institutionalization through layering has unleashed a centrifugal momentum as well as unintended spillover effects that now shape the path of federalization in the United Kingdom (Jeffrey 2009). Similarly, the gradual constitutionalization of federalism in Belgium exhibits a pattern of layering. New institutional elements were introduced with the first constitutional reform of 1970, which led to the creation of the communities and regions. Instead of pacifying decentralist pressures, these new institutional layers reinforced a devolutionary dynamic within a unitary state. A sequence of succeeding constitutional reforms in 1980 and 1988 incrementally transferred additional competencies downwards before these earlier reforms ultimately culminated in the formal transformation of a unitary state into a federation in 1993 (Swenden, Brans and de Winter 2006; Deschouwer 2009; Petersohn 2011).

5.4 The Historical Evolution of Federal Systems

5.4.1 *Path Dependence and the Varieties of Federalism*

The literature on the origins of federal systems has so far concentrated primarily on the discussion of why a federal outcome emerges from a critical juncture rather than a unitary state. Less attention has been paid to the equally important question of what happens after an institutional choice has been made. Since constitutional architects combine intra- and inter-institutional mechanisms differently when constructing a federal order, we observe federal systems evolving on divergent institutional trajectories (see also Colino 2010 and Chapter 3, this volume). Contingent institutional outcomes are assumed to become self-reinforcing due to some type of positive feedback effect. According to Pierson (2004: 36), a key source of positive feedback is the distinct allocation of political authority. In federal systems, intra- and inter-institutional elements offer distinct opportunities for political actors to promote their interests and thus produce incentives that more firmly entrench these institutional features of a federal system over time. They generate increasing returns for those working within the institutions and simultaneously raise the costs of those trying to change them. As a consequence, inter- or intra-institutional mechanisms are likely to become ratcheted in: a group of supporters will carry on maintaining the “locked-in” federal outcome. For that reason, the institutional foundations of federal systems, most notably the distribution of competencies,

the second chamber or the system of intergovernmental relations display considerable variation across time and space. Once a specific configuration of institutional mechanisms has taken shape early in a historical sequence, path dependence drives its power-based consolidation over the course of time. Efforts to reverse this institutional “meta-path” of federal systems are unlikely to succeed.

It is therefore important to look at the institutional alignments that happen early in a historical sequence in order to determine how varieties of federalism, constituted by the distinct combination of inter- and intra-institutional mechanisms, emerge from different historical origins. In particular, political parties and governments will seize upon their competitive advantage, seeking to fill up limited “political space” and to build up institutional capacities (Pierson 2004: 71–6). In federal systems, this dynamic generates distinct, self-reinforcing configurations variously connecting territorial units institutionally with each other. Depending on whether intra- or inter-institutional mechanisms establish authority relationships among them, institutional settings exhibit:

- an integrated (or functional) division of competencies and financial resources, or a dualistic and exclusive division;
- a strong or a weak provision ensuring constituent units’ representation on the federal level (most notably through the second chamber);
- a system of joint decision-making fostering enforced negotiations without any exit options, or a loosely institutionalized system of inter-governmental relations allowing for voluntary cooperation or unilateral action.

There are extreme cases like Canada and Germany whose institutional architecture corresponds almost exclusively with either type of mechanism (Broschek 2010, 2012). In other cases such as the United States, Switzerland, or Australia, both types of mechanisms are more intertwined. The federal systems in the United States, Canada, and Australia basically set themselves apart from European federations such as Germany, Switzerland, and Austria in that they bundle executive and legislative powers at each governmental tier. In the United States and Canada, an inter-institutional division of powers is most pronounced. In both federations, the federal level and the constituent units occupy a wide range of exclusive jurisdictions while the share of concurrent jurisdictions is comparatively low (Thorlakson 2003: 7–11). In Australia, the constitution exhibits a larger share of *de jure* concurrent jurisdictions, which *de facto* have become, to a large extent, exclusive powers of the Commonwealth. In the United States and Australia, however, an important intra-institutional mechanism interferes with the dualistic division of competencies: both federations have strong second chambers. In Canada, the inter-institutional logic of self-rule is also reflected in the (*de facto*) weak second

chamber and the relatively weakly institutionalized system of intergovernmental relations. In contrast, Germany, Austria, and, to some lesser extent, Switzerland correspond more closely with intra-institutional power sharing as these cases exhibit a functional distribution of powers (Thorlakson 2003: 9–10). Here, legislation over a broad range of areas is exercised at the federal level while implementation is often left to the constituent units. In Germany, the intra-institutional foundation is further perpetuated through the strong second chamber and the system of intergovernmental relations which both establish relationships of shared rule and entanglement. In Switzerland, the functional division of powers has not reached the extent of entanglement characteristic of Germany's system of joint decision-making as it is mitigated through a high degree of cantonal autonomy (Braun 2003).

5.4.2 *Patterns of Gradual Change*

Tracing federal system dynamics exclusively within the framework of critical junctures and path dependence is only part of the story. Rather, stability and change are two sides of the same coin (Thelen 1999; Orren and Skowronek 2004; Mahoney and Thelen 2010). Institutionalized authority relationships always contain within themselves the conditions for both order and disorder. Given their distributive consequences, the persistence of institutions often requires active maintenance efforts against entrepreneurial agents who are inclined to alter the historically established status quo. As a consequence, beneath the level of a path-dependent core, federal systems simultaneously exhibit different patterns of incremental change that can have important consequences for their long-term evolution.

Patterns of gradual change might alter horizontally the relationship among constituent units or vertically between the federal level and constituent units (Table 5.2). They can be an important driving force behind both centralization or decentralization. Similarly, they can render a federal system either more symmetrical or asymmetrical. As already indicated above, one typical pattern of gradual change is *layering*. This entails new elements being added to institutions so as to incrementally alter their function or impact. Layering, therefore, is a bypassing strategy. Because entrepreneurial agents are unable to dismantle a targeted institution directly, they do so by way of a detour, introducing a new institutional layer alongside the established arrangement (Streeck and Thelen 2005: 31). In federal systems, layering can take shape in a variety of ways. For example, federal governments can graft new programs onto the existing distribution of competencies which might affect the division of powers in the long term. Grants-in-aid in the United States or conditional grants in Canada are a case in point. Introducing these transfer programs has

enabled federal governments to effectively bypass institutional restrictions stemming from policy pre-emption through constituent units.

A second pattern of incremental change is *displacement*. Displacement indicates the gradual removal of old rules and the introduction of new ones. It captures processes of change in which subordinate rules become belatedly salient, directly compete with an existing set of institutions and eventually alter the operational routines of an institutional regime (Mahoney and Thelen 2010: 16). For example, displacement is involved in processes of positive or negative integration. Negative integration describes a type of economic policy that aims at creating a common market within a federation by abolishing existing trade barriers and discriminatory rules such as tariffs or quantitative restrictions among constituent units. In contrast, positive integration comprises those policies that re-establish regulations designated to either harmonize existing rules so as to foster market exchange or to correct market failure (Scharpf 1999). In both cases, the federal level invalidates established rules on the level of constituent units by enacting a new set of rules for the whole federation. While negative and positive integration usually have a centralizing effect, displacement can also render a federation more decentralized and asymmetrical. This is the case when opting-out provisions enable constituent units to replace and substitute nation-wide regulations within their own boundaries.

A third pattern of gradual change is *conversion*. In these instances, old institutions are endowed with new purposes or functions without formal change. While entrepreneurial agents leave existing rules largely untouched, they

Table 5.2. Gradual patterns of change and federal dynamics

	Displacement	Conversion	Layering	Drift
Definition	Removal of old rules and introduction of new ones	Redirection of old institutions to new purposes	New institutional elements are added to existing framework	Changing impact of an institution due to contextual shift
Main beneficiaries	Entrepreneurial agents	Entrepreneurial agents	Entrepreneurial agents	Status-quo-defending agents
Example	Replacement of country-wide regulations through opting-out Processes of negative and positive integration	Re-interpretation of scope of authority/ boundaries of competencies	Attachment of new block grants to existing allocation of competencies	Absent adaptation of jurisdictions in the light of new challenges

Source: author's elaboration building on Streeck and Thelen 2005; Mahoney and Thelen 2010.

convert institutions by strategically reinterpreting and enacting them in new ways (Mahoney and Thelen 2010: 17). Conversion thus requires that entrepreneurial agents are able to exploit institutional ambiguities effectively. Such ambiguities become particularly salient in the division of powers in federal systems. Conflict in federal systems frequently arises over the question of where the authority of one governmental tier begins and where it ends. Gaps between the wording of a rule and conflicting interpretations over the way it is to be enacted can have quite distinct causes. They can result from unintended consequences not foreseen by constitution builders or from changing context conditions that empower new coalitions in the intergovernmental arena who challenge a prevailing view. Likewise, strong constitutional courts can play an important role for conversion in federal systems as they have the ultimate authority to give a new interpretation to an existing rule.

A final pattern of gradual change is *drift*. In contrast to the three patterns above, the main beneficiaries of drift are actors defending the status quo rather than entrepreneurial agents. Drift results from the changing impact of an institution that is not being adjusted to shifting context conditions. Status-quo-defending actors thus need only to work at preventing institutional change qua adaptation. Drift is a common dynamic in federal systems. Constituent units unwilling to change the status quo can employ drift in order to prevent the transfer of jurisdictions to the federal level despite its possible suitability due to new contextual conditions. For example, drift enabled conservative forces to stifle welfare state development in federal countries such as Switzerland or the United States as they refused to relinquish powers in the area of social policy and taxation (Obinger, Leibfried, and Castles 2005).

5.5 Between Path Dependence and Gradual Change: Toward a Historical-Institutionalist Framework for the Study of Federal Dynamics

Distinguishing different types of incremental change is useful for exploring how federal systems evolve within their pre-established, path-dependent trajectory. Exogenously or endogenously generated sources of change obviously translate into different patterns of adjustment over time. The patterns of gradual change sketched above rest, however, on different prerequisites (Mahoney and Thelen 2010). Displacement and conversion are rather bold and straightforward patterns that are often difficult to achieve. This raises the question of how the prevalence of distinct types of gradual change within a given federal order can be causally linked to preconditions that make their occurrence plausible. How exactly are federal systems historically “preset” in order to respond to demands for change? What is their deeper grammar that

fosters the occurrence of certain patterns of change and, ultimately, reveals their transformative capacity?

From a historical-institutionalist point of view, change always relates to the historical heritage of a federal order. When it comes to amplifying a given path and resistance is low, it does not appear to be a serious problem eliciting the whole repertoire of gradual change strategies. We are thus likely to observe all patterns of gradual change as long as the direction of change does not contradict the overall trajectory. However, efforts to reverse a given institutional path are usually far more difficult to achieve. Entrepreneurial agents are confronted with already-established institutional settings that often protect the interests of status-quo-defending actors. The occurrence of distinct patterns of gradual change, then, is more contingent upon the institutional environment which shapes the set of available strategies (Mahoney and Thelen 2010).

As argued above, the scope for entrepreneurial politics in federal systems is largely dependent on how territorial power holders are positioned vis-à-vis each other within historically constructed institutionalized settings. The degree of institutional rigidity is comparatively low in the case of inter-institutional mechanisms as this type of mechanism rather loosely couples territorial power holders. While inter-institutional mechanisms are certainly not entirely without rigidities, they establish an institutional environment that is more conducive to entrepreneurial politics for two reasons. First, loosely coupled institutions tend to generate considerable ambiguities about the distribution of authority among them. This, in turn, creates opportunities for those who are inclined to challenge the status quo (Pierson 2004: 163). In federal systems, a dualistic separation of powers provides more scope for employing conversion than a functional division of powers. The comparatively high degree of ambiguity that is inherent to dualistic settings makes it almost impossible to clearly specify the scope of jurisdictions. This opens the door for conversion and, as a consequence, unintended evolutionary dynamics. It is virtually inevitable that strong and independent constitutional courts (that is, should they exist in the given federal order) generally come to play a decisive role for conversion as they have the power to ultimately determine how constitutional provisions are to be interpreted. In the United States, Australia, and the European Union, Supreme Courts have taken advantage of such institutional ambiguities in order to significantly expand the scope of action of the (supra)national tier (Thorlakson 2006: 148). For example, Australia's constitution originally established a decentralized federation. The constitutional regime rather narrowly specified the powers of the Commonwealth in sec. 51 and placed the residual power with the States. With the landmark *Engineers Case*, however, Australia's High Court fundamentally reinterpreted the reserved State powers doctrine in 1920. In doing so, it rendered obsolete

the residual powers of the States and laid the foundation for an expansive use of Commonwealth powers (Galligan 1995: 164–5). In Canada, on the other hand, the opposite has been the case with conversion having played an important part in decentralizing the federation in the decades following Confederation. In order to create a highly centralized federal system, the drafters of the British North America Act intended to give most powers to the federal parliament, while narrowly circumscribing the competencies of the provinces. Yet reinterpretation of the scope of provincial powers, most notably Section 92 (13) on property and civil rights, through the Judicial Committee of the Privy Council (JCPC) significantly contributed to the expansion of the legislative sphere of the provinces over time (Bakvis, Baier, and Brown 2009). But even without the support of strong constitutional courts, entrepreneurial agents operating in an environment made up of inter-institutional mechanisms can successfully exploit its reconfigurative capacity and redirect established institutions to new purposes. For example, conversion enabled the federal government in Canada to re-invent the principle of parliamentary supremacy in various ways in order to counteract province-building strategies. Until the late nineteenth century, the federal government frequently applied provisions such as the powers of reservation and disallowance. While the provinces, with support of the JCPC, were able to delegitimize the use of these powers over time, the federal government began to develop the spending power doctrine within the context of the emerging welfare state. Ambiguity on how the principle of parliamentary supremacy can be upheld within a federal system provided the federal government with considerable space over how the spending power should be exercised.

Second, the independent distribution of authority in inter-institutional settings creates more scope for unilateral action. They often lack effective veto points or offer opportunities to mitigate their impact through the use of exit options. This enables entrepreneurial agents to employ displacement. For example, the goal of negative integration has been deeply enshrined in the Treaties of Rome establishing the European Community. Unlike in the case of positive integration, these quasi-constitutional provisions have furnished both the European Commission and the European Court of Justice with institutional resources to effectively compel member states to replace existing national regulations without encountering effective resistance from the Council. In a slowly evolving process that eventually culminated in the Common Market and the Four Freedoms, both entrepreneurial agents were able to create a supranational legal framework that has incrementally superimposed existing regulatory regimes (Pollack 2003). Displacement can also be employed by constituent units in order to decentralize a federal system and render it more asymmetric. Opting-out provisions allow constituent units to replace and substitute country-wide regulations within their own boundaries.

In the wake of the newly emerging nationalism in Quebec during the early 1960s, the federal government in Canada tried to accommodate provincial demands for more autonomy by allowing Quebec to opt out from both shared-cost and even exclusively federal programs. Even though counter-reactions temporarily put a brake on the decentralizing and asymmetrical dynamics, this did not prevent opting-out provisions from taking root in the long run.

In contrast, the degree of institutional rigidity is considerably higher in federal architectures that display strong intra-institutional mechanisms. Intra-institutional mechanisms couple territorial power-holders rather tightly, and they are thus more constraining as they create interdependence by entangling power resources and by establishing veto points or even “joint-decision traps” (Scharpf 1988). Moreover, an integrated distribution of competencies leaves entrepreneurial agents with fewer opportunities to exploit ambiguities over the boundaries of jurisdictions. Instead, the division of labor between the federal level and constituent units is more clear-cut: whereas the former legislates, the latter are responsible for implementation.³ As a consequence, the scope for creative recombination laid out within intra-institutional schemes is complicated. On the one hand, entrepreneurial agents encounter an institutional environment that is rather unfavorable to applying conversion or displacement. Hence, the repertoire of applicable strategies is more limited than in inter-institutional settings as they are confined to layering whenever they want to challenge the status quo.⁴ On the other hand, status-quo-defending coalitions find themselves in the comfortable position to make effective use of institutional drift. Basically, drift can occur in inter-institutional and intra-institutional environments alike. However, entrepreneurial agents are more likely to find ways to temper the impact of drift if intra-institutional mechanisms are only weakly developed. Because the reconfigurative capacity of inter-institutional settings tends to be higher, it is easier for entrepreneurial agents to utilize bypassing strategies so as to compensate the consequences of institutional drift. In contrast, the more rigid an institutional environment, the more likely status-quo-oriented actors will be able to thwart such efforts from the outset.

Paul Pierson (1995: 456), for example, hints at policy pre-emption as an important source of drift in federations. And indeed, in federal systems like Canada, the United States, and Switzerland, pre-emption of the social policy field through constituent units has constrained federal governments in their

³ In this respect, constituent units can exercise at least some discretion on how federal law is implemented within their jurisdictions.

⁴ As Mahoney and Thelen (2010: 20) put it: “. . . [W]hile powerful veto players can protect the old institutions, they cannot necessarily prevent the addition of new elements.”

efforts to establish more uniform programs during the expansionist phase of the welfare state. Yet a closer look at these cases reveals an important difference concerning the impact of drift. In Canada, drift only affected the field of social insurance as the JCPC declared the Employment and Social Insurance Act *ultra vires* in 1937. However, the unilateral use of the spending power enabled the federal government effectively to bypass these institutional constraints. Since intra-institutional mechanisms are only weakly developed, the federal government was in a position to construct a post-war welfare state that circumvented the implementation of social insurance schemes⁵ and which was, nevertheless, comparatively generous and universalist (Banting 2005). The unilateral or cooperative use of the federal spending power, in combination with an absence of veto positions on the part of the provinces, was crucial in that respect. In contrast, intra-institutional mechanisms allowed those actors in favor of the status quo in the United States and in Switzerland to make much more effective use of drift. In the United States, the Senate operated as a strong intra-institutional counterweight. Southern Democrats in particular were in a position to prevent entrepreneurial agents from enacting more generous programs (Finegold 2005). In a similar vein, the interaction of direct democracy and pronounced intra-institutional mechanisms in Switzerland contributed considerably to the stunted growth of the welfare state until the second half of the twentieth century (Obinger et al. 2005).

To summarize the main arguments of this chapter, Figure 5.1 displays central building blocks of a framework for the study of federal dynamics inspired by historical institutionalism and illustrates their interrelationships. Historical institutionalism suggests that institutions are man-made consequences of “resolved contingencies” (Parsons 2007). Once adopted, such contingent choices “create a pattern of relationships that feed back unintentionally to alter the constraints and incentives for later decisions” (2007: 72). From that point of view, it is essential to systematically link questions concerning federal development with the literature on the origins of federal systems. Federal systems represent historically constructed authority relationships among territorial power holders through varying configurations of inter- and intra-institutional mechanisms. Such institutional links are mechanisms since they can help us to explain how inputs, for example, entrepreneurial agents’ demand for changing the status quo, translate into distinct outputs, that is, typical patterns of adjustment. Unveiling the contingent alignment of institutional mechanisms thus allows exploration of how federal systems evolve dynamically through the dual operation of path dependence and gradual change.

⁵ With two notable exceptions: the Canada/Quebec Pension Plan and Unemployment Insurance.

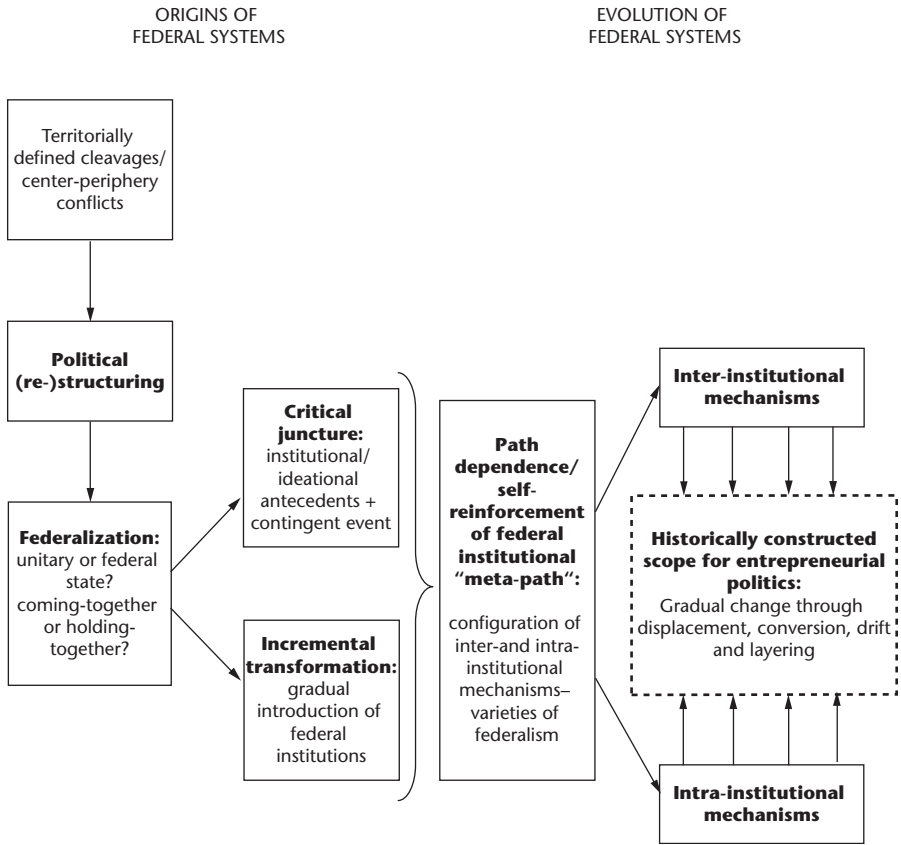


Figure 5.1. A historical-institutionalist framework for the study of federal dynamics: Theoretical and conceptual building blocks

5.6 Conclusion

The purpose of this chapter was to outline how historical institutionalism can serve to explore the historical development of federal systems. Historical institutionalism is often said to make strong propositions for the “stickiness” of institutional legacies while having difficulties with explaining institutional change. As has been shown, however, historical institutionalism is a rather diversified theoretical tradition, well suited to analyze how federal systems are reproduced *and* how they change over time. Most basically, it offers insights into the historically constructed architecture of political authority in federal systems. At the same time, understanding the historical dimension of authority relationships in federal systems is an important prerequisite for uncovering

how they respond to demands for change through different patterns of gradual change.

Historical institutionalism is most closely associated with the concept of path dependence. From a critical junctures and path dependence perspective, we can scrutinize how federalization emerges from contingent initial conditions, setting off self-reinforcing processes that put federal trajectories on different institutional pathways. This analytical lens puts strong emphasis on continuity within federal dynamics. It does not exclude far-reaching change per se, but relegates this pattern to rather brief episodes of exogenously induced rupture. As has been shown, this strand within the historical-institutionalist literature lends itself particularly well to a closer examination of coming-together federations. Path dependence is one important reason for *why* the world of federalism splits into diverging institutional trajectories, resting on the contingent configuration of different institutional mechanisms.

Theories of gradual change represent an important strand within the historical-institutionalist literature, complementing arguments about path dependence. First, they can further our understanding of the origins of federal systems. Rather than being an outcome of critical junctures, holding-together federations often emerge from gradually unfolding processes involving patterns such as layering. Second, they point to the simultaneous occurrence of continuity and change within federal dynamics. Path dependence brings to the fore how a federal order is constructed historically in a way that fosters or hampers different adaptive responses. Within a path-dependent trajectory that demarcates the basic institutional parameters of a federal system, entrepreneurial agents and status-quo-defending actors are likely to respond to pressures for change in specific ways. Depending on how they juxtapose inter- and intra-institutional mechanisms, federal systems vary in the way they are historically preset in order to respond to demands for change. It is therefore necessary to move beyond an overly narrow focus on path dependence and to engage more deeply with an analysis of how political institutions yield different patterns of change. As intra-institutional mechanisms entail a high degree of rigidity, they tend to advantage those actors in favor of the status quo and provide entrepreneurial agents with a rather limited repertoire of change strategies to be employed. In contrast, less constraining inter-institutional environments offer a considerably broader repertoire of strategies available to entrepreneurial agents, enabling them to make use of displacement and conversion as additional feasible alternatives.

To be sure, this is not to say that adaptive change does not take place at all in intra-institutional environments. Even under the condition of high institutional rigidity there are ways and means to incrementally alter the historically established status quo (Behnke and Benz 2009; Benz and Colino 2011). In

particular, less bold patterns of gradual change like layering can enable an incremental leveraging of institutional rigidities in the long run. Historical institutionalism, therefore, acknowledges that dynamics in federal systems always unfold as dual processes of path-dependent reproduction and gradual change.

References

- Bakvis, Herman, Baier, Gerald, and Brown, Douglas (2009), *Contested Federalism. Certainty and Ambiguity in the Canadian Federation* (Don Mills: Oxford University Press).
- Banting, Keith (2005), "Canada: Nation-building in a federal welfare state," in Herbert Obinger, Stephan Leibfried, and Francis Castles (eds.), *Federalism and the Welfare State. New World and European Experiences* (Cambridge: Cambridge University Press), 89–137.
- Bartolini, Stefano (2005), *Restructuring Europe* (Oxford: Oxford University Press).
- Behnke, Nathalie and Benz, Arthur (2009), "Federalism and constitutional change," *Publius: The Journal of Federalism* 39 (2), 213–40.
- Béland, Daniel (2009), "Ideas, institutions and policy change," *Journal of European Public Policy* 16 (5), 701–18.
- Benz, Arthur (2002), "Themen, Probleme und Perspektiven der vergleichenden Föderalismusforschung," in Arthur Benz and Gerhard Lehmruch (eds.), *Föderalismus. Analysen in entwicklungsgeschichtlicher und vergleichender Perspektive* (Wiesbaden: Westdeutscher Verlag), 9–52.
- Benz, Arthur and Colino, César (2011), "Introduction: Constitutional change in federations—A framework for analysis," *Regional and Federal Studies* 21 (4), 381–406.
- Blyth, Mark (2002), *Great Transformations: Economic Ideas and Institutional Change in the Twentieth Century* (Cambridge: Cambridge University Press).
- Braun, Dietmar (2003), "Decentralized and unitary federalism: Switzerland and Germany compared," *Schweizerische Zeitschrift für Politikwissenschaft* 9 (1), 57–89.
- Broschek, Jörg (2009), *Der kanadische Föderalismus. Eine historisch-institutionalistische Analyse* (Wiesbaden: VS Verlag).
- (2010), "Federalism and political change: Canada and Germany in historical-institutionalist perspective," *Canadian Journal of Political Science* 43 (1), 1–24.
- (2011), "Conceptualizing and theorizing constitutional change in federal systems: Insights from historical institutionalism," *Regional and Federal Studies* 21 (4–5), 539–59.
- (2012), "Historical institutionalism and the varieties of federalism in Germany and Canada," *Publius: The Journal of Federalism*, 42 (forthcoming).
- Burgess, Michael (2006), *Comparative Federalism: Theory and Practice* (London: Routledge).
- Capocchia, Giovanni and Kelemen, Daniel (2007), "The study of critical junctures: Theory, narrative, and counterfactuals in historical institutionalism," *World Politics* 59 (3), 341–69.

- Colino, César (2010), "Understanding federal change: Types of federalism and institutional evolution in the Spanish and German federal systems," in Jan Erk and Wilfried Swenden (eds.), *New Directions in Federalism Studies* (Abingdon/New York: Routledge), 16–33.
- Collier, Ruth Berins and Collier, David (1991), *Shaping the Political Arena: Critical Junctures, the Labor Movement, and Regime Dynamics in Latin America* (Princeton: Princeton University Press).
- Davis, Rufus (1978), *The Federal Principle: A Journey through Time in Quest of Meaning* (Berkeley: University of California Press).
- Deschouwer, Chris (2009), *The Politics of Belgium: Governing a Divided Society* (Houndmills: Palgrave Macmillan).
- Fabbrini, Sergio (2007), *Compound Democracies* (Oxford: Oxford University Press).
- Falleti, Tulia (2005), "A sequential theory of decentralization: Latin American cases in comparative perspective," *American Political Science Review* 99 (3), 327–46.
- (2010), *Decentralization and Subnational Politics in Latin America* (Cambridge: Cambridge University Press).
- Finegold, Kenneth (2005), "The United States: Federalism and its counter-factuals," in Herbert Obinger, Stephan Leibfried, and Francis Castles (eds.), *Federalism and the Welfare State: New World and European Experiences* (Cambridge: Cambridge University Press), 138–78.
- Flora, Peter, Kuhnle, Stein, and Urwin, Derek (1999), *State Formation, Nation Building and Mass Politics in Europe: The Theory of Stein Rokkan* (Oxford: Oxford University Press).
- Galligan, Brian (1995), *A Federal Republic: Australia's Constitutional System of Government* (Cambridge: Cambridge University Press).
- Green, Abigail (2004), *Fatherlands: State-Building and Nationhood in Nineteenth-Century Germany* (Cambridge: Cambridge University Press).
- Hueglin, Thomas and Fenna, Alan (2006), *Comparative Federalism: A Systematic Inquiry* (Peterborough: Broadview Press).
- Jeffrey, Charlie (2009), "Devolution in the United Kingdom: Problems of a piecemeal approach to constitutional change," *Publius: The Journal of Federalism* 39 (2), 289–313.
- Jeffrey, Charlie and Wincott, Dan (2010), "Beyond methodological nationalism: The challenge of territorial politics," in Colin Hay (ed.): *New Directions in Political Science: Responding to the Challenges of an Interdependent World* (Basingstoke: Palgrave Macmillan), 167–88.
- Johnson, Kimberly S. (2006), *Governing the American State: Congress and the New Federalism 1877–1929* (Princeton: Princeton University Press).
- LaCroix, Alison (2010), *The Ideological Origins of American Federalism* (Cambridge: Harvard University Press).
- Lehmbruch, Gerhard (2002), "Der unitarische Bundesstaat in Deutschland: Pfadabhängigkeit und Wandel," in Arthur Benz and Gerhard Lehmbruch (eds.), *Föderalismus. Analysen in entwicklungsgeschichtlicher und vergleichender Perspektive. Politische Vierteljahresschrift Sonderheft* 32, 53–110.
- Levi, Margaret (1997), *Consent, Dissent, and Patriotism* (Cambridge: Cambridge University Press).

- Lieberman, Robert (2002), "Ideas, institutions, and political order: Explaining political change," *American Political Science Review* 96 (4), 697–712.
- Mahoney, James and Thelen, Kathleen (2010), "A theory of gradual institutional change," in James Mahoney and Kathleen Thelen (eds.), *Explaining Institutional Change: Ambiguity, Agency, and Power* (Cambridge: Cambridge University Press), 1–37.
- Obinger, Herbert, Armingeon, Klaus, Bonoli, Giuliano, and Bertozzi, Fabio (2005), "Switzerland: The marriage of direct democracy and federalism," in Herbert Obinger, Stephan Leibfried and Francis Castles (eds.), *Federalism and the Welfare State. New World and European Experiences* (Cambridge: Cambridge University Press), 263–304.
- Obinger, Herbert, Leibfried, Stephan, and Castles, Francis (eds.) (2005), *Federalism and the Welfare State: New World and European Experiences* (Cambridge: Cambridge University Press).
- Orren, Karen and Skowronek, Stephen (2004), *The Search for American Political Development* (Cambridge: Cambridge University Press).
- Parsons, Craig (2007), *How to Map Arguments in Political Science* (Oxford: Oxford University Press).
- Petersohn, Bettina (2011), "Konfliktakkommodierung bis zur Selbstaufgabe? Stabilität und Dynamik der Verfassungsentwicklung in Belgien," *Politische Vierteljahresschrift* 52 (2), 195–219.
- Pierson, Paul (1995), "Fragmented welfare states: Federal institutions and the development of social policy," *Governance* 8 (4), 449–78.
- (2004), *Politics in Time: History, Institutions, and Social Analysis* (Princeton: Princeton University Press).
- Pollack, Mark (2003), *The Engines of European Integration: Delegation, Agency and Agenda Setting in the EU* (Oxford: Oxford University Press).
- Riker, William (1964), *Federalism: Origin, Operation, Significance* (Boston: Little Brown).
- Scharpf, Fritz W. (1988), "The joint-decision trap: Lessons from German federalism and European integration," *Public Administration* 66 (3), 239–78.
- (1999), *Governing in Europe: Effective and Democratic?* (Oxford: Oxford University Press).
- Schultze, Rainer-Olaf (1990), "Föderalismus als Alternative? Überlegungen zur territorialen Reorganisation politischer Herrschaft," *Zeitschrift für Parlamentsfragen* 21 (3), 475–90.
- Simeon, Richard (2009), "Constitutional design and change in federal systems: Issues and questions," *Publius: The Journal of Federalism* 39 (2), 241–61.
- Skowronek, Stephen (1982), *Building a New American State: The Expansion of National Administrative Capacities, 1877–1920* (New York: Cambridge University Press).
- Slater, Dan and Simmons, Erica (2010), "Informative regress: Critical antecedents in comparative politics," *Comparative Political Studies* 43 (7), 886–917.
- Smith, Jennifer (1988), "Canadian confederation and the influence of American federalism," *Canadian Journal of Political Science* 21 (3), 443–64.
- Stepan, Alfred (1999), "Federalism and democracy: Beyond the U.S. model," *Journal of Democracy* 10 (4), 19–34.

Timing, Sequencing, and Historical Evolution

- Stevenson, Garth (1997), *Ex Uno Plures: Federal-Provincial Relations in Canada 1867–1896* (Montreal/Kingston: McGill-Queen's University Press).
- Streeck, Wolfgang and Thelen, Kathleen (2005), "Introduction: Institutional change in advanced political economies," in Wolfgang Streeck and Kathleen Thelen (eds.), *Beyond Continuity: Institutional Change in Advanced Political Economies* (Oxford: Oxford University Press), 1–39.
- Swenden, Wilfried, Brans, Marleen and de Winter, Lieven (2006), "The politics of Belgium: Institutions and policy under bipolar and centrifugal federalism," *West European Politics* 29 (5), 863–73.
- Thelen, Kathleen (1999), "Historical institutionalism in comparative politics," *Annual Review of Political Science* 2, 369–404.
- Thorlakson, Lori (2003), "Comparing federal institutions: Power and representation in six federations," *West European Politics* 26 (2): 1–22.
- (2006), "Building firewalls or floodgates? Constitutional design for the European Union," *Journal of Common Market Studies* 44 (1), 139–59.
- Vipond, Robert (1989), "1787 and 1867: The federal principle and Canadian confederation reconsidered," *Canadian Journal of Political Science* 22 (1), 3–25.
- Ziblatt, Daniel (2006), *Structuring the State: The Formation of Italy and Germany and the Puzzle of Federalism* (Princeton: Princeton University Press).

6

Resilience and change in federal institutions: The case of the German Federal Council

*Kathleen Thelen and Sebastian Karcher**

6.1 Introduction

The study of federalism has undergone something of a renaissance in the last two decades (Hueglin and Fenna 2006; Erk and Swenden 2010). Transitions from authoritarianism to democracy in Latin America and Eastern Europe have been especially important in rekindling interest, but a more general trend toward political decentralization involving devolution of political responsibilities and sometimes the “activation” of previously dormant territorially based representation has also contributed to the current wave of interest in the effects of federalism on policy and politics generally (Gibson 2004).

One important stream of scholarship has focused on the stability of democratic federalism, asking the question of what makes federalism robust (or “self-enforcing”) over time (for example, Bednar, Eskridge, and Ferejohn 2001; Bednar 2009). In line with the themes at the heart of this volume, this chapter seeks to go beyond the question of stability or breakdown to provide insight into how federal institutions evolve over time. As one of the oldest federal systems, Germany is a case that allows us to analyze the development of federal institutions over a much longer stretch of time than is possible with more newly minted varieties.

* We thank the participants in the Darmstadt workshop, and especially Fritz Scharpf, Jörg Broschek, and Arthur Benz, for extremely helpful comments on this chapter. An earlier version of this chapter was presented at Syracuse University, where comments by Pablo Beramendi in particular proved invaluable to improving the overall argument.

We focus special attention on the German Federal Council (the *Bundesrat*), a cornerstone of German federalism from the beginning, and an institution that has exhibited remarkable resilience over the past 140 years. When a unified German state was formed in 1871 by several independent principalities, the *Bundesrat* was a central component in the constitution. This upper parliamentary chamber consisted of emissaries from all state governments, weighted by, but not proportional to state size. The imperial government broke down when Germany was defeated in World War I, and after a revolutionary period, the Weimar constitution entered into force. The upper chamber devised for Germany's first democracy (renamed *Reichsrat*) again consisted of emissaries from all state governments, weighted by, but not proportional to, state size. Finally, following Germany's capitulation in World War II, after twelve years of dictatorship and three years of occupation, a new constitution was crafted in 1948 and became the Basic Law that still governs Germany today. It establishes an upper chamber (called, again, the *Bundesrat*) that consists of emissaries from all state governments, weighted by, but not proportional to, state size.

The resilience of the *Bundesrat* through otherwise order-shattering events in Germany's recent history presents an intriguing puzzle when viewed against the backdrop of "punctuated equilibrium" models that tend to dominate the literature on institutional change in comparative politics. Such models encourage us to think about institutional development as characterized by long periods of stable institutional reproduction punctuated periodically by moments of intense institutional reconfiguration. As such, this literature has us mostly looking for "big" institutional changes in historic breakpoints, and for stable institutional reproduction the rest of the time. Whereas institutions are seen to be mostly constraining under conditions of stability, "critical juncture" moments are thought to ease the usual constraints on action and open the door to significant institutional transformation (for example, Katznelson 2003).

One puzzle, then, around which the following analysis is organized is to explain the surprising durability of the *Bundesrat* through massive historical break points following Germany's defeat and reconstitution after the first and second world wars. These episodes would surely qualify as "critical junctures" by almost any definition, and they were moments in which the actors who were politically empowered by the transitions in fact preferred very different and more centralizing constellations. In both episodes, the *Bundesrat* figured centrally in conflicts between centralizers and advocates of strong state rights, and although the balance sometimes shifted, the *Bundesrat* survived.

However, there is a second puzzle as well, and in some ways it is the mirror image of the first. Here the challenge is to explain significant

changes in the role and functions of the *Bundesrat* since 1949, a period that most observers would almost certainly code as “settled” rather than “unsettled” times, to use Ann Swidler’s terms (Swidler 1986). However, the operation of German federalism has in fact changed significantly in this period. The Federal Republic of Germany was re-founded after World War II as a “unitary federal state” (Hesse 1962), with all the ambiguities the phrase itself suggests. Since then German federalism increasingly evolved into what Scharpf characterizes as a “joint decision system” prone to political paralysis and stalemate (Scharpf 2005). Changes in the role and functions of the *Bundesrat* figure prominently in these developments. Repeatedly defended against more unitarist impulses as a mechanism to safeguard states’ rights, the *Bundesrat* survived, ironically, only to become an instrument for the central consolidation of power at the expense of state autonomy. The “functional conversion” of the *Bundesrat*—from a “states’ rights” chamber to a powerful player in national decision-making—was not anticipated by the institution’s designers and defenders (Neunreither 1959: 713). The shift was also not accomplished in a single well-defined moment of institutional (re)design; this outcome, rather, emerged incrementally through a series of discrete political shifts and small but consequential judicial decisions in the post-World War II period that cumulated to produce a very significant reconfiguration of institutional arrangements in the absence of any single “break point.”

This chapter examines the evolution of German federalism and the *Bundesrat* in both aspects—formal institutional survival through historic break points, and gradual functional change beneath the surface of apparent institutional continuity—applying insights from recent writing in historical institutionalism to the study of federalism.

6.2 The Evolution of German Federalism: An Overview

To frame the discussion to follow, this section provides a schematic overview of the evolution of German federalism over the past century and a half. We can capture the relevant changes with reference to a theoretical framework proposed by Gibson and Falleti (2004). Gibson and Falleti distinguish two dimensions along which federal systems vary. The first dimension concerns the balance of power between national and state (provincial) governments, and it is captured by the distinction between “centralized” versus “peripheralized” variants of federalism. In strongly centralized systems, power is concentrated at the national level (that is, the center dominates the states), while in peripheralized systems state governments exercise considerable powers vis-à-vis the center. A second dimension concerns relations among

Timing, Sequencing, and Historical Evolution

the states themselves, and involves the distinction between “hegemonic” and “pluralistic” varieties of federalism (Gibson and Falleti 2004: 227). Hegemonic federalism depicts a situation in which a single state or province is able to exercise disproportionate influence over the others; in pluralistic varieties of federalism, power is more evenly dispersed among the various states.

Combining these two dimensions produces the analytic space shown in Figure 6.1, with which we can track changes in German federalism over time. The original design of the Imperial Constitution of 1871 made Germany an almost textbook example of “hegemonic peripheralized” federalism, combining as it did significant decentralized powers for individual states but with one state (Prussia) clearly dominant. The Weimar period marked a shift to a more centralized but still hegemonic version of federalism; power became more centralized as the national government assumed control over fiscal matters, but plans to reconfigure the states (and dismantle Prussia) failed. In the post-World War II period, the redrawing of the national and state maps (eliminating Prussia) produced a more plural variety of federalism, which by design at least also provided for very significant state autonomy (peripheralized and plural, therefore, in Gibson and Falleti’s scheme). Over time, however, subtle but cumulatively profound changes moved Germany strongly in the direction of greater unitarization, as the autonomy of state legislatures shrank in tandem with an increase in the power of the Federal chamber at the national level.

The following sections examine these developments in turn, paying particular attention to changes in the role and functions of the *Bundesrat* as a central player—and field of conflict—in the evolution of German federalism.

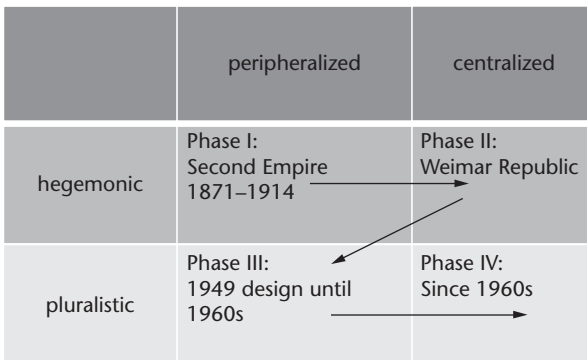


Figure 6.1. Stylized stages in the evolution of German federalism

Source: Categories from Gibson and Falleti (2004).

6.3 Founding Institutions and the Origins of the *Bundesrat*

The origins of German federalism and of the *Bundesrat* are inextricably bound up in the birth of the German nation-state itself. The story of the founding of a unified German empire in 1870/71 cannot be recounted here, but its main contours are broadly familiar. The Prussian monarch Wilhelm I (and his chief minister, Otto von Bismarck) orchestrated annexations of key territories in the wake of the Austro-Prussian War of 1866 to pave the way for the founding of the North German Confederation, and ultimately—in the wake of the Franco-Prussian war (1870–71)—to bring the key states of Baden, Württemberg, and Bavaria into a unified nation-state. The new German Reich was born federal—a “union of twenty five German states of various sizes and forms of government” (Craig 1980: 39). The core institutions of the new German nation-state were the national executive (the emperor and his chancellor), a national parliament (*Reichstag*) elected by universal male suffrage and secret ballot, and a federal council (*Bundesrat*) composed of appointed delegates representing the governments of the constituent states.

Prussia was clearly the dominant force,¹ but the federal design made Prussian hegemony in the unified Reich more palatable to the other states by evoking the structure of the delegate council that provided coordination during the years of the German Confederation (*Deutscher Bund*, 1815–66), when representatives of autonomous states had convened as equals (Lehmbruch 2000: 78–9; 2002: 41). Along with arrangements guaranteeing the states very significant levels of fiscal autonomy,² the establishment of a council in which state governments would be directly represented in national decision-making soothed some of the concerns of the more independent states, as it underlined the federative character of the new government.³ In fact, each of the state delegations to the *Bundesrat* had its own embassy, and its members enjoyed diplomatic status. In the subsequent functioning of the Reich as well, large states were regularly consulted before the introduction of important legislation (Lehmbruch 2000: 80; 2002: 44).

Beyond its role in facilitating unification, the *Bundesrat* played a key part in stabilizing the authoritarian imperial government in a context marked by considerable pressures for democratic opening emanating both from neighboring countries and from within Germany itself (Nipperdey 1992). The

¹ The Prussian king became emperor and his chief minister the first Chancellor. Moreover, within the *Bundesrat*, Prussia controlled seventeen out of a total of fifty-eight seats.

² In fact, at its founding, the German Reich was almost entirely dependent on the states for financing (Nipperdey 1986; Ullmann 2005).

³ Other special deals for key states that initially resisted absorption into a unified German state (in particular Bavaria and Württemberg) were negotiated to bring them in—for example, exemption from taxes on beer and spirits, and independent postal, railroad, and telegraph services (Nipperdey 1992).

democratically elected lower house (*Reichstag*) provided a kind of fig-leaf legitimacy but real power rested with the *Bundesrat*, which was dominated by Prussia, and whose state legislature was notoriously undemocratic.⁴ More precisely, and as Otto Pflanze has put it, the *Bundesrat* was a key component in an elaborate balancing act that allowed Bismarck to leverage multiple potentially disorganizing tendencies. “Centralistic and particularistic institutions were to be played off against each other. Pressure would be met by counter pressure: the nation against the dynasties, the confederation against Prussia, *Reichstag* against *Bundesrat*, parliament against parliament, centralism against particularism, the centripetal against the centrifugal . . .” (Pflanze 1990: 346–8).

Given its history and role in the German imperial state, the *Bundesrat* was strongly associated with authoritarianism.⁵ Deeply anti-democratic in its composition, the institution represented a “cartel of princes and bureaucrats” (Lehmbruch 2002: 37) who actively inhibited the development and exercise of democracy. The opposition Social Democrats understandably committed themselves in this period to dismantling the *Bundesrat* and establishing a unitary system of government. As Engels put it in 1891, it would be impossible “to revolutionize society while there are [state] reservation rights,” and noted that “the proletariat can only use the form of the one and indivisible republic” (Engels 1990 [1891]: 227–8).

6.4 Politics at Critical Junctures: The Limits to Institutional Redesign

Social Democrats got their chance in 1918 when defeat in World War I and the collapse of empire abruptly thrust them into positions of power. A classic case of a critical juncture, the revolution had up-ended power relations in Germany. The country’s constitution was rewritten from scratch under the influence of a democratic revolution led by Social Democrats. The country’s governing council designated Hugo Preuß, a left-liberal professor of law, as an under-secretary of state, and commissioned him to draw up a draft constitution. Although Preuß was not himself a Social Democrat (he was associated instead with the liberal German Democratic Party, *Deutsche Demokratische*

⁴ Prussia’s three-tiered voting system guaranteed aristocratic dominance, and within the *Bundesrat* the Prussian delegation was able to block any measure they deemed against their interests.

⁵ Very different from the sanguine views of federalism in some of the contemporary literature, German federalism in this period clearly operated as a bastion of reactionary forces—similar in this sense to federalism in the United States in the nineteenth (and into the twentieth) century and in some Latin American cases today (Gibson 2005).

Partei, DDP) (Rürup 1972), he shared a preference for a more unitary form of government.

Specifically, Preuß favored a “decentralized unitary state” with power concentrated at the national level, where states would survive but in a completely reconfigured form. Preuß regarded the existing states as relicts from an authoritarian past (Apelt 1946: 60). He envisioned redrawing the map to create eight wholly new states (above all, more equal in size to each other) and subordinated to the powers of the central government. Given the dominance of Social Democrats at both the national level and in state governments⁶ and the strong preference for a unitary system of government on the part of those charged with crafting a new constitution, one might have expected a complete break with traditional institutional arrangements.

Yet the re-founding exhibits a more complex mix of continuities and changes (Schultz 1987: 198). When the Weimar constitution was signed into law on August 11, 1919, it not only left traditional state boundaries intact, but also established the *Reichsrat*, an institution strikingly similar in its composition and design to the imperial *Bundesrat*. As before, state representatives to the Council would not be elected but would instead be direct emissaries of state governments.⁷ Even though the center of power shifted sharply toward the national assembly (*Reichstag*) (Schultz 1987: 104), the *Reichsrat* retained some significant rights, specified in Articles 60–7, 69, and 74 of the Weimar Constitution (see also Craig 1980: 419). The constitution stipulated that every legislative initiative by the government had to be presented to the *Reichsrat*. If the *Reichsrat* did not consent, its dissenting opinion needed to be presented together with the proposal to the *Reichstag*. Moreover, the *Reichsrat* could object to any law passed by the *Reichstag*, and overruling such objections required either a two-thirds majority in the *Reichstag* or a majority in a plebiscite called by the president.

Prussia was a main target of Preuß’s reform ambitions, and the failure of his plan to break it up by redrawing state boundaries meant that Prussia survived the transition to democracy. Decision-making within the new government was more centralized, a consequence above all of fiscal reforms (the Erzberger reforms) that freed the central government from dependence on the states for financing. And although some limits were placed on Prussian influence in the *Reichsrat*,⁸ Prussia would continue to loom relatively large in German politics.

⁶ As Schulz notes, one year after the toppling of the monarchy, Social Democrats were the majority party in thirteen of Germany’s states, including in the three largest states (Schultz 1987: 198).

⁷ Each state would be granted one vote per million inhabitants, with a minimum of one vote per state.

⁸ In a provision designed to limit Prussian influence, no state could have more than two-fifths of the votes in the *Reichsrat* (Prussia had about 60 percent of the population). For the Prussian territory, half of the delegates would represent the provinces and half the state of Prussia itself.

Invoking Gibson and Falleti (2004) again, one could speak of a transition to a more centralized version of a hegemonic federal regime—the hegemon, Prussia, survived the transition although the center of power (especially in financial matters) shifted to the national government.

For present purposes the resilience of the *Bundesrat* model (direct state representation at the national level) is remarkable. Despite the close association of the *Bundesrat* with authoritarianism and the unequivocal desire on the part of the founding Weimar government for a more unitary structure, the constitution not only allowed the council of state ministers to survive but handed it significant veto power in the national legislative process. What was behind this outcome? An examination of the politics in the turbulent period between 1918 and 1919 is instructive for what it teaches us about the possibilities for wholesale institutional redesign at critical junctures.

6.4.1 *Federalism in the SPD*

The politics of the SPD, one of the bigger parties supporting centralization, is particularly instructive. In the nineteenth century, Germany's Social Democratic Party had developed a reputation as the country's most strictly organized, centralized, and disciplined party, a legacy of the original organizational design but also the result of decades of semi-clandestine activity under the anti-socialist laws (Michels 1911, 1966; Nipperdey 1961: 386). But the reputation is at odds with the reality, since the party in fact was more decentralized and diverse (organizationally as well as ideologically) than commonly thought. Political conditions in Germany's various states diverged considerably in the imperial period. The Left was vigorously repressed in Prussia, but in some of the southern and southwestern states the Social Democratic Party enjoyed more freedom to organize and to contest elections.

Local and state level party leaders adapted their strategies to local conditions. In Prussia, repression and constraints on organization—extending well beyond the expiration of the anti-socialist laws in 1890—fuelled a radical ideology. There, anti-combination laws prevented state-wide assemblies (the first state party conference in Prussia did not take place until 1905), and electoral laws were skewed to systematically under-represent the Left. However, in other German states, including Baden, Hessen, Bavaria, Württemberg, and Saxony, a more liberal climate prevailed. In these states, social democrats organized and contested elections, achieving representation in state governments by 1900 (von Freyberg 1975; Miller and Potthoff 1986; Schultz 1987). In these states, party leaders regularly faced important choices about whether to align themselves with bourgeois parties in electoral coalitions, and frequently traded their support on various government bills for more democratic electoral laws.

The diversity of conditions under which the SPD operated in different states set the scene for consequential battles within the party of how much autonomy regional leaders ought to enjoy.⁹ Party elites in the more liberal states chafed under what they considered the overly doctrinaire line of (Prussian) central party leaders. Already by 1891, Georg von Vollmar, the powerful reformist leader of the Bavarian Social Democratic Party, had rankled national leaders by suggesting that the party should cooperate with the dominant bourgeois powers on military issues and policies toward independent farmers. Such ideas were considered treasonous in some party circles and the issue of centralization versus state autonomy in the party was a repeated subject of debate at party congresses in the early 1900s.

At the 1905 congress the southern German states sponsored a proposal for the federalization of the party structure itself, precipitating a heated debate over party organization. Although the southerners' proposal for decentralization was defeated at that congress, the issue did not go away. It reached a head in 1908 when southern delegations were charged with breach of discipline for having voted for the national budget, and some of the hardliners at party headquarters (for example, Clara Zetkin) sought to have them expelled.¹⁰ But unity trumped discipline and no sanctions were imposed. While the party congress reaffirmed its commitment to centralization, there nonetheless remained significant space for autonomy even if the southerners were never successful in their bid to get the party reorganized officially around federal principles.

These divisions did not vanish in the transition to democracy after World War I; indeed, in the rocky period following Germany's capitulation, the emerging leadership in southern states—led by Bavaria—put all their efforts into securing state autonomy. Within the Bavarian state party, reformist and revolutionary elements locked horns on all conceivable programmatic issues, but they spoke with one voice on the question of state autonomy and federalism. Erhard Auer, Vollmar's protégé and, like his mentor, a dedicated reformist, was firmly committed to state autonomy. But so was the Bavarian revolutionary Kurt Eisner, who wanted the same outcome but for very different reasons; namely, to avoid subordination to the more moderate party elite that had in the meantime assumed power in Berlin (Nipperdey 1961: 387–90; Schultz 1987; see also Mehringer 1992). Bavaria was not alone, either. Already in December 1918 the southern German states had held a “conference of

⁹ On the internal politics of the party, see especially Nipperdey (1961: 387–8); and von Freyberg (1975).

¹⁰ The national party explicitly rejected supporting the national budget on principle, since the budget gave the government resources to pursue its authoritarian policies.

states" (*Staatenkonferenz*) to establish a common position to bring into national discussions.

State governments were up and running much earlier than the national government. Separate revolutions in different regions gave power to self-confident and independent-minded (also now, democratic) state governments (Peukert 1987: 46). Most of these were quickly able to solidify their power (Apelt 1946: 40). Partly this was a function of high continuity in local and state bureaucracies, as new democratic governments "slipped into the empty hull" of the previous state structures (Schultz 1987: 104), leaving the administration intact and largely unchanged. Moreover, in the context of extreme national upheaval, the country's president Friedrich Ebert needed regional elites to restore order and re-establish authority. Just as Bismarck had needed state elites to solidify authoritarianism, so too did national political elites in the early years of the democratic Weimar Republic need them to stabilize democracy, and for this compromises were necessary.

6.4.2 *The Role of Länder Bureaucrats*

When state representatives received Preuß's constitutional draft on January 20, 1919, they vehemently opposed it as too unitarist. The states were invited to a joint conference with the federal government on January 25, 1919. Participating in this conference on behalf of the states were not only their revolutionary governments (mostly SPD or USPD), but also large numbers of bureaucrats, many of whom had already been part of the imperial *Bundesrat* (Jasper 1992: 125–6). The tone of the meeting has been characterized as "more *ancien regime* than revolution," and many scholars regard the convening of the conference as a definite decision for a more federal solution (Apelt 1946: 177; Rose 1964: 22).

Delegates to the conference put up ferocious resistance to the idea of restructuring the states. Even southern elites argued against the idea that had been floated to divide Prussia into a number of smaller states, not out of loyalty to Prussia but because they viewed this as a strategy to weaken the power of the states generally. State representatives successfully argued for the establishment of a permanent council of states (*Staatenausschuss*) to accompany the constitutional process. The federal government would put all of its recommendations before the council (Schultz 1987: 187ff.). In all areas where agreement with the states could not be reached, both positions were to be presented to the constitutional convention, though only in questions of the integrity of state territory were the states to have an outright veto (Apelt 1946: 68).

The states' representatives in the council would not be elected, but rather be direct emissaries of state governments—thus mirroring the past *Bundesrat* and foreshadowing the future *Reichsrat*. Once convened, the council was also

successful in convincing the government to agree to pass a preliminary constitution that would serve as a legal basis during the negotiations of the constitutional assembly. On February 6, 1919, a “preliminary law governing central-state power” [*Vorläufiges Gesetz über die Reichsgewalt*], was passed by the national assembly (*Nationalversammlung*) without significant debate. This short document predetermined many of the later structures of government, including the existence of a second chamber based on direct representation of state governments at the national level (Jasper 1992: 127).

In sum, the result of this first episode in institutional redesign was heavily laced with elements from the previous imperial model (Craig 1980), an instance of what Slater and Simmons might call a “critical antecedent” (Slater and Simmons 2010). The new constitution involved some diminution of state power, but much survived the rupture, and the Weimar constitution would likely have been more federalist still had Bavaria (the most vociferous proponent of state autonomy) not sunk into chaos. The crucial Erzberger reforms regulating state finance centralized taxation authority. However, efforts to redraw state boundaries and reconfigure German federalism in a more profound way were defeated.

The *Bundesrat* thus survived a transition that had transferred power to a national political elite previously committed to its elimination. The reason has in large part to do with the fact that federalist thinking had long infiltrated the party itself, and even radical socialists sought refuge in federal institutions (in this case, paradoxically, to buffer themselves from the moderates in power at the national level). For its part, the beleaguered national government saw the newly founded democratic state governments as allies in its efforts to institutionalize democratic rule. And, as during the imperial period, radically diverging political constellations in different states during the rest of the Weimar years kept the discussion of deeper reforms to the *Bundesrat* and to Germany’s federal structure off the agenda.

6.5 Reinstating Federalism: The *Bundesrat* in the Federal Republic

Federal institutions were completely dismantled in the years of National Socialism, but re-emerged after World War II. When the Federal Republic of Germany was founded out of the three zones occupied by France, the United Kingdom, and the United States, the allies placed certain limits on the nature of the constitution, outlined in the so-called “Frankfurt Documents.” These were to be the basis of the constitution (named the “Basic Law” or *Grundgesetz* for its supposed provisional nature) crafted by the Parliamentary Council convening in Bonn. The allies were unambiguous in

demanding that Germany be reconstituted as a federal state but as Scharpf and Lehbruch both emphasize, they confronted powerful actors in Germany who preferred a more centralized constellation (Lehbruch 2002: 59; Scharpf 2009: 18–9).¹¹ Since a completely unitary system was ruled out by the occupying powers, contests focused on more versus less centralized models.

Some of the most important conflicts were played out over the composition and role of the *Bundesrat*. Regionally based parties and parts of Christian Democratic Union (CDU), as well as politicians from the southern states were especially interested in preserving the traditional *Bundesrat* model (Lambrecht 1975: 28; Lehbruch 2002: 7, 59). By contrast, the Social Democratic Party and the liberal Free Democratic Party preferred a popularly elected Senate as in the United States. They were joined in this position by a significant fraction in the CDU, including its leader Konrad Adenauer, as well as the country's future first president, Theodor Heuss (Morsey 1974: 67; also Morsey 1972, 2000).

In the end the *Bundesrat* system (of state-government delegates) prevailed, a decision widely seen as a victory of federalist forces (Neunreither 1959; Merkl 1965; Lambrecht 1975; Lehbruch 2002: 63). The conservative state premier of Bavaria, Hans Ehard, who was deeply involved in the deliberations, declared the reinstatement of the *Bundesrat* “a decisive victory for the federalist spirit” (cited in Morsey 1974: 77).¹² After the extreme centralization of power under Hitler, the proponents of the *Bundesrat* model saw the institution as central to the project of “stabiliz[ing] the rights of the states against federal powers” (Neunreither 1959: 729).

¹¹ Although a full treatment is beyond the scope of this chapter, it is worth mentioning that the allies also insisted on a rather decentralized system of dual taxation in which indirect taxes would go to the national government and direct taxes to the states. In order to avoid conflicts, the constitution of 1949 included only preliminary rules on fiscal federalism. Elsewhere, Broschek (2010, 2011) and Renzsch (1991) have analyzed the ways in which incremental expansion of vertical revenue sharing and “horizontal” (inter-state) equalization schemes evolved step by step between 1955 and 1969, at which point a major overhaul of the tax system explicitly reestablished a system which, by requiring joint decisions in legislation, increased the power of the *Bundesrat*.

¹² The final product looked as follows: The *Bundesrat* consists of delegates from the state governments. Each state has at least three representatives, states with more than two million inhabitants have four representatives, states with more than six million inhabitants five (Art. 50, 2). All laws that affect *Länder* powers, in particular those containing directives to state administrations (Art. 84) or changing joint taxes require *Bundesrat* assent (Art. 84). If a law requires *Bundesrat* assent and does not find a majority in the *Bundesrat*, either house can call for the convocation of the mediation committee, in which Bundestag and *Bundesrat* are represented equally (Art. 77, 2). If a law requires *Bundesrat* assent and the mediation committee does not find a compromise, the law fails. The *Bundesrat* can object within two weeks to any law, even those that fall under the sole jurisdiction of the federal parliament (*Bundestag*), and request that the mediation committee be convened. In this case, the *Bundestag* can overrule an objection of the *Bundesrat* with the votes of a majority of its members, except where the *Bundesrat* objects with a two-thirds majority, in which case the Bundestag needs a two-thirds majority to overrule the objection (Art. 77, 1–4).

The revival of the *Bundesrat* model was anything but foreordained. With the exception of Bavaria, Hamburg, and Bremen,¹³ the German states did not re-emerge after the war in their historic form. Most of the states that would send delegates to the upper chamber were wholly new constructions, their boundaries above all a function of the occupation zones. However, and as in the early Weimar years, state governments had been able to reconstitute themselves before the national government was up and running. As in the previous transition, Prime Ministers of the *Länder* convened a Parliamentary Council through which they could collectively exert influence in discussions over constitutional redesign—another critical antecedent à la Slater and Simmons (Slater and Simmons 2010).¹⁴ As Karl Arnold, Prime Minister of North-Rhine Westphalia and the first president of the *Bundesrat* argued in his inaugural address: “The *Länder*, represented by their governments, are powers within the Federal Republic of Germany that cannot be ignored. They were the first to re-emerge after the total defeat” (cited in Rapp 1974: 23).

In principle, and as before, the national leadership of the SPD was less enamored of strong states’ rights. However, for them the *Bundesrat* model was part of a compromise that would clearly subordinate this institution to the popularly elected *Bundestag* in the legislative process, something that would have been hard to attain with the Senate model (Morsey 1974: 74–5). The reinstatement of the *Bundesrat* was thus in an important sense a “common carrier” of diverse and even conflicting objects (Schickler 2001). States’ rights advocates believed the institution would serve as a bulwark to preserve state autonomy, and unitarists saw in it a less formidable competitor for national legislative power than a popularly elected Senate. The following section explores why both sides were wrong.

6.6 Limits to Stability: The Changing Nature of Post-war German Federalism

The role played by the *Bundesrat* in the Federal Republic would have disappointed its federalist and unitarist supporters in about equal measure, because over time it developed into an institution that, contrary to the federalists, has not preserved the autonomy of the individual state legislatures, and, contrary to the unitarists, has at the same time developed into a (sometimes disruptive) veto player in national decision-making. Oeter (1998: 264–5) characterizes the

¹³ Also Saxony, but it was in the East, therefore destined to become part of the communist German Democratic Republic (DDR).

¹⁴ The members of the council were then elected by the state Parliaments, but a month before the Parliamentary council started debate, scholars and politicians had convened at Herrenchiemsee to draft working proposals for the constitution.

transformation of the Bundesrat as follows: “originally intended by its proponents as a ‘federal brake’ [on central power] along the lines of the Bundesrat in Bismarck’s constitution . . . the Bundesrat in fact developed into a promoter of unitarization” (Oeter 1998: 264–5).

The division of powers between central government and states that was worked out in the Bonn constitution was from the start somewhat ambiguous, as indeed the term “unitary federal state” (Hesse 1962) itself implies. As noted above, the state governments were in place before the founding of the Federal Republic and the allies “insisted on a federal solution” and “also made sure that the Länder would dominate the design and adoption of the constitution” (Scharpf 2005). At the same time, however, the idea of a unitary state had taken hold in the population in general and in the national political parties in particular, so that as Fritz Scharpf notes, the Basic Law that was ultimately ratified in 1949 was also infused with a strong strain of unitarism.

In some ways tensions were built into the constitution itself. Article 72 set out the basic terms of the relationship between central and state legislative jurisdictions—concurrent rights, reserved competencies, and conditions under which federal legislation trumped state rights—although the general trend in the early years was toward interpreting these in ways that enhanced federal dominance. However, the constitution also clearly gave states primary responsibility for administering federal law, building on Germany’s strong tradition of decentralized administration (Neunreither 1959: 713–4). In light of this, Article 84(1) of the German Basic Law stipulated that federal laws that require execution and administration through the states must secure their consent via the *Bundesrat*. This provision, originally seen as innocuous, in fact opened the door for what became a “surprising expansion” of the *Bundesrat*’s involvement in legislative matters (Neunreither 1959: 718).¹⁵

The increase in the *Bundesrat*’s role and influence in national decision-making was unanticipated, and in its aggregate effect, unwanted by all sides as well. The change was not abrupt but proceeded gradually as more and more legislation came to be interpreted as requiring *Bundesrat* approval. While initially there was some ambiguity as to whether *Bundesrat* approval was required only for the *administrative* sections of proposed laws, political developments and expansive interpretations of the law by the Constitutional Court drove an increase in the number of laws requiring *Bundesrat* assent. Figure 6.2 documents the growth of laws subject to *Bundesrat* approval after 1949.

As the influence of the *Bundesrat* on national politics grew, the autonomous legislative powers of the state legislatures declined, or as Oeter puts it, “the states’ gradually diminishing independent powers were replaced with

¹⁵ The definitive accounts are by Lehmbruch and by Scharpf, on whom we rely here.

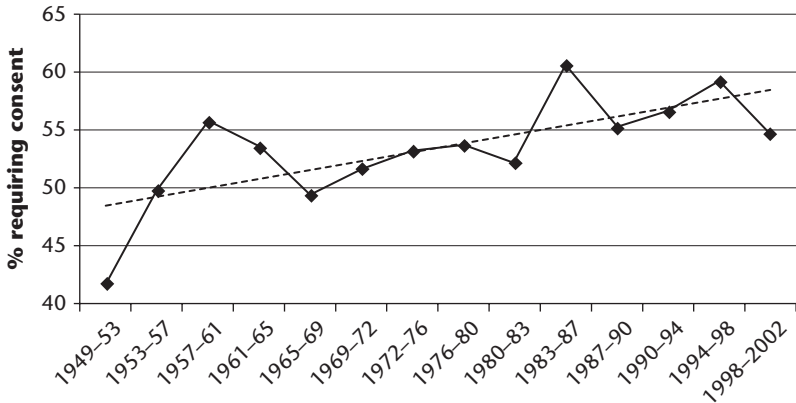


Figure 6.2. Percentage of laws requiring Bundesrat consent by legislative period
 Source: Data from Schindler (1999) and Feldkamp (2005).

increasing participation [through the *Bundesrat*] in the exercise of power at the national level” (Oeter 1998: 265). The paradox is that the *Bundesrat*, established to safeguard state autonomy and widely conceived as a victory for federalists, was in this way effectively transformed from a “states’ rights” chamber into a vehicle for the centralization of power in Bonn/Berlin. The result, as one observer put it, is that today’s *Bundesrat* is a far cry from the one envisioned by the founders (Neunreither 1959: 713).

6.6.1 The “Double Movement” of German Federalism

The evolution of German federalism and, with that, of the role and functions of the *Bundesrat* involved a double movement—an increase in the power of the federal government over state governments in legislative decision-making, and a concomitant increase in the role and power of the *Bundesrat* in national-level politics. This section deals with each of these aspects in turn.

Judicial actions and political dynamics both operated from early on to reinforce the dominance of the central government over the states in legislative decision-making. An important court decision (in 1952), for example, underscored the impact of Article 125 of the Basic Law, which stipulated that all matters falling under concurrent legislation that had already been preempted by the federal level before 1949 would automatically be carried over into the Basic Law as federal competencies. The court ruled that these matters would not be subject to state approval, in effect generating a barrier against decentralization in any of these areas (Oeter 1998: 202–6; Scharpf 2009: 9).

Legal rulings and political practice under Article 72, (2) of the constitution also reinforced the general thrust toward federal dominance. This provision

gave the central government the right to pass laws “if and to the extent that the establishment of equal living conditions throughout the federal territory or the maintenance of legal or economic unity renders federal regulation necessary in the national interest.” The original intent of this clause (the so-called necessity clause or *Bedürfnisklausel*) under the occupation powers was to preserve significant residual powers for the states—that is, the federal government could *only* take action required to equalize conditions. But in practice the clause was interpreted broadly to allow federal legislation in a wide range of areas.

In the 1950s and 1960s, state governments readily acceded to federal actions taken under the auspices of the “equalization” clause because economic conditions (above all, labor shortages) were driving costly competition between states on subsidies and public employee wages (Scharpf 1999). In this context, states were willing to yield regulatory power to the federal government as a way of solving their own collective action problems. A similar dynamic took hold when the German federal government began to offer grants-in-aid to states in issue areas falling under their (states’) constitutional prerogative, such as education and health care. Frequently such grants came with some type of conditionality; for example, that the states match federal funds. Nevertheless, states were in no position to turn down federal grants, even less so as their fiscal situation deteriorated in the first economic downturn of the late 1960s and early 1970s (Blair 1981: 224).

When the “Grand” coalition of CDU/CSU and SPD came to power in 1966 it undertook a major overhaul of federal arrangements. However, what transpired to a very significant extent simply followed and codified political realities as these had developed over the previous decades. Longstanding areas of federal–state cooperation were formally written into the constitution as “joint tasks” (Article 91), which are planned and financed jointly by state and federal governments. The constitutional basis for grants-in-aid was established by Article 104a(4), and some of the fields where such financing had become prevalent (for example, hospitals and education and training), were added to the list of concurrent powers (Article 74, sec. 13 and 19a) or defined as joint tasks under Article 91.¹⁶

Since most of these new national-level regulations relied for their execution and implementation on decentralized administration, state *bureaucracies* were positively affected by these developments, as demonstrated by the steady upward trend of state expenditures as a share of total expenditures since 1950 (Figure 6.3). State administration, in turn, triggered Article 84(1) in

¹⁶ As Behnke and Benz note, the trend since the 1980s has been in the other direction, with states trying to “decentralize powers and to push back federal interventions in affairs of Länder and local governments” (Behnke and Benz 2009: 224).

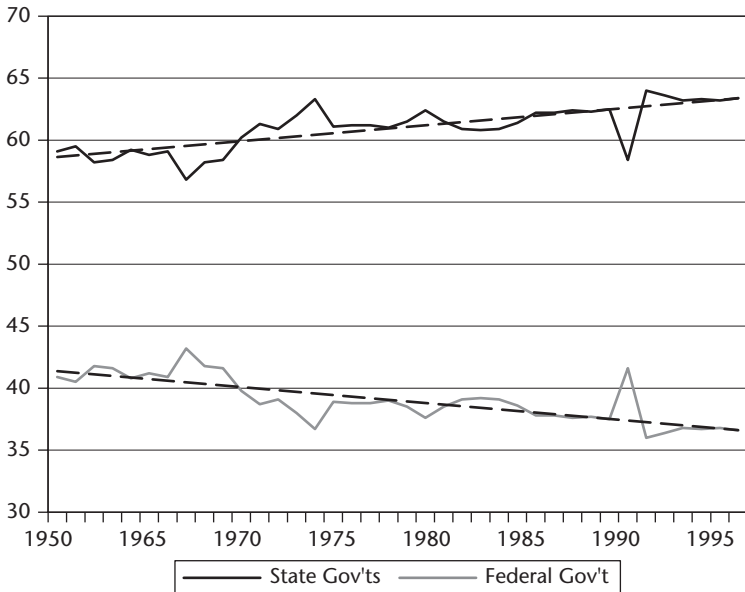


Figure 6.3. Expenditures of state and federal governments in Germany (as % of total expenditures)

Sources: Data from Watts and Hobson (2000: 19); based on Statistisches Bundesamt, Fachserie 14, R 3.1, 1997.

which laws requiring state administration required *Bundesrat* assent (Lehmbruch 1976; Scharpf, Reissert, and Schnabel 1976). In this sense, the strengthening of *Bundesrat* power in national decision-making and of state *administrative* power were mutually reinforcing; Oeter even speaks of a dialectical relationship between the two (Hesse 1962; Oeter 1998: 265). The *Bundesrat* (and the state *governments* represented in it) thus retained significant power, even if state *legislatures* who did not have a voice in these proceedings, found themselves excluded from an increasing number of policy fields (Schmalenbach 1998: 44–5).

Thus, the other side of the double movement of German federalism was the expansion of the role of the *Bundesrat*. In this case too, the trend was partly driven by political developments but further reinforced by key court decisions. Of these, the most significant ruling was a 1958 decision in response to several laws extending the federal price act. In this case the court ruled that *Bundesrat* approval was required in the law at issue, and it went on to render a very expansive interpretation of Article 84(1) that held that it was not just the *administrative* provisions of a proposed law that required *Bundesrat* assent, but the entire act. The impact of this ruling, based on a “unity theory” (*Einheitstheorie*) of laws was not fully apparent until the 1970s when the *Bundesrat* and

Bundestag were controlled by different political majorities. However, this decision translated into a significant increase in the power of the *Bundesrat*, as “the administrative character of a single clause was sufficient to give the *Bundesrat* an absolute veto over the whole law” (Blair 1981: 96).¹⁷

6.6.2 Party Politics and the Bundesrat

During the crafting of the constitution, proponents of both Senate and *Bundesrat* models suggested that the institution would be above party politics, a moderating influence on the more partisan Bundestag. However, as Lehbruch has convincingly argued, these views rested on what turned out to be faulty assumptions both about partisan politics and the limited role the *Bundesrat* was expected to play (Lehbruch 1976: 71). By 1961 the powers of the *Bundesrat* had grown beyond the intent of the designers and the German party system was increasingly characterized by a high degree of polarization between the CDU/CSU and the SPD. The specter of divided government—with Bundestag and *Bundesrat* controlled by different “poles” in the political spectrum became a distinct possibility.

The first period of “divided government” in 1969 under the SPD/FDP coalition had the effect of pulling the *Bundesrat* into national party politics, a problem that became recurrent and acutely visible thereafter (Lehbruch 1976; Burkhart 2008).¹⁸ Initially, the position of the small but pivotal FDP in several state coalitions with the CDU was able to moderate attempts by the CDU to use the *Bundesrat* as a tool for party politics. But as the CDU was able to win absolute majorities in an increasing number of states, it was able to make good on the announcement of CDU-leader Kiesinger that the *Bundesrat* would be “an important instrument for the opposition” (cited in Lehbruch 1976: 133). The CDU/CSU’s opposition did not take the form of explicit obstruction, but the opposition had a very strong position in negotiating favorable outcomes for laws requiring *Bundesrat* consent.¹⁹

¹⁷ In the following years, some of the court’s rulings appear to moderate the sweeping statements of the earlier ruling, without however touching the general principles it had established. In any event, the federal government was reluctant to challenge the *Bundesrat*’s (quite frequent) declaration of a law as requiring assent, since it often needed the states’ cooperation in executing the law in question (Blair 1981: 101).

¹⁸ Though less visibly, party (instead of state) representation in the *Bundesrat* became an issue before the onset of divided government after 1969. According to Lehbruch, it was not unusual for the national CDU party to pressure its prime ministers on important *Bundesrat* decisions (Lehbruch 1976: 126). Already in 1954, the CDU in Hessen campaigned with a slogan that emphasized the importance for the composition of the *Bundesrat* of the party’s winning the state parliament.

¹⁹ In 1994, a constitutional amendment was passed requiring the Federal Constitutional Court to decide on matters of concurrent powers, and after 2000 a number of court rulings produced a somewhat more restrictive interpretation of the “necessity clause,” thus restricting federal jurisdiction. But this did not change the basic dynamics described here.

One consequence of these developments was that questions of *states' rights* were increasingly subordinated to or translated into partisan disputes and played out in conflicts between competing majorities in the *Bundesrat* and *Bundestag*.²⁰ Moreover, state prime ministers increasingly used the platform afforded them as members of the *Bundesrat* to position themselves as opposition leaders. This “tradition” was begun by Helmut Kohl, then Prime Minister in Rhineland Palatinate in 1975, when, addressing the *Bundestag* as a representative of the *Bundesrat*, he stated that he was “speaking for my friends in the German CDU/CSU” (cited in Lehbruch 1976: 141). The role of the *Bundesrat* as a stage for national politics has been further emphasized by the importance of state party organizations for the recruitment of national politicians. Angela Merkel was not only the first Chancellor since Ludwig Erhard (1963–66) who had not been state prime minister,²¹ but was one of only two major party candidates since Erhard without such experience.

The role of party politics, party organization, and divided government has thus led the *Bundesrat* further and further away from a “states’ rights” chamber. When Gerhard Schröder called for new elections in 2005, it was not on the basis of defeat in the lower house (*Bundestag*), but rather on the occasion of the CDU/CSU winning a two-thirds majority in the *Bundesrat*—thus guaranteeing the opposition the ability to block any law (not just those requiring assent) passed by the governing coalition. Efforts to ease the political deadlock caused by these dynamics through constitutional reform in 2006 produced very limited results (see especially Scharpf 2009; also Behnke and Benz 2009).²²

6.7 Conclusion: Stability and Change in Federal Institutions

The case of the *Bundesrat* is instructive for what it can teach us about processes of institutional change in federal institutions and beyond. The literature in comparative politics often falls back on a punctuated equilibrium model of change that expects significant transformations mostly in “critical juncture” moments and institutional stability in periods of “normal politics.” What we observed for German federalism, however, is something like the opposite:

²⁰ Under Gerhard Schröder’s Red/Green coalition, legislation that was opposed by a CDU-CSU dominated *Bundesrat* included health care reform, fiscal reform, welfare reform, and the reform of citizenship laws.

²¹ Or the functional equivalent of ruling mayor of an independent city, such as Brandt, Schmidt, and Vogel, mayors of Berlin, Berlin, and Hamburg respectively.

²² For the specifics of the 2006 Reform, see Burkhart, Manow, and Ziblatt (2008). Behnke and Benz note that “the goal of significant disentanglement of competencies was not met, and the re-organization of the fiscal constitution was excluded altogether” (2009: 223). Most observers therefore doubt the results will have a significant impact.

surprising stability through unsettled times, and significant changes in periods of “normal politics” and even under the guise of considerable formal institutional stability.

As we saw, the *Bundesrat* proved surprisingly resilient through successive episodes of dramatic political change, being reinvented or revived in the aftermath of historic ruptures following World Wars I and II. Since that time, however, the *Bundesrat*'s role in Germany's system of government has changed considerably and in ways that are deeply paradoxical—from a strong states' rights chamber to a powerful and sometimes disruptive player in national decision-making. But what is crucial in the current context is that many of the most significant shifts in this transformation occurred outside of big break points through processes of incremental but cumulatively transformative change.

As noted in the introduction to this volume, most of the existing literature that takes federal institutions as the dependent variable focuses either on issues of constitutional design or of the stability of federal institutions. Regarding design, our study suggests that even the most dramatic instances of historical ruptures do not necessarily allow for a textbook redesign; many features survive these ruptures. Moreover, the political role of the *Bundesrat* (*Reichsrat*) hardly corresponded to the expectations of its designers, which in turn leads us to be sceptical about inferring the effects of institutions from their formal design, or conversely, of reading the intent of an institution's designers from the role the institution can later be seen to be performing.

Analyses of the stability of federal institutions do implicitly address institutional change—as the absence of stability. But of course treating stability and change as polar opposites is clearly unsatisfactory. German federalism is indisputably stable in many important dimensions, and yet formal institutional stability has not prevented significant change in the functions of the *Bundesrat* over the last sixty years. Indeed, as Behnke and Benz (2009) suggest, a certain degree of flexibility is sometimes even a precondition for the stability of federal structures.

We have suggested studying the origins and development of federal institutions using insights from historical institutionalism. Following the work of Pierson (2004) and Thelen (2004), we emphasize the mechanisms of reproduction that keep institutions intact even through significant historical junctures as well as the importance of gradual changes in the form and functions of institutions over time. While until now the key works in historical institutionalism have concentrated on “softer” institutions, mostly in the area of political economy (Hall 1986; Thelen 2004), our study shows that some of these insights can be fruitfully applied to formal political institutions as well.

References

- Apelt, Willibalt (1946), *Geschichte der Weimarer Verfassung* (München: Biederstein).
- Bednar, Jenna (2009), *The Robust Federation* (Cambridge: Cambridge University Press).
- Bednar, Jenna, Eskridge, William N., and Ferejohn, John (2001), "A political theory of federalism," in John Ferejohn, John Riley, and Jack N. Rakove (eds.), *Constitutional Culture and Democratic Rule* (New York: Cambridge University Press), 223–67.
- Behnke, Nathalie and Benz, Arthur (2009), "The politics of constitutional change between reform and evolution," *Publius: The Journal of Federation* 39 (2), 213–40.
- Blair, Philip M. (1981), *Federalism and Judicial Review in West Germany* (Oxford: Clarendon Press).
- Broschek, Jörg (2010), "Federalism and political change: Canada and Germany in historical-institutionalist perspective," *Canadian Journal of Political Science* 43 (1), 1–24.
- (2012), "Historical institutionalism and the varieties of federalism in Germany and Canada," *Publius: The Journal of Federalism*. Doi:10.1093/publius/pjr040.
- Burkhart, Simone (2008), *Blockierte Politik: Ursachen und Folgen von "Divided Government" in Deutschland* (Frankfurt/Main: Campus).
- Burkhart, Simone, Manow, Philip, and Ziblatt, Daniel (2008), "A more efficient and accountable federalism? An analysis of the consequences of Germany's 2006 constitutional reform," *German Politics* 17 (4), 522–40.
- Craig, Gordon (1980), *Germany: 1966–1945* (New York: Oxford University Press).
- Engels, Frederick (1990 [1891]), "A critique of the draft social-democratic programme of 1891," in *Karl Marx, Frederick Engels: Collected works, vol. 27, Engels: 1890–1895.*, ed. K. Marx and F. Engels (New York: International Publishers), 217–34.
- Erk, Jan and Swenden, Wilfried (2010), "The new wave of federalism studies," in Jan Erk and Wilfried Swenden (eds.), *New Directions in Federalism Studies* (London: Routledge), 1–15.
- Feldkamp, Michael (2005), *Datenhandbuch zur Geschichte des Deutschen Bundestages 1994 bis 2003* (Berlin: Deutscher Bundestag Referat Öffentlichkeitsarbeit).
- Gibson, Edward L. (ed.) (2004), *Federalism and Democracy in Latin America* (Baltimore, MD: Johns Hopkins University).
- (2005), "Boundary control: Subnational authoritarianism in democratic countries," *World Politics* 58 (1), 101–32.
- Gibson, Edward L. and Falleti, Tulia (2004), "Unity by the stick: Regional conflict and the origins of federalism in Argentina," in Edward L. Gibson (ed.), *Federalism and Democracy in Latin America* (Baltimore, MD: Johns Hopkins University Press), 226–54.
- Hall, Peter A. (1986), *Governing the Economy: The Politics of State Intervention in Britain and France* (New York: Oxford University Press).
- Hesse, Konrad (1962), *Der unitarische Bundesstaat* (Karlsruhe: C.F. Müller).
- Hueglin, Thomas and Fenna, Alan (2006), *Comparative Federalism: A Systematic Inquiry* (Peterborough: Broadview Press).
- Jasper, Gotthard (1992), "Improvisierte Demokratie? Die Entstehung der Weimarer Verfassung," in Theo Stammen and Walther L. Bernecker (eds.), *Die Weimarer*

- Republik Band 1: Das schwere Erbe* (München: Bayerische Landeszentrale für politische Bildungsarbeit), 117–46.
- Katznelson, Ira (2003), "Periodization and preferences: Reflections on purposive action in comparative historical social science," in James Mahoney and Dietrich Rueschmeyer (eds.), *Comparative Historical Analysis in the Social Sciences* (New York: Cambridge University Press), 270–304.
- Lambrecht, Christa-Maria (1975), "Die Funktion des Föderalismus im Verfassungs- und Regierungssystem der Bundesrepublik Deutschland: die Entwicklung vom Parlamentarischen Rat bis zum kooperativen Föderalismus in der Diskussion," Doctoral Dissertation, Freie Universität Berlin (Berlin).
- Lehmbruch, Gerhard (1976), *Parteienwettbewerb im Bundesstaat* (Stuttgart: W. Kohlhammer).
- (2000), "Bundesstaatsreform als Sozialtechnologie? Pfadabhängigkeit und Veränderungsspielräume im deutschen Föderalismus," in Europäisches Zentrum für Föderalismus-Forschung Tübingen (ed.), *Jahrbuch des Föderalismus 2000. Föderalismus, Subsidiarität und Regionen in Europa* (Baden-Baden: Nomos), 71–96.
- (2002), "Der unitarische Bundesstaat in Deutschland: Pfadabhängigkeit und Wandel," MPIfG Discussion Paper, MPIfG, Köln.
- Mehringer, Hartmut (1992), *Von der Klassenbewegung zur Volkspartei: Wegmarken der bayerischen Sozialdemokratie 1892–1992* (München: Saur).
- Merkel, Peter H. (1965), *Die Entstehung der Bundesrepublik* (Stuttgart: Kohlhammer-Verlag).
- Michels, Robert (1911), *Zur Soziologie des Parteiwesens in der modernen Demokratie: Untersuchungen über die oligarchischen Tendenzen des Gruppenlebens* (Leipzig: W. Klinkhardt).
- (1966 [1925]), *Political Parties: A Sociological Study of the Oligarchical Tendencies of Modern Democracy* (New York: Free Press).
- Miller, Susanne and Potthoff, Heinrich (1986), *A History of German Social Democracy from 1848 to the Present* (New York: St. Martin's Press).
- Morsey, Rudolf (1972), *Brüning und Adenauer: zwei deutsche Staatsmänner* (Düsseldorf: Droste Verlag).
- (1974), *Die Entstehung des Bundesrates im Parlamentarischen Rat* (Bad Honnef: Neue Darmstädter Verlag Anstalt).
- (2000), *Die Bundesrepublik Deutschland: Entstehung und Entwicklung bis 1969* (München: Oldenbourg).
- Neunreither, Karlheinz (1959), "Politics and bureaucracy in the West German Bundesrat," *American Political Science Review* 53 (3), 713–31.
- Nipperdey, Thomas (1961), *Die Organisation der deutschen Parteien vor 1918* (Düsseldorf: Droste Verlag).
- (1986), *Nachdenken über die deutsche Geschichte* (München: Beck).
- (1992), *Deutsche Geschichte, 1966–1918: Machtstaat vor der Demokratie*, Vol. 2 (München: Beck).
- Oeter, Stefan (1998), *Integration und Subsidiarität im deutschen Bundesstaat* (Tübingen: Mohr).

- Peukert, Detlev (1987), *Die Weimarer Republik: Krisenjahre der Klassischen Moderne* (Frankfurt/Main: Suhrkamp).
- Pflanze, Otto (1990), *Bismarck and the Development of Germany: The Period of Unification, 1815–1871*, Vol. 1 (Princeton, NJ: Princeton University Press).
- Pierson, Paul (2004), *Politics in Time: History, Institutions, and Political Analysis* (Princeton, NJ: Princeton University Press).
- Rapp, Alfred (1974), *Der Bundesrat: Blick auf 25 Jahre 1949–1974*, Vol. 20 (Stuttgart: Verlag Bonn Aktuell).
- Renzsch, Wolfgang (1991), *Finanzverfassung und Finanzausgleich: die Auseinandersetzungen um ihre politische Gestaltung in der Bundesrepublik Deutschland zwischen Währungsreform und deutscher Vereinigung (1948–1990)* (Bonn: Dietz).
- Rose, Gerd-Joachim (1964), *Der Reichsrat der Weimarer Republik* (Speyer: Klambt-Druck).
- Rürup, Gerhard (1972), "Entstehung und Grundlagen der Weimarer Verfassung," in Eberhard Kolb (ed.), *Vom Kaiserreich zur Weimarer Republik* (Köln: Kiepenheuer & Witsch).
- Scharpf, Fritz (1999), "Föderale Politikverflechtung: Was muss man ertragen? Was kann man ändern?," MPIfG Discussion Paper, MPIfG, Köln.
- (2005), "Recht und Politik in der Reform des deutschen Föderalismus," MPIfG Discussion Paper, MPIfG, Köln.
- (2009), *Föderalismusreform: Kein Ausweg aus der Politikverflechtungsfalle?* (Frankfurt/Main: Campus).
- Scharpf, Fritz, Reissert, Bernd, and Schnabel, Fritz (1976), *Politikverflechtung: Theorie und Empirie des kooperativen Föderalismus in der Bundesrepublik* (Kronberg/Ts: Scriptor).
- Schickler, Eric (2001), *Disjointed Pluralism: Institutional Innovation and the Development of the U.S. Congress* (Princeton NJ: Princeton University Press).
- Schindler, Peter (1999), *Datenhandbuch zur Geschichte des Deutschen Bundestages 1949 bis 1999* (Baden-Baden: Nomos).
- Schmalenbach, Kirsten (1998), *Föderalismus und Unitarismus in der Bundesrepublik Deutschland* (Düsseldorf: Schriften des Landtags NRW).
- Schultz, Gerhard (1987), *Zwischen Demokratie und Diktatur* (Berlin: Walter de Gruyter).
- Slater, Dan and Simmons, Erica (2010), "Informative regress: Critical antecedents in comparative politics," *Comparative Political Studies* 43 (7), 886–917.
- Swidler, Ann (1986), "Culture in action: Symbols and strategies," *American Sociological Review* 51, 273–86.
- Thelen, Kathleen (2004), *How Institutions Evolve: The Political Economy of Skills in Germany, Britain, the United States and Japan* (New York: Cambridge University Press).
- Ullmann, Hans-Peter (2005), *Der deutsche Steuerstaat* (München: Beck).
- von Freyberg, Jutta (1975), *Geschichte der deutschen Sozialdemokratie, 1863–1975* (Köln: Pahl-Rugenstein).
- Watts, Ronald L. and Hobson, Paul (2000), *Fiscal Federalism in Germany* (Ottawa: Association of Universities and Colleges of Canada).

7

Decentralization in time: A process-tracing approach to federal dynamics of change

*Tulia G. Falleti**

7.1 Introduction

According to Daniel Elazar (1994: p. xv) federalism is an institutional arrangement in which the autonomy of the constituent units is constitutionally protected. Decentralization of government—this is, the set of policies that transfer responsibilities, resources, or authority from higher to lower levels of government—is a structural feature of federalism. This is because decentralization reforms are likely to augment the autonomy of the subnational units, a feature that is at the core of federal constitutional arrangements. However, the degree to which decentralization reforms affect federalism is dependent on the order or sequencing in which different types of decentralization reforms unfold over time. Focusing on federal dynamics of change, I show in this chapter how decentralization policies change federal arrangements. As in my previous work (Falleti 2005, 2010), I argue that the sequence in which different types of decentralization policies unfold over time is the key to understanding how the distribution of power between national and subnational levels of governments evolves in federal countries.

The chapter is organized in two parts. In the first, I focus on the more general question of how and why time matters to decentralization—which in turn affects the federal dynamics of change that are the focus of this volume. I argue that time is crucial to the study of decentralization processes.

* I thank James Mahoney and the organizers and participants of the *Federal Dynamics* workshop (Darmstadt, Germany), the panel on “Events, Processes, and Historical Temporality” at the 36th Annual Meeting of the Social Science and History Association (Boston, MA), and the Comparative Working Group at the University of North Carolina in Chapel Hill for very helpful comments.

Temporal analysis allows for periodization, sequencing of events, and the uncovering of causal mechanisms. By the end of the first part of this chapter, we shall then be in a better position to appreciate the importance and effects that the timing and sequences of policies have on political outcomes. The second part compares two Latin American federations that had similar federal arrangements before their processes of neoliberal decentralization started (circa the late 1970s), but that nonetheless arrived at divergent outcomes in terms of the balance of power among national and subnational officials by the end of the process (in the late 1990s). I will show that whereas decentralization reforms strengthened the autonomy of subnational officials in Brazil, similar decentralization reforms, but taking place in a different order, weakened the power of subnational officials in Argentina. Hence, a careful theorization of time is indispensable to fully appreciate how decentralization policies may (or may not) affect the federal dynamics of change.

7.2 Why and How Does Time Matter to Decentralization and Federal Dynamics of Change?

In the recent past, excellent scholarship has been produced regarding the importance of time in social science explanations (for example, Abbott 2001; Thelen 2003; Pierson 2004; Grzymala-Busse 2010); earlier works also exist (Adam 1994). In what follows, rather than engaging on a general discussion of how time should be incorporated in social theory, I zoom in on the reasons for why and how time matters as applied to the analysis of a specific process of policy reforms. I argue that time matters to decentralization policies, and hence to federal dynamics of change, for three main reasons: (a) time allows researchers to contextualize analytically equivalent decentralization processes; (b) time allows researchers to order events within processes of decentralization such that causally relevant sequences result; and (c) through process-tracing analysis, time allows researchers to specify the causal mechanisms that connect causally relevant events within decentralization processes.

7.2.1 Contextualization of Analytically Equivalent Processes

When undertaking a comparative research project, it is crucial that the compared processes that are thought to pertain to a single domain will indeed be analytically equivalent. The validity of causal inferences for the domain of reference rests upon this *sine qua non* condition. In the case of processes that span over time, the researcher must clearly specify the temporal beginning and ending points of the causal narrative. This requires making a theoretical decision about *temporal unit homogeneity* for the underlying process of interest.

In the specific case of decentralization processes—that is, the set of policy reforms that transfer responsibilities, resources, or authority from higher to lower levels of government—these have taken place in different historic periods, from the inception of the nation-states to nowadays. If we analyze the distribution of responsibilities, resources, and authority between levels of government (central, state, and local) in the temporal *longue durée*, we appreciate the ebb and flow of (de)centralization policies and periods. These fluctuations result from a host of structural or contextual conditions, which are beyond the scope of this chapter.

All decentralization policies, however, seek to reform the administration of the state by altering the vertical distribution of responsibilities, resources, or authority among the tiers of government. My claim is that the *meanings* and *goals* of decentralization policies are largely dictated by the *type of nation-state* that they seek to reform. In other words, from the point of view of unit homogeneity, decentralization policies taking place in different types of state contexts are not analytically equivalent. The researcher could compare decentralization processes pertaining to different historic periods and types of states (for an example, see Eaton 2004). But my claim is that the same causal inferences should not be drawn from processes that are ostensibly different due to the varying temporal or spatial contexts in which they take place.

This point is best illustrated with a few examples, which I draw from the Latin America region. In the context of *oligarchic states*, which in Latin America predominated during the late nineteenth and early twentieth century, decentralization policies were implemented mostly with the objective of balancing the power of regional elites. At the time of formation and consolidation of the nation-states in the region, policies that transferred responsibilities, resources, or authority from central to state or provincial level governments were implemented in order to address or resolve the interregional elite conflicts that stood in the way of consolidating the nation-state. By contrast, during the period of the *developmentalist* state, which in the large countries of Latin America (Argentina, Brazil, Colombia, and Mexico) existed during the 1960s, policies of decentralization of government, such as the creation of decentralized para-state agencies for regional infrastructural development, were implemented with the explicit goal of creating the necessary structural conditions that would attract foreign capital and investment. Lastly, in the context of *neoliberal states*, which in the case of Latin America were the norm from the late 1970s to the late 1990s, decentralization of government policies were implemented primarily to address problems of macro-economic stability or, put simply, to shrink what was believed to be a large and atrophied national state bureaucracy.

As these brief historical vignettes illustrate, decentralization policies adopted in different temporal contexts or, more precisely, in the context of

different types of nation-states, were implemented for largely divergent reasons and were likely to yield different outcomes. Hence, when comparatively analyzing decentralization policies across countries, a temporal perspective affords us the possibility of comparing processes that are analytically equivalent and avoid the pitfalls of treating as homogenous decentralization policies that only in name are similar and whose meanings and goals are radically different and render them non-comparable. And, as I have argued, such analytically equivalent periodization must be guided by the type of state (oligarchic, developmentalist, neoliberal, etc.) that decentralization policies seek to reform.

7.2.2 Sequencing of Decentralization Reforms

Second, time matters to decentralization processes because it allows us to construct temporal sequences of decentralization policies or events. In my previous work, I have distinguished among different types of decentralization policies (Falleti 2005, 2010). Other authors have also drawn similar distinctions, emphasizing the fact that decentralization policies are not all equal (Parker 1995; Schneider 2003; Samuels 2004). I propose a definition of decentralization policies that has the advantage of putting forward exhaustive and mutually exclusionary categories. I define decentralization as a process provoked by three types of policy reforms. *Administrative decentralization* is the set of policies that transfer the dispensation of social services (such as education, health, housing, welfare programs, etc.) to subnational governments. If new fiscal resources are transferred to afford such services, administrative decentralization is funded; otherwise, it is unfunded. *Fiscal decentralization* policies are those designed to increase the *revenues* or fiscal authority of subnational governments. Examples of fiscal decentralization policies are the transfer of revenue collection capacities that rested previously with the national government, or the transfer of fiscal resources that are not directly linked to a simultaneous transfer of responsibilities.¹ Last, by *political decentralization* I mean the constitutional or electoral reforms designed to devolve political authority to subnational actors and to create or activate spaces for the political representation of subnational polities (Falleti 2010: chapters 1 and 2).²

¹ Note that unlike other definitions of fiscal decentralization that take the decentralization of expenditures to be part of fiscal decentralization, I only consider the policies that decentralize revenues or revenue collection capacities as cases of fiscal decentralization. To me, the decentralization of expenditures could be cases of funded administrative decentralization if such transfer of resources is meant to cover the costs of transferred services or responsibilities (cf. Schneider 2003; Montero and Samuels 2004).

² I draw a clear distinction between political decentralization policies and democratization reforms. The former are reforms that *explicitly* target the subnational level of government (such as the move to have direct elections of subnational offices only), while the latter do not require

This definition of decentralization policies permits to single out each of these policies and their chronological ordering. Thus, we can study the effects of earlier policies on later ones. As long as all decentralization policies did not happen at once, they can be temporally ordered, whether these policies were negotiated and implemented over the period of a decade or more, or just over a few days of congressional deliberations and bureaucratic implementation.³ Thus, time and a theoretically informed process-tracing approach allow us to order decentralization policies by *when* they occurred in a sequence of analytically equivalent processes.

Now, if in a given process of decentralization of government the three types of decentralization policies were all to occur (which empirically is almost invariably the case) and if we focused on the first episode of each type of decentralization, then we would have six possible sequences of decentralization reforms: (1) AD → FD → PD; (2) AD → PD → FD; (3) PD → FD → AD; (4) PD → AD → FD; (5) FD → PD → AD; and (6) FD → AD → PD.

In my previous work, I have shown that these sequences result from different predominant territorial interests. If the coalitions that push forward processes of decentralization are dominated by subnational-level territorial interests, they are likely to push forward political decentralization types of reforms first and foremost. Whereas if national-level territorial interests predominate in the first coalition that pushes forward decentralization, administrative decentralization is the most likely type of reform to take place first (Falleti 2010: chapter 2).⁴ Different sequences of decentralization are also likely to yield divergent outcomes in terms of the balance of power between national and subnational executives, as I will illustrate when analyzing the cases of Argentina and Brazil.

Time thus grants us the opportunity to study episodes of decentralization as *sequences* of policy reform. We can focus on the causal importance that the *ordering* (and in some instances, the *pace*) of different types of decentralization reforms carries for the outcomes of this process.

such explicit targeting (such as a nationwide move to have popular elections at all levels of government). Even if democratization reforms (such as the increase in competitiveness) have the effect of augmenting the power of some subnational units, I do not consider them cases of political decentralization in that those reforms would not have been explicitly designed to target or affect subnational polities or the distribution of authority among levels of government.

³ Empirically, very few cases exist in which the three types of policies were implemented simultaneously. One such example is the Bolivian Law of Popular Participation of 1994, which at once decentralized administrative responsibilities, fiscal resources, and political authority from the central to the subnational governments.

⁴ I consider the sequences that start with a fiscal decentralization reform result from a compromise between national and subnational actors. Neither side can impose its most preferred option and they both settle for the second one.

7.2.3 Uncovering Causal Mechanisms

Finally, I argue that time is crucial to the understanding of decentralization processes even if we keep the causes that brought about the first decentralization reform and the outcome of interest of the whole process out of sight. A large amount of the literature on decentralization asks the important questions of what are the causes and what are effects of these processes. Yet very few studies have seriously analyzed the effects that prior decentralization reforms have on subsequent ones. To put it graphically, many scholars proposed explanations that address the sequence that runs from “Cause” to “Decentralization” episode to “Outcome”:

[Cause → Decentralization → Outcome]

However, if we take time seriously and if we get the most out of the method of process-tracing, we can unpack the middle process of decentralization and consequently learn a great deal about *how* the putative cause of decentralization led to the putative outcome.

{Cause → [AD → FD → PD] → Outcome}

Most importantly, if we take time, sequence, and process-tracing seriously, as I am proposing here, we are likely to find that once the “Decentralization” middle black-box is opened up and different sequences of reforms are allowed for, the same cause, followed by a different sequence of decentralization, is likely to result in a different outcome. In other words, a temporal approach allows us to get to the *causal mechanisms* that connect the different stages of the decentralization process and that produce a series of important effects by the end of the process that are likely to affect the outcome of interest.

In my book *Decentralization and Subnational Politics*, I identify a number of causal mechanisms connecting the relevant episodes or events within a decentralization process. Among these causal mechanisms are self-reinforcing ones, such as the reproduction of power, incrementalism, demonstration effect, policy ratchet effect, as well as reactive mechanisms, such as compensation.

7.3 Decentralization and Federal Dynamics of Change in Two Latin American Federations

This empirical section focuses on the decentralization reforms that took place in Argentina and Brazil, two Latin American federations, during the time of the neoliberal state. This was the type of state whose main feature was to retreat from intervention in the economy. It was the type of state that moved toward the implementation of market-oriented reforms that would

significantly diminish the intervention of the state in the economy as producer or regulator. Examples of such market-oriented reforms are privatization of state-owned enterprises, trade liberalization, and deregulation of economic activities.

Although Argentina and Brazil are very different in size and population,⁵ both countries have federal systems of governments and are among the most decentralized of Latin America.⁶ Argentina has twenty-four provinces and 2,216 local governments. Brazil has twenty-seven states and 5,561 municipalities.⁷ Both countries have presidential political systems with bicameral national congresses. In periods of democratic rule, governors and state legislators are popularly elected. There are also elected mayors and mayoral councils in both countries.⁸

In terms of their intergovernmental institutions, prior to the last military regimes both Argentina and Brazil were among the most decentralized of Latin America. Table 7.1 compares the evolution of the distribution of power between national and subnational governments from the late 1970s to the mid- to late 1990s. Six dimensions relating to the characteristics of intergovernmental institutions are used to assess the power of subnational officials vis-à-vis national officials at the beginning and end of this period.⁹ These are: (1) the subnational share of revenues (SSR), which records the total amount of resources collected at the subnational levels of government; (2) the subnational share of expenditures (SSE), or the total amount of monies that are spent by the subnational governments; (3) the distribution of policy-making authority in the education sector (PMA), which measures the distribution of authority between levels of governments regarding the curricula, teacher training, evaluation of the sector, management of schools, decisions to hire, fire, and relocate teachers, and teachers' salaries;¹⁰ (4) the type of appointment of subnational officials (ASO), which indicates whether governors and mayors are elected or not; (5) the territorial representation of interests (TRI) in the national legislatures, which scores the average level of over-representation of the subnational member units of the federation in each chamber of

⁵ Brazil is roughly four times larger than Argentina. Argentina has almost 40 million inhabitants in a territory of 2.7 million square kilometers, while Brazil counts with 188 million people and a territory of 8.5 million square kilometers.

⁶ Mexico and Venezuela are the other two Latin American federations, but in them power has historically been much more centralized.

⁷ In both countries, the capital federal district is included in the province or state count.

⁸ One important institutional difference between the two countries is that whereas Argentina has a close-list electoral system, Brazil has an open-list electoral system. This gives Brazilian political candidates greater autonomy from the party leadership.

⁹ For a justification of the selection of variables, see Falletti (2005, 2010).

¹⁰ I choose the education sector over other policy areas (such as health or poverty alleviation) because in most Latin American countries education was the first sector to be decentralized. In Brazil, however, important changes in the health sector predated those in education.

Table 7.1. The evolution of the intergovernmental balance of power in Argentina and Brazil, 1978–99

Variable	Argentina		Brazil	
	Prior to December	After December	Prior to December	After December
<i>Subnat. Share of Revenues (SSR)</i>	21%	19%	25%	33%
	(1983)	(1999)	(1980)	(1995)
<i>Subnat. Share of Expenditures (SSE)</i>	34%	41%	32%	44%
	(1978)	(1999)	(1980)	(1995)
<i> Policymaking Authority (PMA)</i>				
Curricula	C	C	C	S
Teachers' training	C	C	C	S
Evaluation	C	C	C	S
School management	C	S	C	S
Hire, fire, relocation	C	S	C	S
Salary	C	S	C	S
	(1978)	(1994)	(1982)	(1995)
<i>Appointment of Subnat. Officials (ASO)</i>				
Governors	A	E	A	E
Mayors	A	E	A/E	E
	(1978)	(1996)	(1982)	(1994)
<i>Territorial Rep. of Interests (TRI)</i>				
Overrep. Deputies	1.94	1.85	1.51	1.92
Overrep. Senate	3.15	3.40	2.66	3.94
	(1983)	(1995)	(1962/78)	(1995)
<i>Number of Subnat. Associations (NSA)</i>				
Of Governors	0	0	0	0
Of Mayors	0	1	1	3

Notes: PMA: N: National, C: Concurrent, S: Sub-national.

ASO: E: Elected, A: Appointed, A/E: only formally elected or with appointment of some offices.

Sources: SSR: Argentina: 1983 data from Artana et al. (1995: 79; and 1999) data from the Ministry of Economy and Production, Argentina (both figures include taxes on labor); Brazil, Samuels (2003: 161). SSE: for Argentina: IMF (1985, 2001); Brazil, Samuels (2003). PMA: data collected from secondary sources and education laws. ASO: data collected from secondary sources and national constitutions. TRI: for Argentina: República Argentina (1994) and INDEC (1997); Brazil: data provided by David Samuels.

Congress;¹¹ and (6) the number of sub-national associations (NSA) of governors and mayors that represent their corporatist interest. It is worth noting that while other (or even more) variables could be selected to describe the intergovernmental relations structures, the six dimensions proposed here are both comprehensive and relevant. They are comprehensive because they characterize the fiscal, policy-making, political, and organizational arenas of intergovernmental relations. Moreover, these six dimensions are relevant in that they record important aspects of intergovernmental relations, such as the availability of resources, the policy-making authority, and the political leverage

¹¹ A value of one (1) in this variable indicates perfect proportionality in the distribution of seats according to population among the states. The greater the value is over 1, the more skewed is the distribution of seats in favor of some of the subnational units.

of subnational governments. Hence, together they provide an accurate representation of the intergovernmental balance of power in the countries of interest.

As can be seen in Table 7.1, in the early 1980s the institutions of intergovernmental relations of Argentina and Brazil looked very similar. In their fiscal systems, the subnational shares of revenues (21 percent in Argentina and 25 percent in Brazil) and of expenditures (34 percent in Argentina and 32 percent in Brazil) were about the same. In policy-making schemes, all responsibilities in the education sector were concurrent; this is to say, they were shared between the national and subnational levels of government. The governors were (mostly) appointed in each country during the dictatorial regimes.¹² The average levels of representation of territorial interests in both congresses were about the same.¹³ And in terms of subnational associations for the representation of mayors or governors corporatist interests, there was only one such association of mayors in Brazil, the Brazilian Association of Municipalities (or ABM) which had been funded in the 1950s. Yet, the main difference in the intergovernmental institutions of each country was that whereas the military regime appointed the mayors in Argentina, the majority of the mayors were still elected during the military regime in Brazil.¹⁴

By the mid- to late 1990s, the intergovernmental institutions of Brazil and Argentina no longer looked alike. By then, Brazil's subnational governments collected significantly more revenues than their counterparts in Argentina (33 percent versus 19 percent) and spent more as well (44 percent compared to 41 percent). Regarding the distribution of authority in the education sector, all the policy domains considered were in the hands of either states or municipalities in Brazil, while in Argentina more authority stayed with the national ministry of education. Also, due to constitutional and territorial changes (such as the creation of new States), the territorial representation of interests in Brazil (particularly in the Senate) increased more than in Argentina. And while neither country has a formal association of governors, in Brazil two new and very active associations of mayors were formed (the National Confederation of Municipalities, or CNM, and the National Front of Mayors, or FNP), whereas in Argentina the one association of mayors formed in 1997 remains quite weak and largely irrelevant in intergovernmental issues.

How can we account for the fact that both countries initiated their post-developmental decentralization processes with similar intergovernmental institutions, but that by the end of the 1990s those same institutions looked

¹² In Brazil, governors were directly elected in 1965 and after 1982, as I explain below.

¹³ In Argentina, the scores of overrepresentation in deputies and the Senate correspond to the first year of democratic government (1983) because, unlike Brazil, congress was closed during the military regime.

¹⁴ The exceptions were about 200 mayors from capital cities and cities considered of national security importance, who were appointed by higher level officials.

significantly different? As I will elaborate in the next sections, it was the order in which different types of decentralization reforms unfolded over time that matters the most to account for the divergent outcomes and evolution of federal dynamics in these two countries. Drawing from the first part of this chapter in which I theorized about the importance of time for the analysis of decentralization processes, I will first justify the periodization, then present the sequence of decentralization policies undertaken in Argentina and Brazil during the period under study, and finally end by highlighting the causal mechanisms that connected the main events in the two processes of interest.

7.3.1 *Contextualization of Neoliberal Decentralization Reforms in Argentina and Brazil*

The method of process-tracing requires us to be very explicit about when the process of interest starts and when it ends. Because the express goal of decentralization policies is to affect the organization of the state by shifting the vertical distribution of responsibilities, resources, and authority between the levels of government, I consider that analytically equivalent processes of decentralization must be defined by the type of state that the reforms of interest seek to reform, as argued earlier in this chapter.

For me, then, the start of the process of interest takes place with the first presidential administration that moved the state away from intervention in the economy and toward the implementation of market-oriented economic reforms. In the case of Argentina, this was the administration of the first military junta, presided by Jorge R. Videla, after the 1976 military coup d'état, which initiated the process of economic market-liberalization in Argentina. As for the case of Brazil, the transition from the prior developmentalist type of state to the neoliberal one was far more gradual. As a Brazilian economist put it: "In Brazil, between the developmental state and the neoliberal state, we had the 1980s."¹⁵ Yet the military government of João Figueiredo, initiated in 1979 and with Delfim Neto as minister of finance, was the first administration to implement a package of IMF-proposed market-oriented economic reforms, similar to those that were being implemented in Chile and Argentina at the time and as a way of addressing the economic crisis that affected the country in the late 1970s. Facing the economic hardships caused by the foreign debt crises and the second oil crises, his government moved the state away from direct intervention in the economy. He ended the developmental policies of his predecessor,¹⁶ and less than a year into his

¹⁵ Interview with Fabio Giambiagi, economist IPEA, Rio de Janeiro, Brazil, August 16, 2005.

¹⁶ Military President Ernesto Geisel (1974–79) had a developmentalist economic agenda, as made explicit in his Second National Development Plan.

administration, Figueiredo announced major changes to the economy (Skidmore 1988: 422 fn. 21). Delfim Netto, minister of planning at the time, adopted a strategy of devaluation and pre-fixed indexation. Delfim thought the neoliberal military regimes of Argentina and Chile had found the road to financial stability, and in order to stabilize the economy and curb inflation, he implemented similar orthodox adjustment policies akin to those being proposed by the IMF (Skidmore 1988: 422 fn. 21). Delfim's economic strategy was the Brazilian version of the supply-side arguments made in the United States at the time (Coes 1995: 144). Admittedly, his measures were half-hearted and eventually failed, leading to heterodox economic policies in the following presidency of civilian leader, José Sarney (1985–89) (Weyland 2002: 77–81). But starting with Figueiredo's administration, investment in state enterprises—those with controlled ownership by federal, state, or municipal governments—fell sharply, from 8.7 percent of the GDP in 1979 to 4.3 percent in 1980 and continued declining until it reached 1.8 percent in 1990 (Coes 1995: 142–5, 204). Although some developmentalist policies such as trade protection and regulation of the domestic economy continued throughout the 1980s,¹⁷ by the time of the Figueiredo administration, the second phase of import substitution industrialization and the developmentalist project had ended. Hence, my analysis of the neoliberal (or more precisely the *post-developmental*) sequence of decentralization policies starts with Figueiredo's inauguration in 1979.

The end of the process of neoliberal reforms would stretch until the last administration that would have implemented these neoliberal type of economic policies. Once a significant departure in economic policies takes place (say toward re-nationalization or increasing state regulation of economic activities, such as has happened in a number of Latin American countries since the early 2000s), we could say that the neoliberal state period and the neoliberal decentralization process have come to an end.

Yet theoretically, I find that it is possible, and arguably desirable when analyzing the contemporary period, to focus our attention in the first complete cycle of neoliberal decentralization reforms. By first cycle I mean the period of time in which all the three types of decentralization reforms were implemented: administrative, fiscal, and political. Thus periodization would start with the inception of the first national administration or government that moved the state away from intervention in the economy and end by the time that the three types of decentralization have all taken place. The

¹⁷ As Ben R. Schneider put it, "... in many years it seemed like inertia, as if developmentalism continued because the government was too preoccupied with other matters (the transition to democracy, inflation, the new constitution, Sarney's 5th year of mandate, etc.) to undertake major economic reforms" (communication with Schneider, October 18, 2006).

justification for this periodization is that once the three types of reforms have taken place and we can establish the sequence of reforms, future decentralization events are likely to be contingent on the effects that the first cycle of reforms brought about. Thus, whether or not the end point in the first cycle of decentralization stretches all the way forward to the end of the neoliberal type of state is less relevant.

I believe there is strong theoretical justification for considering the first cycle of neoliberal decentralization reforms rather than the whole process that evolves from the start to the end of the neoliberal type of nation-state. If, following the conceptualization of institutions proposed by Orren and Skowronek (1994), we think of intergovernmental relations as a layered structure of institutional action, then an important cycle has been completed once change has occurred in the three layers of intergovernmental relations that decentralization policies can affect. Once administrative, fiscal, and political decentralization have all taken place, hence affecting the administrative, fiscal, and political layers of the intergovernmental institutional structure, future (de)centralization policies would have to confront the conditions and distribution of power left by that first cycle of (neoliberal) decentralization reforms. In other words, there is a strong path-dependent nature in the way that prior policies and sequential policy configurations affect future ones. An in-depth study of the first cycle of decentralization reforms to take place within the context of a(ny) given type of state, strongly sets the tone—or constraints and opportunities—for the policy reforms that are to follow. As I will show in the next section, the first cycle of neoliberal decentralization reforms spans from 1976 to 1994 in Argentina, and from 1980 to 1988 in Brazil.

7.3.2 *The Sequencing of Neoliberal Decentralization Reforms*

Analyzing in depth the first cycle of decentralization of government reforms in Argentina after 1976 and Brazil after 1979, we find that they followed opposite sequences. In both Argentina and Brazil, the processes of post-developmental decentralization began during the last military regimes and continued throughout their transitions to democracy. But whereas the Argentine military imposed an *administrative* type of decentralization on the provinces, the Brazilian military initiated the process of decentralization with a *political* decentralization reform. Argentina followed a sequence of decentralization after the collapse of the developmentalist state that started with administrative decentralization (1978), continued with fiscal decentralization (1988), and ended with political decentralization (1994), or AD → FD → PD; whereas Brazil's sequence of reform was the opposite: starting with political decentralization (1980–82), continuing with fiscal decentralization (1983–88), and ending with administrative decentralization (mid to late 1990s), or PD → FD → AD.

Elsewhere I have argued that variation in the institutional organization of state power in the authoritarian military regimes (a closed-authoritarian regime in Argentina versus an electoral authoritarian regime in Brazil) account for the predominance of different types of territorial interest in the coalitions that pushed forward the first type of neoliberal decentralization reform. National-level interests predominated in Argentina and pushed forward administrative decentralization first, whereas subnational-level interests aided by the existence of a national legislature and subnational elections prevailed in Brazil and pushed forward political decentralization first (see Falletti 2011). I also explain that different sequences of reform lead to varying degrees of change in the intergovernmental balance of power (with the sequence followed by Brazil being the one that confers the greatest amount of autonomy to subnational regimes, whereas the sequence of reforms experienced by Argentina is the one that affects the intergovernmental relations status quo the least) (see Falletti 2010: in particular chapters 3 and 5). In this contribution, however, rather than focusing on the antecedent causes of decentralization, I focus on the specific reforms and the way in which different causal mechanisms connect them, in others words, I open the blackbox of “decentralization.”

7.3.2.1 THE SEQUENCING OF NEOLIBERAL DECENTRALIZATION REFORMS IN ARGENTINA

Argentina started its process of neoliberal decentralization with the transfer of primary education from the national government to the provinces. On June 5, 1978, the national military junta passed two decrees transferring all national preschools and primary schools to the provinces, the city of Buenos Aires, and the territory of Tierra del Fuego. Retroactive to January 1, approximately 6,500 schools, 65,000 public employees, and 900,000 students (about one-third of the primary public education system) were transferred to the provincial administrations. No revenues or fiscal capacities were transferred with the schools, and yet the transfer had a cost of 207 billion pesos—equivalent to 20 percent of the total national transfers (FIEL 1993: 148).

In the context of an authoritarian regime, the national executive was able to impose this reform on the provinces. The central government was interested in administrative decentralization for several reasons. First, they saw the provinces as enclaves of conservatism, in which future right wing political parties could develop. Second, the central government was interested in cutting the size of the federal bureaucracy and the national deficit, in the spirit of a neoliberal program of government (Novick de Senén González 1995: 138). Third, an increase in provincial revenues—which rose from 0.88 percent in 1976 to 1.56 percent of the GDP in 1977 (Kisilevsky 1998)—established a favorable environment to transfer expenditures *without* resources. A report by

the national ministry of education gave the following account of conditions before the 1978 transfer:

At the end of 1977, the national minister of economy [José Martínez de Hoz] considered that there had been an increase in provincial revenues; therefore, he decided to initiate a policy of transfer of social services, among which was education. (Ministerio de Cultura y Educación 1980)

Despite the authoritarian regime, the governors voiced their concerns. Among others, the governor of Salta wrote to the minister of interior in November 1977: “by no means is the provincial treasury in a situation to afford the total costs of the services to be transferred” (Kisilevsky 1990: 20). At this time, however, the military’s grip on power was at its strongest, and the unfunded transfer was imposed from above. The administrative decentralization of 1978 had disastrous fiscal consequences for the provinces. The allocation of provincial resources for education had to increase from 14 percent in 1977 to almost 20 percent in 1982 (IMF 1985), at the same time that automatic transfers to the provinces decreased from 48.5 percent to 29 percent of all shared revenues (FIEL 1993: 151). Thirteen percent of the primary schools (about 3,400 schools) closed down prior to 1980, and governors were forced to beg for discretionary transfers from the national executive to avoid further closures.

Given the design of the first round of administrative decentralization, with the transition to democracy in 1983, governors were eager to negotiate an increase in fiscal transfers. When the revenue-sharing law of 1973 expired at the end of 1984, governors pushed to have a new revenue-sharing law in place. Carlos Menem, who at the time was the governor of the northwestern province of La Rioja, proposed that the interior provinces rebel and cut the supply of energy to the city of Buenos Aires until an agreement on fiscal transfers was reached with the president (Pérez 1986: 68). But president Raúl Alfonsín (1983–89) of the *Unión Cívica Radical* (UCR) controlled the timing of the reform and was successful in delaying its approval. Meanwhile, he used discretionary transfers to buy the political support of opposition governors. Discretionary transfers amounted to 59 percent of the total transfers in 1985 and 54 percent in 1986 (Ministerio de Economía 1989). Thus, from 1984 to 1987, Alfonsín gained bargaining power vis-à-vis the governors by using the fiscal transfers to the provinces—which they desperately needed after unfunded administrative decentralization—in exchange for political support (mainly in the Senate).

Only after the 1987 mid-term elections, when the ruling party lost its majority in the House (passing from 51 percent to 46 percent of the seats) and five governorships to the opposition Justicialist Party (*Partido Justicialista*, PJ), President Alfonsín agreed to the governors’ demand for redistribution of revenue-shared taxes. On January 7, 1988, congress passed a new revenue-

sharing law (*Ley de Coparticipación*, or Law 23(548)) by which the provinces were granted 57.66 percent and the national government 42.34 percent of all revenue-shared taxes, and the discretionary transfers were cut to 1 percent of the shared taxes. By all accounts, this fiscal decentralization law was a victory for the governors, which came about when an exogenous change (the mid-term elections of 1987) altered the balance of power between the president and the governors inherited from the first round of decentralization reforms. But the reform was also instrumental to the national executive. By that point, mounting economic problems and adverse mid-term electoral results had made it clear that the ruling party would not retain the presidency after 1989. If the PJ were to win the 1989 presidential election, the new co-participation law would guarantee resources to UCR governors.

The provincial fiscal recovery did not last long, however. Soon after the new revenue-sharing law was passed, the national executive (now in the hands of the PJ) was able to push forward a second round of unfunded administrative decentralization, which neutralized the effects of fiscal decentralization. On December 6, 1991, the Argentine congress passed Law 24(049) according to which the administration of all national secondary and adult schools and the supervision of private schools were transferred to the provinces and the city of Buenos Aires. Two food programs and the few remaining national hospitals were also transferred. The estimated cost of the transfer was 1.2 billion dollars per year, the equivalent of almost 10 percent of the total provincial expenditures and 15 percent of the total national transfers. Over 2,000 national schools, 72,000 teachers, and 700,000 students were incorporated into the provincial systems of education, which also had to supervise more than 2,500 private schools. Article 14 of the law established that the cost of the transferred services would be paid with provincial resources, whereas Article 15 stated that whenever the revenues collected in a given month were below the average of the April–December 1991 period, the national government would transfer 1.2 billion pesos or the difference required to match that amount. Government documents and interviews with national and subnational officials suggest that such guarantee was not enacted and the transfer of responsibilities was largely unfunded.

Political decentralization came last in the first cycle of neoliberal decentralization reforms in Argentina. It occurred in 1994, when President Menem (1989–95 and 1995–99) exchanged constitutional reforms as a bargaining chip for his re-election. Political autonomy was granted to the city of Buenos Aires (a political bastion of the opposition UCR party), but various decentralization reforms proposed in the constitutional assembly by provincial representatives failed to pass. Reforms such as a higher share of subnational revenues or provincial control of natural resources were proposed in the constituent assembly, but due to the political pressure of the national

executive all these fiscal and political decentralization proposals did not pass. In other words, the national executive was able to control the timing as well as the main contents of the political decentralization reform of 1994.

7.3.2.2 THE SEQUENCING OF NEOLIBERAL DECENTRALIZATION REFORMS IN BRAZIL

The first complete cycle of neoliberal decentralization reforms started with a political decentralization measure: the Constitutional Amendment No. 15 of 1980 that reinstated the direct election of governors. Military President João Figueiredo (1979–85) presented to Congress the constitutional amendment bill (Proposta de Emenda a Constituição, PEC 76/1980) that would reinstate the direct election of governors.¹⁸ That the president was the one to introduce the bill is not surprising considering the executive branch had an active role in introducing bills and modifying laws during the military period.¹⁹ The measure was also part of a gradual and controlled liberalization process that Figueiredo had coined *abertura* (opening), a continuation of the *distenção* (decompression) started by Geisel in 1974. In the bill sent to Congress, Figueiredo explicitly portrayed the amendment as part of a larger democratization process that included previous measures such as the elimination of the extraordinary powers of the executive, the Amnesty law, and the party reform law that had ended the bipartisan system.²⁰

Why did Figueiredo introduce the bill for the direct election of governors? In a process of political regime transition characterized by pacts and transactions (Viola and Mainwaring 1985; O'Donnell and Schmitter 1986), it is likely that by allowing the direct election of governors, the military sought to control the liberalization process. The military may have calculated that a certain degree of decentralization of power would strengthen the conservative elites of the northern and northeastern regions and foster a conservative transition to democracy (Kinzo 1988; communication with Samuels 2006). However, in introducing this bill, President Figueiredo was also giving in to

¹⁸ República Federativa do Brasil, *Diário do Congresso Nacional*, August 23, 1980: 2065. Note that unlike the case of Argentina, the national and state legislatures continued to operate during most of the military regime.

¹⁹ Schmitter (1973: 190–1) counted more than 10,000 decrees and decree-laws, twelve institutional Acts, and over eighty complementary Acts passed at the president's initiative during the first four years of the military regime.

²⁰ The latter was the political party reform of 1979. As a result of this reform, the Democratic Social Party (*Partido Democrático Social*, PDS) became the new government party and several parties emerged in the opposition: among them, the Brazilian Democratic Movement (*Partido do Movimento Democrático Brasileiro*, PMDB), direct political heir of the MDB; the Workers Party (*Partido dos Trabalhadores*, PT); and the Brazilian Communist Party (*Partido Comunista Brasileiro*, PCB). As the process of political reforms advanced, all these opposition parties would become strong supporters of the decentralization-participation binomial (Figueiredo and Cheibub 1982: 39; Cardoso 1992: 293; Assies 1993: 46).

the demands of higher levels of political and fiscal decentralization that the political opposition in the national legislature had voiced (and presented in prior bills) in the years leading to 1980 (Falleti 2011).

The first political decentralization reform had the effect of empowering subnational actors. As a consequence of political decentralization, by late 1983 the pressure from subnational officials had markedly increased. After the 1982 election, governors denounced the chaos of the states' finances and demanded a fiscal reform that would decentralize revenues (Souza 1997: 36). Mayors also mobilized in favor of fiscal decentralization. In September of 1983, 2,000 mayors (half of all mayors at the time!) converged in Brasilia to demand an increase in municipal revenues. Confronted with a negative response from the president and his cabinet, governors and mayors lobbied legislators of all parties, and less than two months later succeeded in securing more subnational revenues.²¹ Open letters were published in national newspapers demanding greater state and municipal autonomy, and national meetings of subnational authorities were convened in favor of decentralization and local participation.²² National legislators could not ignore these pressures. Even ruling party legislators realized that they needed the support of local officials.

The fiscal decentralization measure "Emenda Passos Porto" (Constitutional Amendment No. 23 of 1983) modified the system of revenue sharing that had been created in 1966, in the early stages of the military period.²³ It increased the portion of money given to states and municipalities from the two most important taxes collected by the federal government, the income tax and the industrial production tax. The share of these taxes received by the states, the federal district of Brasilia, and the territories, known as the States Revenue-Sharing Fund (*Fundo de Participação dos Estados*, FPE) increased from 10.5 percent to 14 percent and that of municipalities, known as the Municipalities Revenue-Sharing Fund (*Fundo de Participação dos Municípios*, FPM), increased from 10.5 percent to 16 percent. Although the national executive made explicit its opposition to the reform, the Passos Porto Amendment was supported by a multi-partisan coalition in Congress that included members of

²¹ See "Brazil: Congress passes 'mini tax reform,'" *Latin American Weekly Report*, December 1, 1983.

²² See, for example, the open letter from the President of the Association of Municipalities of São Paulo, Orestes Quêrcia, to the National Congress published in *Folha de São Paulo*, on November 22, 1983. See also the statement issued at the second national meeting of municipalities in Olinda, Pernambuco that same year, that demanded greater decentralization and democratization, tax reforms, and the direct election of mayors of capital cities and national security municipalities. Both are transcribed in República Federativa do Brasil, *Diário do Congresso Nacional*, November 24, 1983: 2491–2.

²³ For information on the 1966 tax reform and its consequences on intergovernmental fiscal relations, see Mahar (1976: 268–78) and Lopreato (2002: 49–62).

the opposition and the ruling party (Senator José Passos Porto, who introduced the bill, was himself a member of the ruling party).²⁴

The Passos Porto fiscal decentralization measure was followed by another fiscal decentralizing measure, Constitutional Amendment No. 27 of 1985, which further increased the percentage of subnational revenue-sharing as well as the municipal tax collection authority.²⁵ Finally, the process of fiscal decentralization achieved its climax in the constitutional reform of 1988 (Souza 2001: 519). As Montero writes, “Imbued with political and resource autonomy [due to the direct election of governors and the fiscal reforms of 1983 and 1985], the *bancadas subnacionais* emerged in their strongest position yet during the New Republic. They exerted their influence most clearly in the Constituent Assembly of 1987–88 where they played a leading role in shaping the rules governing fiscal federalism to favor subnational autonomy” (Montero 2004: 147). During the constitutional reform, political decentralization—particularly benefiting the municipal level of government—also continued. In deepening both political and fiscal decentralization, subnational interests were paramount.

The constitutional reform of 1988 would also put forward the last type of decentralization reform to take place during the first cycle of neoliberal decentralization: administrative decentralization. But in this case, it was through sectoral pressure (particularly in the health sector) that the social services were decentralized. Furthermore, due to the prior rounds of decentralization policies, such administrative decentralization would be funded.

7.3.4 *Uncovering the Causal Mechanisms of Neoliberal Decentralization (and its Effects)*

The processes of neoliberal decentralization in Argentina and Brazil are characterized by the presence of self-reinforcing mechanisms that strengthened the bargaining power of the territorial actors that were victorious in the first round of reforms. A temporal approach to the study of these processes allows us to uncover those connecting mechanisms.

²⁴ This “mini-tax” reform (as it was called) was the synthesis of five previous proposals: PECs No. 22–3, 38–40 of 1983, introduced respectively by Deputy Paulo Lustosa (PDS, Ceará), Senator Afonso Camargo (PMDB, Paraná), Deputy Irajá Rodrigues (PMDB, Rio Grande do Sul), Senator Marco Maciel (PDS, Pernambuco), and Senator Carlos Chiarelli (PDS, Rio Grande do Sul).

²⁵ The “Ayrton Sandoval” amendment, introduced by opposition Federal Deputy Ayrton Sandoval (PMDB, São Paulo) in 1984 and passed by Congress on November 28, 1985, increased the share of automatic transfers to states (FPE) and municipalities (FPM), delegated the roadway tax (*Taxa Rodoviária Única*) to states and municipalities in equal shares, changed the distribution of taxes on transportation (*Imposto sobre Transporte Rodoviário*) such that states and municipalities received a larger portion of it (from 20 to 50 percent and from 0 to 20 percent, respectively), and redistributed other taxes toward municipalities (Lopreato 2000: 11–12, ft 15; República Federativa do Brasil, *Diário do Congresso Nacional*, November 29, 1985).

Timing, Sequencing, and Historical Evolution

7.3.4.1 CAUSAL MECHANISMS IN THE CASE OF ARGENTINA

The first unfunded administrative decentralization of primary schools in 1978 had three important policy effects: (1) it contributed to the *reproduction of power* of the national executive; (2) it produced a *demonstration effect* by providing an example that future policymakers could follow; and (3) it produced *incrementalism* within the educational sector toward further unfunded decentralization of responsibilities.

The first round of administrative decentralization of 1978 in Argentina initiated the reproduction of the bargaining power of the presidents, who were then able to control not only the timing of fiscal and political decentralization but also the contents and extent of those reforms. Unfunded administrative decentralization in 1978 reproduced the power of the national executive, who was able to delay a fiscal decentralization measure until an exogenous event—the mid-term elections of 1987—shifted the political playing field in favor of the governors. As Figure 7.1 illustrates, this is how the first and second stages of the decentralization reform process are connected in Argentina.

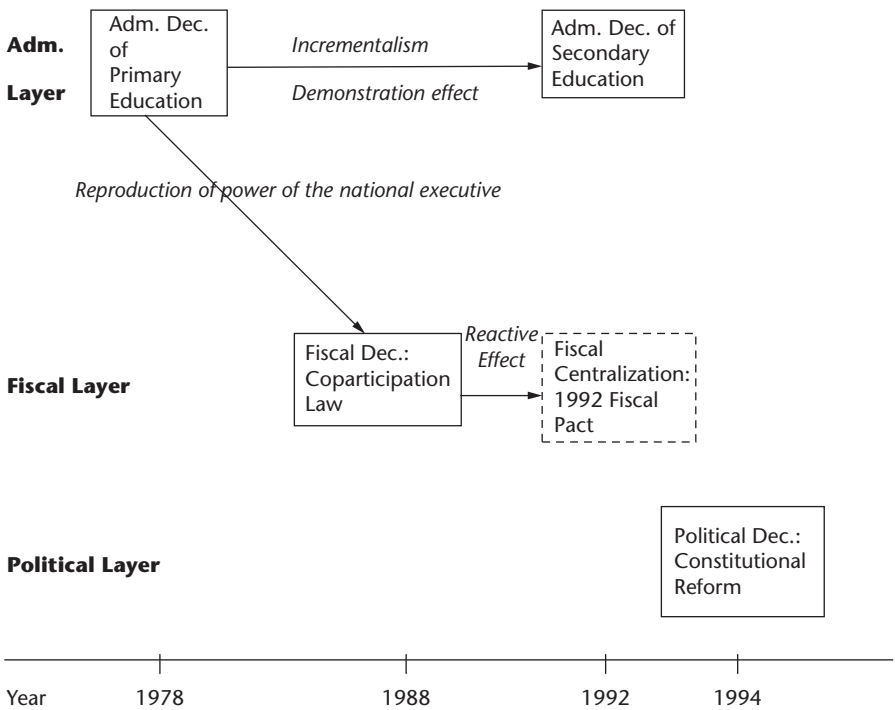


Figure 7.1. Sequence and policy effects of neoliberal decentralization, Argentina, 1978–94

Note: The dotted rectangle indicates that the Fiscal Pact of 1992 was a fiscally centralizing reform.

Second, the first round of unfunded administrative decentralization had a demonstration effect for the second round of administrative decentralization. In 1991, as a result of the convertibility law, the absolute amount of revenues in the provinces had doubled—the automatic transfers passed from 4,810 million dollars in 1990 to 8,846 million in 1992 (Subsecretaría de Relaciones Fiscales y Económicas con las Provincias 1994: 15). In this context, as in 1978, it was easier to pass an unfunded administrative decentralization reform. Minister of economy Domingo Cavallo appealed to the same arguments used in 1978 by minister of economy Martínez de Hoz to justify the transfer of responsibilities. In meetings with the governors, Cavallo argued that the increase in revenues would allow the provinces to afford the expenditures generated by the transfer of social services. Once national-level policy-makers observed that unfunded administrative decentralization had worked in a context of fiscal expansion, they were able to adopt the same type of unfunded decentralization policy, although this time under a democratic political regime.

Finally, the first round of decentralization had an incremental effect in that additional unfunded administrative decentralization measures were made possible. Although the national secondary schools were administered *de jure* by the national government until 1992, a process of decentralization of responsibilities was already under way. In the words of the governor of Mendoza:

... the truth is that a *de facto* transfer [of national schools] was already taking place, without recognition in the distribution of revenues. In practice... every time there was a problem in a national school, [people] came to the provincial government to ask for a solution. (Bordón, José Octavio, interview by author, Buenos Aires, February 8, 2001)

National officials also recognized this situation. Secretary of education Luis A. Barry said:

There were [national] schools that for ten years had not had any supervision. They were managed by phone [from Buenos Aires] or... by mail. The link was formal, epistolary, but not efficient. (X National Seminar on National Budget, Buenos Aires, Public Administrators Association)

Or as a member of the ministry of economy put it: “only in their plates were the schools national” (Pezoa, Juan Carlos, interview by author, Buenos Aires, February 13, 2001). Under these conditions, the governors were more inclined to accept a transfer of schools, even if it was to be funded primarily with provincial resources. The 1978 round of administrative decentralization enabled the national executive to pass a similar policy reform, albeit in a democratic context, thirteen years later. By forcing provincial governments

to augment their responsibilities in the educational sector, the first type of policy reform made governors more receptive to further decentralization of educational services.

The fiscal decentralization of 1988, in turn, had a reactive effect. In 1992, the national executive pursued a cut in automatic transfers to the provinces. This cut would not have been possible had decentralization produced a group of followers after the first stage of the process. Finally, political decentralization did not come about as a consequence of the way in which the prior decentralization reforms evolved in Argentina (note that in Figure 7.1 there is no arrow connecting political decentralization and the prior reforms). On the contrary, political decentralization merely happened due to a national-level negotiation in which President Carlos Menem used the political autonomy of the City of Buenos Aires as a bargaining chip in his bid for re-election.

The sequence of decentralization reforms experienced by Argentina did not empower the subnational officials. Instead, governors were loaded with more responsibilities, had less relative revenues, and had the same amount of political authority as they had enjoyed in the early 1970s, before the process of post-developmental decentralization started.

7.3.4.2 CAUSAL MECHANISMS IN THE CASE OF BRAZIL

As a result of the first neoliberal political decentralization measure, the elections of 1982 were the widest and most important Brazil had experienced in two decades, encompassing the election of governors, mayors, and state and national legislators. Gathering 58.5 percent of the votes, the opposition won ten of the twenty-two governorships (nine went to the PMDB and one to the PDT), eighty-two mayoralties among the one hundred largest cities of the country, and city council majorities in nineteen of the twenty-three state capitals (Selcher 1986: 61–2; IBGE 2003: chapter 24, tables 4 and 5).²⁶ As Linz and Stepan (1992: 133) write: “Elections can create agendas, can create actors, can reconstruct identities, help legitimate and delegitimate claims to obedience, and create power.” This was precisely the effect of holding subnational gubernatorial and mayoral elections prior to the introduction of nationwide elections for the presidency (Samuels and Abrucio 2000). Governors and mayors could make a claim to electoral legitimacy that the president could not make, and grew increasingly independent of the central government. The process of neoliberal decentralization in Brazil is thus characterized by the presence of a self-reinforcing mechanism connecting the different stages of

²⁶ In the election for Congress, the government party, PDS, won fifteen senatorial and 235 deputies' seats. The opposition, meanwhile, won ten senatorial (nine PMDB, one PDT) and 244 federal deputies' seats (200 PMDB, twenty-three PDT, thirteen PTB, and eight PT).

the process, namely the reproduction of power of subnational actors, as can be graphically seen in Figure 7.2.

Both at the state and local levels a self-reinforcing *policy-ratchet effect* was unfolding. A self-reinforcing effect is one that creates positive feedback (Pierson 2004: 21) and that moves an ongoing process further along the direction previously taken or chosen. As new choices are made (and also as time elapses), it becomes increasingly difficult and costly for policies to move in different directions (an option that might have been highly likely at the start of the sequence of choices). Moreover, a policy-ratchet effect is such that once a policy (or a reform in general) is widely accepted, it sets the base point for discussion about further policy reforms (Huber and Stephens 2001: 334). Political decentralization was one such reform that had self-reinforcing and policy-ratchet effects on subnational politics.

As a result of the first political decentralization policy in Brazil, a new set of actors emerged: directly elected governors, and more politically active and autonomous mayors. Governors and mayors could make a claim of electoral legitimacy that the military president could not make and this gave them significant political leverage (particularly throughout Congress) to negotiate the next round of decentralization policies. The result was Constitutional Amendment No. 23 of 1983, or “Emenda Passos Porto,” a fiscal decentralization measure that significantly increased the automatic transfers received by states and municipalities through the system of revenue-sharing. Encouraged by their political and fiscal successes, the subnational actors pushed for

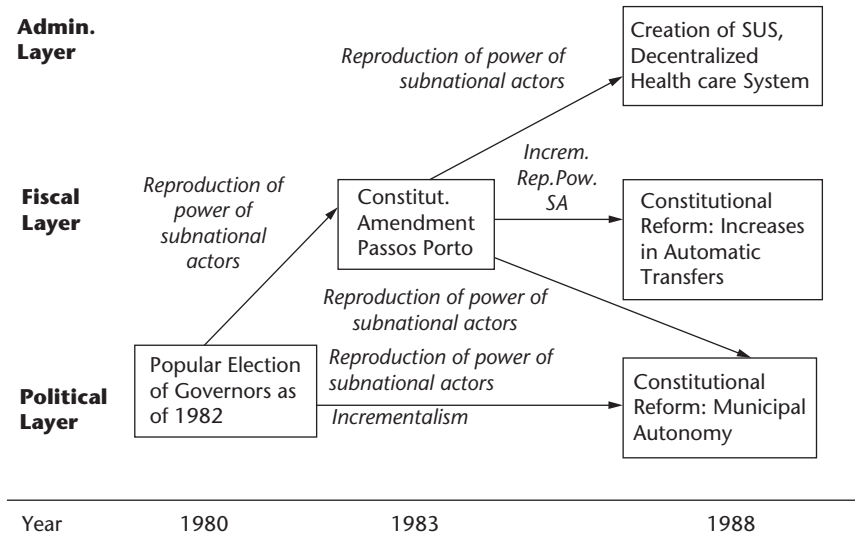


Figure 7.2. Sequence and policy effects of neoliberal decentralization in Brazil, 1980–88

further changes, leading to the 1988 constitutional reform which, among other measures, recognized municipal governments as units of the federation (that is, granting municipalities the same constitutional autonomy as member states), and expanded the automatic transfers and the revenue base of states and municipalities.

Administrative decentralization was the last type of neoliberal decentralization policy to be implemented. The first changes occurred in the health sector where, decentralization was pursued by a *subnational coalition* formed by a reformist health movement and governors and mayors of the opposition. By the mid-1990s, the national executive branch implemented decentralization measures in education as well. But unlike the case of administrative decentralization in Argentina, administrative decentralization in Brazil was initially demanded by a subnational coalition that equated funded administrative decentralization with democratization. The reproduction of power of subnational actors that resulted from the prior two rounds of political and fiscal reforms led to a decentralized health-care system, in which funds would be guaranteed.

Along the process of neoliberal decentralization in Brazil, we also see incrementalism taking place within the intergovernmental layers that were first reformed. The popular election of subnational officials in 1982 led to incremental pressures for constitutional municipal autonomy in 1988. And the fiscal decentralization measure of 1983 also led incrementally to a similar reform a couple of years later. As a result of neoliberal decentralization, Brazilian governors and mayors have more fiscal resources, deliver and manage more social services, have greater constitutional autonomy from the central government, and are better organized to collectively represent their territorial interests.

7.4 Conclusion

The importance of conceptualizing time in social science explanations has been amply documented (Adam 1994; Pierson 2004). In this contribution, my aim is to spell out why and how time matters to the study of a process of policy reforms. I underscore the several advantages that a temporal and process-tracing methodological approach to the study of decentralization provides. First, time-sensitive conceptualization allows to carefully periodize processes that are analytically equivalent for the purposes of causally comparing them. Second, a process-tracing temporal approach permits to order events, which turn out to be causally relevant, in sequences of reforms. And, third, careful periodization and sequencing of events within processes of interest give us the necessary analytical leverage to uncover the causal mechanisms that connect the different events and relevant stages of the process.

These three advantage points were illustrated in the analysis of the first cycles of neoliberal decentralization reforms of Argentina and Brazil. In Argentina, despite the implementation of decentralization policies, the power of governors and mayors has remained practically unchanged. Whereas the subnational share of expenditures increased during the period of reforms, the share of revenues decreased slightly, thus heightening the dependence of subnational governments on fiscal transfers originating at the center. Practically overnight, provincial governments in Argentina became responsible for more social services, but those administrative transfers were unfunded and posed serious policy-making and political constraints on the governors. Despite the enactment of a constitutional reform in 1994, the constitutional autonomy of governors and mayors did not change in Argentina. And although a mayoral association was formed in 1997, it remains weak and ineffective for organizing the corporatist interests of Argentine municipalities. As succinctly stated in a World Bank report, "Argentina is arguably one of the most decentralized countries [in Latin America] but has essentially the same political and fiscal structure it had before the military intervened in 1976" (Burki et al. 1999: 11).

Brazil, instead, followed the opposite sequence of decentralization reforms. It started with a political decentralization reform: the decision, approved in 1980, to return to the popular election of governors. When the newly elected governors were chosen in 1982, they had a claim to legitimacy that the military national executive did not have. Subnational actors were able to demand, and ultimately to pursue, a course of fiscal decentralization against the wishes of the central government. Both reforms continued reproducing the power of subnational actors, who were in a favorable position to negotiate other fiscal, political, and administrative reforms in 1988. Within the political and fiscal layers, earlier reforms also had policy ratchet and incremental effects on later ones. This sequence of reforms resulted in a significant devolution of power to subnational officials.

Arriving at these conclusions regarding the ways in which patterns of decentralization affected the federal arrangements in these two countries would have been impossible without a very careful conceptualization of the processes of interest as they unfolded overtime. It matters greatly, for example, how earlier events (or policies) in the process (of decentralization) affected winners and losers and how those changes altered the playing field for subsequent events (or policy changes). While here I apply a temporal framework to the analysis of decentralization processes, virtually any process that unfolds over time and whose coherence or unit homogeneity can be established, can (and should) be studied *in time*. The opportunity costs of not applying a temporal sequential analysis to processes such as democratization, privatization, trade liberalization, or nationalization, to name just a few, are very high. The pay-offs of studying *processes in time* are immense.

References

- Abbott, Andrew (2001), *Time Matters: On Theory and Method* (Chicago and London: University of Chicago Press).
- Adam, Barbara (1994), *Time and Social Theory* (Cambridge: Polity Press).
- Artana, Daniel, Libonatti, Oscar, Moskovits, Cynthia, and Salinardi, Mario (1995), "Argentina," in Ricardo López Murphy (ed.), *Fiscal Decentralization in Latin America* (Washington, DC: Inter-American Development Bank), 59–136.
- Assies, William (1993), "Urban social movements and local democracy in Brazil," *European Review of Latin American and Caribbean Studies* 55, 39–58.
- Burki, Shahid J., Perry, Guillermo E., and Dillinger, William R. (1999), *Beyond the Center: Decentralizing the State* (Washington, DC: The World Bank).
- Cardoso, Ruth Corrêa Leite (1992), "Popular movements in the context of the consolidation of democracy in Brazil," in Arturo Escobar and Sonia E. Alvarez (eds.), *The Making of Social Movements in Latin America. Identity, Strategy, and Democracy* (Boulder, CO, San Francisco, Oxford: Westview Press), 219–302.
- Coes, Donald V. (1995), *Macroeconomic Crises, Policies, and Growth in Brazil, 1964–90* (Washington, DC: The World Bank).
- Eaton, Kent (2004), *Politics Beyond the Capital: The Design of Subnational Institutions in South America* (Stanford, CA: Stanford University Press).
- Elazar, Daniel J. (1994), "Introduction," in Daniel J. Elazar (ed.), *Federal Systems of the World: A Handbook of Federal, Confederal, and Autonomy Arrangements*. 2nd edition (Essex: Longman, 1994), p. xv.
- Falleti, Tulia G. (2005), "A sequential theory of decentralization: Latin American cases in comparative perspective," *American Political Science Review* 99 (3), 327–46.
- (2010), *Decentralization and Subnational Politics in Latin America* (New York: Cambridge University Press).
- (2011), "Varieties of authoritarianism: The organization of the military state and its effects on federalism in Argentina and Brazil," *Studies in Comparative International Development* 46 (2), 137–62.
- FIEL, Fundación de Investigaciones Económicas Latinoamericanas (1993), *Hacia una nueva organización del federalismo fiscal en Argentina* (Buenos Aires: FIEL).
- Figueiredo, Marcus Faria and Borges Cheibub, José Antônio (1982), "A abertura política de 1973 a 1981: Quem disse o quê, quando—inventário de um debate," *BIB. Boletim Informativo e Bibliográfico de Ciências Sociais* 14 (2nd Semester), 29–61.
- Grzymala-Busse, Anna (2010), "Time will tell? Temporality and the analysis of causal mechanisms and processes," *Comparative Political Studies* 44 (9), 1265–97.
- Huber, Evelyne and Stephens, John D. (2001), *Development and Crisis of the Welfare State: Parties and Policies in Global Markets* (Chicago and London: University of Chicago Press).
- IBGE (2003), *Estatísticas do Século XX* (Rio de Janeiro: Instituto Brasileiro de Geografia e Estatística).
- IMF (1985), *Government Finance Statistics Yearbook*, Vol. IX (Washington, DC: IMF).
- (2001), *Government Finance Statistics Yearbook* (Washington, DC: IMF).

- INDEC (1997), *Anuario Estadístico 1997* (Buenos Aires, Argentina: Instituto Nacional de Estadísticas y Censo, Ministerio de Economía y Obras y Servicios Públicos).
- Kinzo, Maria D'Alva G. (1988), *Legal Opposition Politics under Authoritarian Rule in Brazil* (New York: St. Martin's Press).
- Kisilevsky, Marta (1990), *La relación entre la Nación y las provincias a partir de la transferencia de servicios educativos del año 1978* (Buenos Aires: Consejo Federal de Inversiones).
- (1998), *Federalismo y educación: Un espacio histórico de pugnas distributivas* (Buenos Aires: MA, Facultad Latinoamericana de Ciencias Sociales).
- Linz, Juan J. and Stepan, Alfred (1992), "Political identities and electoral sequences: Spain, the Soviet Union, and Yugoslavia," *Daedalus* 121 (Spring), 123–39.
- Lopreato, Francisco Luiz C. (2000), *Federalismo e finanças estaduais: Algumas reflexões* (Campinas, Spain: IE/UNICAMP).
- (2002), *O colapso das finanças estaduais e a crise da federação* (São Paulo: Editora UNESP, IE—Unicamp).
- Mahar, Dennis J. (1976), "Federalismo fiscal no Brasil: a experiência histórica," in Fernando Rezende, Dennis J. Mahar, Wanderley J. M. de Almeida and Harley H. Hinrichs (eds.), *Política fiscal e programação dos gastos do governo* (Rio de Janeiro: IPEA), 241–78.
- Ministerio de Cultura y Educación (1980), *Evaluación de la transferencia, Tomos 1–2* (Buenos Aires: Secretaría de Estado de Educación, Dirección Nacional de Investigación, Experimentación y Perfeccionamiento Educativo).
- Ministerio de Economía (1989), *Política para el Cambio estructural en el sector público. Mensaje de los proyectos de leyes de presupuesto nacional 1986–1989* (Buenos Aires: Poder Ejecutivo Nacional, Ministerio de Economía, Secretaría de Hacienda).
- Montero, Alfred P. (2004), "Competitive federalism and distributive conflict," in Mauricio A. Font, Anthony P. Spanakos, and Christina Bordin (eds.), *Reforming Brazil* (Lanham MD: Lexington Books), 137–59.
- Montero, Alfred P. and Samuels, David J. (2004), "The political determinants of decentralization in Latin America: Causes and consequences," in Alfred P. Montero and David J. Samuels (eds.), *Decentralization and Democracy in Latin America* (Notre Dame, IN: University of Notre Dame Press), 3–32.
- Novick de Senén González, Silvia (1995), "Argentina," in Carlos N. Maplica Faustor (ed.), *Decentralization and Planning of Education: Recent Experiences in Five Latin American Countries* (Paris: UNESCO: International Institute for Educational Planning), 121–68.
- O'Donnell, Guillermo and Schmitter, Philippe C. (1986), *Transitions from Authoritarian Rule: Tentative Conclusions about Uncertain Democracies* (Baltimore and London: The Johns Hopkins University Press).
- Orren, Karen and Skowronek, Stephen (1994), "Beyond the iconography of order: Notes for a 'New Institutionalism'," in Lawrence C. Dodd and Calvin C. Jillson (eds.), *The Dynamics of American Politics: Approaches and Interpretations* (Boulder, CO: Westview), 311–30.
- Parker, Andrew N. (1995), *Decentralization: The way forward for rural development?* (Washington, DC: The World Bank).

Timing, Sequencing, and Historical Evolution

- Pierson, Paul (2004), *Politics in Time: History, Institutions, and Social Analysis* (Princeton and Oxford: Princeton University Press).
- Pírez, Pedro (1986), *Coparticipación federal y descentralización del estado* (Buenos Aires: Centro Editor de América Latina).
- República Argentina (1994), *Constitución de la Confederación Argentina* (Santa Fe – Paraná).
- Samuels, David (2003), *Ambition, Federalism, and Legislative Politics in Brazil* (New York, Cambridge University Press).
- (2004), “The political logic of decentralization in Brazil,” in Alfred P. Montero and David J. Samuels (eds.), *Decentralization and Democracy in Latin America* (Notre Dame, IN: University of Notre Dame Press), 67–93.
- Samuels, David and Abrucio, Fernando Luiz (2000), “Federalism and democratic transitions: The ‘New’ politics of the governors in Brazil,” *Publius: The Journal of Federalism* 30 (2), 43–61.
- Schmitter, Philippe C. (1973), “The ‘Portugalization’ of Brazil?,” in Alfred Stepan (ed.), *Authoritarian Brazil: Origins, Policies, and Future* (New Haven and London: Yale University Press), 179–232.
- Schneider, Aaron (2003), “Decentralization: Conceptualization and measurement,” *Studies in Comparative International Development* 38 (3), 32–56.
- Selcher, Wayne A. (1986), “Contradictions, dilemmas, and actors in Brazil’s *Abertura*, 1979–1985,” in Wayne A. Selcher (ed.), *Political Liberalization in Brazil: Dynamics, Dilemmas, and Future Prospects* (Boulder, CO, London: Westview Press), 55–95.
- Skidmore, Thomas E. (1988), *Brasil: de Castelo a Tancredo, 1964–1985* (Rio de Janeiro: Paz e Terra).
- Souza, Celina (1997), *Constitutional engineering in Brazil: The politics of federalism and decentralization* (New York: St. Martin’s Press, Inc.).
- (2001), “Federalismo e descentralização na Constituição de 1988: Processo decisório, conflitos e alianças,” *DADOS—Revista de ciências sociais* 44 (3), 513–60.
- Subsecretaría de Relaciones Fiscales y Económicas con las Provincias (1994), *Cambios estructurales en la relación nación-provincias* (Buenos Aires: Secretaría de Hacienda. Ministerio de Economía y Obras y Servicios Públicos).
- Thelen, Kathleen (2003), “How institutions evolve: Insights from comparative-historical analysis,” in James Mahoney and Dietrich Rueschemeyer (eds.), *Comparative Historical Analysis in the Social Sciences* (New York: Cambridge University Press), 208–40.
- Viola, Eduardo and Mainwaring, Scott (1985), “Transitions to democracy: Brazil and Argentina in the 1980s,” *Journal of International Affairs* 38 (Winter), 193–219.
- Weyland, Kurt (2002), *The Politics of Market Reforms in Fragile Democracies: Argentina, Brazil, Peru, and Venezuela* (Princeton and Oxford: Princeton University Press).

8

Federalism, democracy, and democratization

Mikhail Filippov and Olga Shvetsova

8.1 Introduction

Much of the literature on federalism and democracy claims it as an empirical fact that federalism is beneficial for democratic development, especially in large and diverse societies.¹ As Stepan has observed, “in fact, every single longstanding democracy in a territorially based multilingual and multinational polity is a federal state. Although there are many multinational polities in the world, few of them are democracies. Those multinational democracies that do exist, however (Switzerland, Canada, Belgium, Spain, and India), are all federal” (Stepan 1999: 19–20).

Where theoretical literature elaborates on the connection between federalism and democracy, the reasoning derives from the consensus that to be successful federalism requires all of its benefits: well-functioning democratic institutions, judicial system, integrated national political parties, and appropriate electoral incentives created by democratic political competition. The basic finding of the literature is that only in well-functioning democracies can federalism be a stable and effective form of government. And conversely, outside the democratic context, federalism is ultimately an unstable form, which logically progresses either to territorial disintegration or to becoming a mere constitutional formality.

Meanwhile, showing that democracy is crucial for maintaining federal stability does not in any way imply that federalism helps to achieve democratic success. In fact, what federal theories show is that in the long run, *in equilibrium*, democracy must be present in order for federalism to thrive. This has no bearing on what adding federalism to a political regime would do. In

¹ Although, see Gibson (2004) and Lane and Ersson (2005).

fact, if a combination of high-functioning democracy and stable federalism is to be considered a desirable democratic equilibrium, the theory is silent on how to get to that equilibrium. We argue that there exists a possibility that federalism as a constitutional form is well-compatible with successful long-standing democracy, and yet is capable of undermining partial democratic success in fledgling regimes. This is because in the short run, the federal form with its additional challenges pushes the political incumbents to interfere with the democratic process. For this reason, hypothetically speaking, it would be easier to quickly improve the quality of democracy in a unitary state than in a federal one, other things equal.

We build our argument by taking as the point of departure Riker's (1964) theory of federalism, considered by many to be the best political theory of federalism available, and add to it the consideration of the logic of the multi-level democratic process (Stepan 1999; McKay 2004). In this theoretical framework, we then address the nature of the interaction between democracy and federalism as institutions for societal aggregation of preferences and corresponding political mobilization. What results is a theoretical prediction of institutional bi-modality: in order to protect the territorial integrity, the quality of democracy in a federation in terms of the restrictions placed on democratic political competition must be either very high, or low. The reason for this bi-modality is that a low-functioning or a newly established democracy lacks the key tool for containing the disruptive bargaining inherent to the federal constitutional form—it lacks a federally integrated party system.²

8.2. Riker's Federal Theory: Federalism (Without Democracy) is not an Equilibrium Outcome

In federal studies, there was a long tradition of viewing federalism as a balance, and in that meaning of the word, as an equilibrium between the opposing social forces and aspirations—for example, unification versus autonomy, centralization versus decentralization, etc.—Riker, who had just completed his analysis of coalition formation and bargaining (Riker 1962), pointed out that any federal institutional balance must depend on coalitions which were formed to support it, and that coalitions have a propensity to shift. The federal balance would change with the changes in the coalition structure, and as long as coalitions were unstable, federal institutional balance was bound to be unstable as well (Riker 1964). Furthermore, because the federal bargain is

² We here offer no model for the pre-conditions or sequencing for transitioning to the high-quality democratic federal equilibrium, but see Broschek, Chapter 5, in this volume.

generally unstable, formal federal constitutional provisions were not as important as their actual implementation and “operation” (Riker 1969). After a federal constitution is put in place, its real operation and thus the terms that are actually being enforced become endogenous to the political process, more precisely, to the interaction among various government incumbents at all levels.

Thus, argued Riker, federalism is a non-equilibrium political process and federal agreements are bound to be unstable and will change over time to the advantage of some and the detriment of others. Since the sides to the bargain, as Riker and the prior literature saw it, were states versus the center, then either the subnational governments were to become stronger than the federal government (which Riker called “peripheralized federalism”), or the federal government was to gain the upper hand (“centralized federalism”). Neither of those were plausible scenarios for a long-term institutional equilibrium, as “peripheralized federalism” would eventually so weaken the union as to become but a transitional stage on the path toward eventual federal dissolution, while the overly strong “center” in the “centralized federalism” version would maintain territorial integrity but undermine the federal principles due to “the tendency, as time passes, for the rulers of the federation to overawe the rulers of the constituent governments” (Riker 1964).

A similar argument had been previously informally known in political science as Bryce’s Law. According to Edward McWhinney (1962: 105), Bryce’s Law states that “federalism is simply a transitory step on the way to governmental unity.” An economics version of the Bryce Law was rediscovered in the 1930s by a German economist Johannes Popitz, who argued that, though starting from rather decentralized tax systems, both unitary and federal countries alike end up concentrating fiscal authority in the hands of national governments.³ Accordingly, Popitz called the federal form of government a fiction. “Popitz’s Law” asserts that over time there must be a centralizing trend of revenue collection, which was indeed found in a cross-section of countries (see, for example, Vaubel 1994; Blankart 1999, 2001; Diaz-Cayeros 2004). Consistently with this, Lake and Rothchild (2005) find that: “territorial decentralization is an extremely fragile political institution that . . . is often quickly abandoned by majority groups and regions in favor of centralization and by minority groups and regions in favor of full political autonomy or secession. Most commonly, central governments quickly increase their power at the expense of regions and groups within the state. Less frequently, central governments unravel, ultimately leading to the disintegration of the state and the fracturing of the national territory into several sovereign pieces . . .

³ Johannes Popitz (1884–1945) was an academic and served as a secretary of state in the German Federal Treasury during the 1920s.

In Riker's logic, the three post-communist federations (USSR, Czechoslovakia, and Yugoslavia) were all cases of rapid transitions from highly centralized to peripheralized federal models, producing federal governments so weak that they were unable to prevent those countries' territorial disintegration (Bunce 1999). Meanwhile, illustrating the other theoretical possibility, a fragment of the former Soviet Union, Russia, itself a federation, has converged to a highly centralized federal model and thus escaped territorial collapse, though federalism there is on its way to becoming mostly a formality (Ross and Campbell 2009).

8.3 Where there is no Equilibrium, Contract is Required

The absence of a "naturally" occurring federal equilibrium—of a set of arrangements that could be directly self-enforceable because they would merely coordinate the participants to a mutually beneficial outcome, like the rules for driving on the same side of the road—means that federal balancing via bargaining is essentially a contract. The initial agreement over the fundamental federal arrangements (constitution) is a contract. And all interim compromises in the ongoing federal bargaining as per Riker's conceptualization are also a string of contracts. Meanwhile, all these contracts are between and among the governments. Sovereign unit governments negotiate over alternative federal principles for the constitution. Sovereign federal and sub-national governments hammer out subsequent bargains on the ways of implementing federal principles and amending them. This fact makes the question of enforcement central: when dealing with governments, it is usually difficult to enforce the outcome of bargaining. Hence for theory purposes, what we call the federal form of government can be characterized as a contract *without* a built-in mechanism for its enforcement.

A growing number of studies apply the principles of industrial organization to the design of federal constitutions (especially to their fiscal design) as incomplete contracts (Seabright 1996; Lulfesmann 2002; Aghion and Bolton 2003; Rodden 2006; Tommasi and Saiegh 2000; Bednar 2008). The incomplete contract literature extensively deals with the so called "hold-up problem," which arises when *ex ante* decisions change *ex post* bargaining power of economic agents. A classical example is of a firm making an irreversible (sunk), "relation-specific" investment into a product demanded by another firm (Klein, Crawford, and Alchian 1978). Iaryczower, Saiegh, and Tommasi (2007) argue that many welfare-improving intergovernmental institutional arrangements have characteristics similar to investments in specific assets: they require undertaking costly and hard to reverse actions with limited to

no value in alternative uses, and they produce benefits only in the future. As long as future benefits might be threatened by the opportunistic actions of some players, this extra uncertainty will deter institutional investments, or will lead them to take less efficient forms.

8.4 Democracy Stands in the Way of Credible Commitment to the Federal Contract

As distinctive from decentralization of government functions, political federalism preserves the political autonomy and electoral distinctiveness of constituent governments. Thus, it institutionally empowers regional politicians to bargain with the federal government on behalf of their constituents and challenge not only federal policies at the stage of their implementation, but even the federal institutions themselves that gave rise to such federal policies. Redistributive institutional coalitions emerge from the conflict among groups' preferences when it overlaps with the federative lines of representational division. Riker thought of federal bargaining as politicians bargaining over distribution of prerogatives between the states and the center.⁴ We put emphasis on distributive bargaining among groups such as the constituencies in federal units.

Distributive bargaining gives rise to the derivative bargaining over federal institutions, as institutions for decision-making have long-term distributive implications. Indeed, cross-nationally, there is a pattern of coalitions of units clashing over the degree of centralization and prerogatives of the federal center (Filippov, Ordeshook, and Shvetsova 2004; Cameron and Falleti 2005; Bednar 2008). Coalitions more likely to control the center or to receive greater benefits from its more obvious functions support the center's institutional empowerment. In this way, the precariousness of the center-state federal balance felt by the politicians is substantively rooted in the institutional preferences of the underlying popular coalitions that can be mobilized on each side and in support of pushing that balance in either direction.

Motivated by the logic of unit-level political competition, subnational incumbents are pressured to promise their constituents the redistributive

⁴ Riker's theory in this regard is similar to the consociationalist view that institutional stability rests on elite consensus. As Lustick (1979: 334) stresses, while "all consociational models contain the *assumption* [emphasis added] that sub-unit elites share an overarching commitment to the perpetuation of the political arena within which they operated," as one moves away from "a pure type of consociational system where sub-unit elites and officials of the regime act vigorously and systematically to 'regulate' conflict, one encounters partly open [democratic] regimes in which the political behavior of sub-unit elites is much more likely to be determined by the competitive interests of their sub-units than by desires for system maintenance or the achievement of a conflict-regulating outcome."

agenda for their dialogue with the federal center. Those regional politicians who bargain hard and pose increasing demands to the center will, other things equal, be more attractive for local electorates than those who say that their unit has no claim on additional resources in the union. This implies that electorates at least in some units will be mobilized on the issue of federal reform—federal institutional change aimed at gaining advantage (or at redressing “current disadvantages”) vis-à-vis the other members. Resulting territorial political polarization threatens the country’s institutional and political stability, and ultimately its territorial integrity. In the extreme, issues of federalism and federal renegotiation can become the explicit focus in campaigns, nationally as well as in the units. Parochial politicians are limited in their ability to support institutional compromise and cooperation as they react to anticipate popular pressure and the ever-present threat of new challengers ready to capitalize on such popular pressure or mobilize it (Lustick 1979; Horowitz 1985).⁵

If the constituency expects distributive gains from the institutional reform, incumbents supporting stability find themselves in a vulnerable position. The only helpful solution is to deem such expectations unrealistic and thus shield the subnational incumbents from the need to race to the bottom (Filippov, Ordeshook, and Shvetsova 2004). This is why federal success relies on having the sufficiently strong central government capable to thwart redistributive demands of any feasible coalition of constituent units. A center that is strong removes any expectation of a benefit from electing an incumbent bent on renegotiating the federal terms, and that in turn allows regional incumbents to cooperate with each other and the center without fearing an electoral backlash. This also allows one to expect that the formal federal institutions would stay reasonably stable.

The opposite competitive dynamic originates at the federal level in national elections where, as in all democracies, the majority makes redistributive decisions generally in its own favor. But the majority coalition that wins federal incumbency is limited in its ability to redistribute by the federal arrangements constraining the power of the federal center! For this reason, the voters who back the winners of the national election would also support increasing the constitutional powers of those winners. Therefore, the federal majority would be willing to support the expansion of the powers of the center, shrinking federalism. The stronger the center is to begin with, the more decisive the majoritarian takeover. And so contracts regarding institutions of federalism are routinely breached in practice. Among the more recent examples are South

⁵ Benz (2006: 105) describes a similar problem in the context of European integration: “Even when the majority parties agree with their government on accepting a European policy, the opposition parties may blame the government for relinquishing essential national objectives.”

Africa and Russia. In South Africa, during the transition to majority rule, the African National Congress used the promise of decentralization as an incentive to gain cooperation from the government, Inkatha Freedom Party, and Afrikaner Volksfront. It made concessions on the powers of the provincial authorities in order to secure the minorities' support for the 1993 draft constitution. Then, having reached that goal, it reversed the course a few years later (Lake and Rothchild 2005). In Russia, federal politicians discarded power sharing treaties with regions (and perhaps federalism altogether) as soon as a popular president came to power in 2000 (McFaul and Stoner-Weiss 2008).

8.5 Adjusting Democracy Down to Save Federalism

For federalism and democracy to be reconciled and to work together, the centralist constitution must be accompanied by the centralizing practice. This means that the existing level of federal centralization should not be subjected to any *credible* challenge in the political process, neither from below nor from above. A combination of favorable societal conditions and a system of incentives to political entrepreneurs crafted into the formal institutions can influence electoral competition and party development in such a desirable way that the politicians and voters alike would treat existing federal arrangements as legitimate (in the sense that they would not challenge those arrangements). Accomplishing this requires a designed constitution and a number of other supplementary designed mechanisms, for example, election laws, which in the end render the constitution self-enforceable (Filippov et al. 2004). While the bargaining conflict remains, it can be structured and constrained and federal arrangements can become enforceable—due to the favorable incentives built in the *democratic* institutional design and realized in equilibrium in the *democratic* process. This can be called the high-level democratic solution to the problem of federal stability: a well-functioning federally integrated democratic process makes the democratic federal “constitution” self-enforceable (see, for example, Filippov, Ordeshook, and Shvetsova 2004; Roust and Shvetsova 2005; Rodden 2006; Enikolopov and Zhuravskaya 2007; Bednar 2008). In short, positive electoral incentives for the politicians lead them to refrain from polarizing campaigns in (successful) democratic federations. The required incentives can ostensibly derive from institutional provisions designed to induce the preference in major politicians and political parties to avoid the “federal dimension.” For example, when there are two evenly matched nationwide broad-based parties, neither can get ahead by promising extreme redistributive institutional return to some group of units at the expense of the rest. At the abstract theoretical level, feasible redistributive coalitions are thus

reduced in strength through the operation of the political process—when that process is federally integrated.

But what would happen if a country falls short of the necessary level of democratic political development? What if the political processes at federal and subnational levels are insufficiently integrated? If extremists pose the danger for federal stability, threatening to exploit and disrupt federal bargaining for their own political ends, are there other ways to ensure that the “extremists” would be unable to prevail over the “moderates”? The above-mentioned democratic institutional design approach is a long-term strategy. The conditions required for eventual success of the democratic approach are highly restrictive, and can be met, at best, with the passage of time. In new regimes, we argue, the approach to reducing the strength or redistributive bargaining coalitions in the democratic process becomes literal: their strength is reduced by means of reducing the scope of democracy itself. Democratic inclusiveness, democratic competitiveness are rolled back in yet another balancing move: cutting down on internal challenges in order to give the initial boost to the credibility of the federal contract.

In the extreme, the low-democracy alternative to sustaining federal stability is to restrict all forms of political competition deemed to be potentially dangerous for territorial integrity. Here, federal stability is preserved not because to support the status-quo institutions is the winning strategy in competitive elections, as in the high-democracy case, but because political competition is directly censored by non-democratic (negative) means. Politicians can be barred from making federalism an electoral issue and from challenging federal rules. Such restrictions on political competition are practically costly and may not always be implementable while still retaining any semblance of the democratic process, but if successfully imposed, could quickly restore political stability and ensure territorial integrity. Sadly, such restrictions also threaten to spread beyond affecting just the federal dimension. Once curbing the democratic practice is justified by protecting the national interests, dangers to national interests grow to encompass all things that might jeopardize the national incumbent.

In sum, our theoretical argument logically implies that the “good” equilibrium—stable federalism + high-democracy—should be found only where there is some federal history. Our argument furthermore generates expectations of the precarious early period where levels of democracy must be low, and the federal balance exists through the elite consensus. It also means that only some of the nascent federations would transition into the high equilibrium, while the rest would fail to do so by way of various crises. That said, notice that our theoretical argument holds no insight with regard to the mechanisms by which successful transitioning from the low-type to the

high equilibrium is possible.⁶ The above conclusions lead to two testable propositions:

H1: Federal regimes exhibit lower levels of democratic competitiveness than unitary regimes early in regime history.

H2: Federal regimes exhibit higher levels of democratic competitiveness than unitary regimes at the advance stage of regime history.

Thus, we expect “less durable” federal political regimes to function on average at a lower level of democratic competitiveness as compared to “less durable” unitary political regimes. On the other hand, we expect “durable” federal political regimes to function on average at a higher level of democratic competitiveness as compared to “durable” unitary political regimes.

The first hypothesis follows from the notion of the low-level short-term equilibrium, where competitiveness is suppressed in a federation in order to boost the enforceability of the federal contract. The second hypothesis follows from the theoretical claim of existence of the high-democracy equilibrium, where democratic competitiveness is not only unconstrained but reaches such level of complexity and interdependence that coalition-building loses its simple expropriatory drive. Though we cannot say much on how to move from the theoretically unavoidable low state to the theoretically feasible high-equilibrium, in the section that follows we offer the evidence that both exist, and that the durability of a political regime is an important factor.

8.6 Evidence of Suppressing Democratic Processes where Federalism is Introduced

We use the data from The Quality of Government Dataset (Teorell et al. 2009) for the period between 1990 and 2007. To test the validity of the hypothesized relationships between federal regimes, their duration, and the levels of democratic competitiveness we estimate ordered probit regression models for three dependent variables capturing the quality of democracy, with the independent variables of federalism and age of regime and a set of standard control variables.

Ideally, we would like our dependent variable to measure the type of political competition in different political regimes directly. There are no available cross-national indicators of de-facto restrictions on politicians’ choices of competitive strategies. Thus, we chose to test the theory using as our

⁶ As one possible answer, the fact that stable democratic federations are old federations *and* old democracies might indicate that incremental franchise expansion reduces institutional instability as it is also a mechanism for constraining political competition.

dependent variables several closely approximating indicators: 1) *Competitiveness of Political Participation*, 2) *Political Pluralism and Participation*, and 3) *Institutionalized Democracy*.

Political Pluralism and Participation. This variable is consistently provided by Freedom House and encompasses an examination of the right of the people to freely organize in political parties; the existence of an opposition with a realistic possibility to increase its support; the ability of the people to make political choices free from domination by the military, totalitarian parties or other powerful groups; and the existence of full political rights for all minorities. Countries are graded between 0 (worst) and 16 (best).

The Competitiveness of Participation is a component of the Institutionalized Democracy IV Indicator (Polity IV). The component refers to the extent to which alternative preferences for policy and leadership can be pursued in the political arena. Competitiveness is coded on a five category scale—from 0 to 5.

Institutionalized Democracy Indicator (Polity IV) is an additive eleven-point scale (0–10). The indicator is derived from coding of the competitiveness of political participation, the openness and competitiveness of executive recruitment and constraints on the chief executive.

Independent variables of theoretical interest include the following:

Federal Systems is a dummy variable, taking the value of 1 for federations and 0 otherwise. The Quality of Government Dataset for cross-section data identifies federations following Treisman (2007). For the time-series cross section data we recorded federation using similar classification provided by the Forum of Federations. We expect its effect to be negative, if hypothesis H1 holds.

Durability of Federal Systems is a continuous variable which is a product of *Federal Systems* and *Regime Durability*. It takes the value of 0 for unitary systems, and equals to *Regime Durability* for federal systems. We expect its effect to be positive, if hypothesis H2 holds.

Regime Durability (Polity IV) is a continuous variable defined as the number of years since the most recent political regime change. In calculating the value of *Regime Durability*, the year during which a new (post-change) political regime is established is coded as the baseline “year zero” (with the value of 0), and each subsequent year adds one to the value of the variable consecutively until a new political regime change or transition period occurs. Although this variable is not a focus of our theoretical interest, we have to include it as this variable is a part of the interactive term *Federal Systems Durability* which is of primary theoretical interest for us.

In our choice of control variables, we follow the literature and incorporate standard controls, and we also add some additional controls that we judge as important. Previous research shows that the level of economic development matters for democracy. Other important factors are population size and ethnic diversity. We measure the level of economic development as the logarithm of

GNP per capita, adjusted for purchasing power. We measure each country's population as the logarithm of total population. We use Roeder's index of ethnic fractionalization (ELF) to measure the heterogeneity of the society. This variable takes values between 0 and 1, with higher values corresponding to more fractionalization (see <http://weber.ucsd.edu/~proeder/elf.htm>). Also included in the estimations are the absolute value of the latitude of the capital city, divided by 90 (so that the variable takes values between 0 and 1) and regional fixed effect controls to capture what geographic, historical, cultural, and socioeconomic factors might be common to those regions.

We start by performing a detailed cross-sectional analysis, which lends evidence of the consistency in the data pattern (Table 8.1). Next we assess the potential implications of the time period over which we run the time-series analysis (Table 8.2). After that, we proceed to estimate a full time-series cross-sectional model based on all available data for the period between 1990 and 2007 (Table 8.3).

Table 8.1 reports cross-sectional ordered probit equations estimated for three separate years: 1995, 2000, and 2005. The dependent variable is the *Competitiveness of Political Participation Index*. The main independent variables are dummy variable for *Federal Systems* and *Durability of Federal System*. We include as controls a number of variables potentially important for the quality of democracy, such as *Regime Durability*, *Per Capita Income*, *Population Size*, *Latitude of the Capital City*, *Ethnic Fragmentation*, and history of *British Colonization*. In all three equations the coefficients of the main independent variables

Table 8.1. Competitiveness of political participation (cross-section ordered probit with robust standard errors)

	(I)	(II)	(III)
	1995	2000	2005
Federal systems	-0.263 (0.349)	-0.677** (0.336)	-0.339 (0.340)
Durability of federal system	0.020*** (0.008)	0.025*** (0.009)	0.021** (0.009)
Durability of political system	-0.005 (0.006)	-0.007 (0.006)	-0.002 (0.006)
Log of income per capita	0.454*** (0.103)	0.423*** (0.104)	0.336*** (0.089)
Log of population size	0.045 (0.070)	0.035 (0.075)	-0.003 (0.074)
Ethnic fragmentation	-0.733* (0.375)	-0.631 (0.422)	-0.934** (0.438)
Observations	142	141	143
Pseudo R-squared	0.152	0.135	0.131

Notes: Robust standard errors in parentheses.

***p<0.01, **p<0.05, *p<0.1.

Timing, Sequencing, and Historical Evolution

Table 8.2. Competitiveness of political participation in 1990–2007; 1990–99, and 2000–07 (time-series cross-section ordered probit with robust standard errors)

	(IV)	(V)	(VI)
	1990–2007	1990–99	2000–07
Federal systems	-0.336*** (0.079)	-0.246** (0.102)	-0.422*** (0.121)
Durability of federal system	0.018*** (0.002)	0.016*** (0.003)	0.020*** (0.003)
Durability of political system	-0.004** (0.001)	-0.004** (0.002)	-0.003 (0.002)
Log of population size	0.009 (0.016)	0.014 (0.020)	-0.005 (0.026)
Log of income per capita	0.398*** (0.026)	0.458*** (0.037)	0.321*** (0.036)
Ethnic fragmentation	-0.540*** (0.100)	-0.452*** (0.129)	-0.684*** (0.158)
Latitude of the capital city	0.530*** (0.153)	0.647*** (0.202)	0.441* (0.234)
UK colony	-0.140*** (0.053)	-0.114 (0.072)	-0.162** (0.080)
Observations	2484	1349	1135
Pseudo R-squared	0.142	0.159	0.125

Notes: Robust standard errors in parentheses.

*** $p < 0.01$, ** $p < 0.05$, * $p < 0.1$.

have the expected signs. The estimated coefficient for *Durability of Federal System* is statistically significant at the 0.05 level. Our second main independent variable, *Federal Systems* is also significant at 0.05 level for the year 2000.

The choice of a time period for analysis may have unexpected implications if period specific dynamics replace the dynamics of theoretical interest. Thus we check for the potential differences in estimations for different temporal intervals. Table 8.2 shows cross-sectional time-series estimated ordered probit models, comparison among which could indicate structural change during our chosen time interval. Equation 4 uses all available data for the full period covering 1990–2007. Equations 5 and 6 are restrictions to sub-periods of 1990–99 and 2000–07. Since we obtain very similar estimations in all three equations, we can reject the hypothesis of a structural change. In all three equations, the coefficients have the expected signs and all are statistically significant at least at the 0.05 level.

In Table 8.3, we report the estimations for all three dependent variables measuring democratic competitiveness where we use all available relevant data for the full period of 1990–2007 and run time-series cross-sectional analysis. Once again, the main independent variables are dummy for *Federal Systems* and *Durability of Federal System*. In Equation 7, the dependent variable is the *Competitiveness of Political Participation Index* (1990–2007), and

Table 8.3. Federalism and the quality of democracy: three dependent variables

DEPENDENT VARIABLE:	(VII)	(VIII)	(IX)
	Competitive Political Participation 1990–2007	Institutionalized Democracy 1990–2007	Pluralism and Participation 2005
Federal systems	-0.504*** (0.107)	-0.369*** (0.108)	-1.065** (0.417)
Durability of federal system	0.012*** (0.004)	0.016*** (0.003)	0.019*** (0.006)
Durability of political system	-0.014*** (0.002)	-0.008*** (0.002)	-0.012** (0.006)
Log of population size	0.083*** (0.022)	0.044* (0.023)	0.091 (0.096)
Log of income per capita	0.403*** (0.030)	2.635*** (0.030)	0.468*** (0.112)
Ethnic fragmentation	-0.565*** (0.130)	-0.342** (0.137)	-0.272 (0.547)
Latitude of the capital city	1.612*** (0.314)	2.635*** (0.316)	3.417*** (1.205)
UK colony	-0.083 (0.071)	0.058 (0.068)	0.342 (0.254)
Muslims as percentage of population	-0.007*** (0.001)	-0.010*** (0.001)	-0.007* (0.004)
Eastern Europe and post-Soviet Union	-1.598*** (0.188)	-1.859*** (0.176)	-1.444** (0.572)
Latin America	-0.671*** (0.160)	-0.685*** (0.145)	0.442 (0.475)
North Africa and the Middle East	-1.786*** (0.186)	-2.070*** (0.185)	-1.804*** (0.699)
Sub-Saharan Africa	-0.735*** (0.144)	-1.092*** (0.137)	-0.062 (0.480)
Western Europe and North America	1.929*** (0.472)	0.090 (0.216)	0.253 (0.690)
East Asia	-1.513*** (0.269)	-1.602*** (0.254)	-1.033 (0.979)
South-East Asia	-1.507*** (0.174)	-1.470*** (0.161)	-0.681 (0.566)
South Asia	-1.160*** (0.193)	-0.893*** (0.173)	-0.600 (0.707)
Pacific (excluding Australia and New Zealand)	-0.057 (0.246)	0.144 (0.254)	-0.280 (0.642)
Observations	2484	2484	143
Pseudo R-squared	0.264	0.220	0.177

Notes: Robust standard errors in parentheses.
 ***p<0.01, **p<0.05, *p<0.1.

in Equation 8, the dependent variable is *Institutionalized Democracy Index* (1990–2007). In Equation 9, we use cross-section analysis with *Pluralism and Participation Index* (2005) as the dependent variable.

We control for the level of economic development (per capita income), regime durability, characteristics of population (log of population size, ethnic fragmentation, muslims as percentage of population), latitude of the capital city, and history of British colonization. Also included in the regression

Timing, Sequencing, and Historical Evolution

analyses are regional fixed effect controls to capture what geographic, historical, cultural, and socioeconomic factors might be common to those regions. As expected, several of the control variables have consistently strong effects across the various specifications. Per capita income is positive and highly significant in each of the models. Similarly, latitude of the capital city is always significant and positive in all models. Muslims as percentage of population is always statistically significant and negative. Other control variables are significant in some specifications but not in others.

Where they are statistically significant, the control variables exert effects that are consistent with the findings of previous research. Thus, level of economic development (measured by *log of income per capita*) and the distance from the equator (measured by *latitude of the capital city*) are estimated to have a positive effect. On the other hand, *ethnic fragmentation* is estimated to have a negative effect.

Finally, Figure 8.1 shows the quantitative relationship between federalism and level of democracy when controlling for the age of regime as a proxy for the availability of the complex competitive structures able to prevent polarizing political mobilization. We use the Clarify software of Tomz, Wittenberg, and King (2003) to show the substantive meaning of the statistical estimates. The figure plots simulated predicted probabilities of the competitiveness

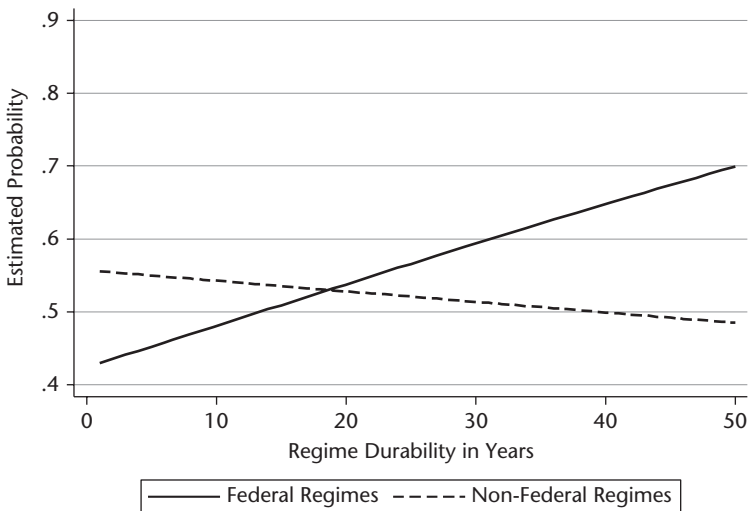


Figure 8.1. Regime durability and probability of the two highest levels of competitiveness of political participation, 1990–2007

Note: The figure illustrates probability estimates of the two highest values of the Competitiveness of Political Participation Index. The simulations were performed using Clarify software (Tomz, Wittenberg, and King 2003). Clarify simulations were run on the equation IV (Table 8.2).

Index taking one of the two highest values. Other things equal, the probability of unrestricted political competition is lower in “new” federal regimes ($p = 0.43$) as compared to “new” non-federal regimes ($p = 0.56$). Yet, after about twenty years of the regime duration, the difference between federal and non-federal regimes disappears and the probability to observe unrestricted competition becomes the same: around 0.52. After fifty years of the regime duration federal systems are much more likely to have unrestricted political competition ($p = 0.7$) compared to similarly old non-federal regimes ($p = 0.49$).

8.7 Conclusion

The argument here is not that federalism is bad for transitional democracies, nor is it that transitional federations cannot afford to open up the political competition without endangering their own territorial integrity, even though both observations are in truth corollaries of our theory. Our argument is theoretical in nature and points out the need for the simultaneity of federal and democratic design as well as for a fixed initial investment in establishing the regime—an investment that in practice may take the form of relegating federal effectiveness to the place of a secondary goal, and prioritizing instead the commitment to stability and enforcement of the constitution.

Even though the volume of literature on federalism is enormous, there is little helpful guidance on how to design and implement successful democratic federalism. One conclusion from the literature is that each federal case is unique, and few if any identifiable factors seem necessary, while it is unknown which factors together would be sufficient for success. Democratic federal success apparently depends on a complex interaction of many country-specific social and institutional factors. A party system is a global outcome of such an interaction, and theoretical studies identify it as crucial in sustaining federal stability—when it is characterized by the right pattern of inter-party competition and cooperation. Successful federations possess decentralized yet integrated party systems, with the pattern of competition promoting mutual dependence and coalition-building among regional and federal-level politicians. Obviously, when the party system is not federally integrated, or when the pattern of political competition is barely emerging at the start of a democratic transition, it is highly uncertain whether party politics would evolve in the direction of maintaining institutional and territorial integrity.

Polarizing extremism in electoral politics can be kept in check either in a democratic way or in a non-democratic way, while political competition must be constrained in some sense in both cases, voluntarily in the first and by force in the second. Both mechanisms would result in excluding federal issues from political competition; the difference is in the way in which the needed

motivation to do so is supplied for the politicians. One very important concern, and the one that we do not discuss here, is that the non-competitive federal model is not robust to the re-opening of political competition. Based on restricting potentially destructive campaigning, in its extreme, the non-competitive model essentially amounts to the state monopoly in all important areas of political competition. In economics, the state monopoly could help sustain non-competitive industries. But, as a rule, state protection poorly prepares the protected industries for the reopening of the market. Similarly, even if the non-competitive federal model holds while the political competition is suppressed, it is likely to become unstable once political competition re-emerges. Rapid collapse of the former Soviet Union, Czechoslovakia, and Yugoslavia upon the removal of constraints on political competitiveness are vivid illustrations of this model's potential for failure (Roeder 1991; Bunce 1999). As soon as the mere expectation of some form of political competition was aroused in those countries, it stimulated political entrepreneurs to mobilize popular demands inconsistent with federal stability.

References

- Aghion, Philippe and Bolton, Patrick (2003), "Incomplete social contracts," *Journal of the European Economic Association* 1 (1), 38–67.
- Bednar, Jenna (2008), *The Robust Federation: Principles of Design* (Cambridge: Cambridge University Press).
- Benz, Arthur (2006), "Policy-making and accountability in EU multilevel governance," in Arthur Benz and Yannis Papadopoulos (eds.), *Governance and Democracy: Comparing National, European and International Experiences* (London: Routledge), 99–114.
- Blankart, Charles (1999), "Local autonomy and Popitz' Law in Prussia and in Germany," in H. Geoffrey Brennan and Robert Tollison (eds.), *Festschrift für J. M. Buchanan's 80*. <http://www.gmu.edu/jbc/fest/proj1.htm>
- (2001), "Popitz Law, Bryce's Law and government centralization in Prussia and in Germany," *Journal of Public Finance and Public Choice* 19 (1):71–94.
- Broschek, Jörg (2012), "Between path dependence and gradual change: Historical institutionalism and the study of federal dynamics," in Arthur Benz and Jörg Broschek (eds.), *Federal Dynamics* (Oxford: Oxford University Press), 93–116.
- Bunce, Valerie (1999), *Subversive Institutions: The Design and Destruction of Socialism and the State* (Cambridge: Cambridge University Press).
- Cameron, Maxwell and Falleti, Tulia (2005), "Federalism and the subnational separation of powers," *Publius: The Journal of Federalism* 35, 245–71.
- Díaz-Cayeros, Alberto (2004), "The centralization of fiscal authority: An empirical investigation of Popitz's Law", Manuscript.
- Enikolopov, Ruben and Zhuravskaya, Ekatarina (2007), "Decentralization and political institutions," *Journal of Public Economics* 91, 2261–90.

- Filippov, Mikhail, Ordeshook, Peter and Shvetsova, Olga (2004), *Designing Federalism: A Theory of Self-Sustainable Federal Institutions* (Cambridge: Cambridge University Press).
- Gibson, Edward L. (2004), *Federalism and Democracy in Latin America* (Baltimore: Johns Hopkins University Press).
- Horowitz, Donald L. (1985), *Ethnic Groups in Conflict* (Berkeley: University of California Press).
- Iaryczower, Matias, Saiegh, Sebastian, and Tommasi, Mariano (2007), *Coming Together: The Industrial Organization of Federalism*. <http://en.scientificcommons.org/42870837>
- Klein, Benjamin, Crawford, Robert G. and Alchian, Armen A. (1978), "Vertical integration, appropriable rents, and the competitive contracting process," *Journal of Law and Economics* 21 (2), 297–326.
- Lake, David A. and Rothchild, Donald (2005), "Territorial decentralization and civil war settlements," in Philip G. Roeder and Donald Rothchild (eds.), *Sustainable Peace: Power and Democracy after Civil Wars* (Ithaca, NY: Cornell University Press), 109–32.
- Lane, Jan-Eric and Ersson, Svante (2005), "The riddle of federalism: Does federalism impact on democracy?" *Democratization* 12, 163–82.
- Lulfesmann, Christoph (2002), "Central governance or subsidiarity: A property-rights approach to federalism," *European Economic Review* 46 (8), 1379–97.
- Lustick, Ian (1979), "Stability in deeply divided societies: Consociationalism versus control," *World Politics* 31 (3), 325–44.
- McFaul, Michael and Stoner-Weiss, Kathryn (2008), "The myth of the authoritarian model," *Foreign Affairs* 87, 68–84.
- McKay, David (2004), "William Riker on federalism: Sometimes wrong but more right than anyone else?" *Regional and Federal Studies* 14 (2), 167–86.
- McWhinney, Edward (1962), *Comparative Federalism: States' Rights and National Power* (Toronto: University of Toronto Press).
- Riker, William (1962), *The Theory of Political Coalitions* (New Haven: Yale University Press).
- (1964), *Federalism: Origin, Operation, Significance* (Boston: Little Brown).
- (1969), "Six books in search of a subject or does federalism exist and does it matter?" *Comparative Politics* 2 (1), 135–46.
- Rodden, Jonathan (2006), *Hamilton's Paradox: The Promise and Peril of Fiscal Federalism* (Cambridge University Press, Cambridge).
- Roeder, Philip G. (1991), "Soviet federalism and ethnic mobilization," *World Politics* 43 (2), 196–232
- Ross, Cameron and Campbell Adrian (eds.) (2009), *Federalism and Local Politics in Russia* (New York, London: Routledge).
- Roust, Kevin and Shvetsova, Olga (2005), "Representative democracy as a necessary condition for the survival of a federal constitution," *Publius: The Journal of Federalism*, 37 (2), 244–61.
- Seabright, Paul (1996), "Accountability and decentralization in government: An incomplete contract model," *European Economic Review* 40 (1), 61–89.
- Stepan, Alfred (1999), "Federalism and democracy: Beyond the U.S. model," *Journal of Democracy* 10 (4), 19–34.

Timing, Sequencing, and Historical Evolution

- Teorell, Jan, Holmberg, Sören and Rothstein, Bo (2009), *The Quality of Government Dataset* (Gothenburg, University of Gothenburg: The Quality of Government Institute).
- Tommasi, Mariano and Saiegh, Sabastian (2000), "An 'Incomplete-Contracts' approach to intergovernmental transfer systems in Latin America," in Shahid J. Burki and Guillermo E. Perry (eds.), *Decentralization and Accountability of the Public Sector* (Washington, DC: World Bank).
- Tomz, Michael, Wittenberg, Jason, and King, Gary (2003), "Clarify: Software for interpreting and presenting statistical results," *Journal of Statistical Software* 8 (1), 1–29.
- Treisman, Daniel (2007), *The Architecture of Government: Rethinking Political Decentralization* (Cambridge University Press, Cambridge).
- Vaubel, Roland (1994), "The political economy of centralization and the European Community," *Public Choice* 81 (1), 151–90.

9

The evolution of federalism and executive power in Canada and Australia

Anthony M. Sayers and Andrew C. Banfield

9.1 Introduction

In *Federalist* 48, James Madison observed “[an] *elective despotism* is not the government we fought for” (Hamilton, Madison, and Jay 2003: 303). In *Federalist* 10, Madison suggests federalism as a mechanism for reducing the likelihood of such despotism, limiting as it does the chance that any singularly motivated set of people would control government (Hamilton, Madison, and Jay 2003). Distributing power should limit its misuse. We are interested in exploring how the limitation of executive authority implied by dividing powers has evolved in Canada and Australia. To do so, we trace the manner in which power is expressed in the institutions of federal governance in the two countries.

Canada and Australia share a common institutional architecture, combining the formal, constitutional distribution of power of federalism and the conventional concentration of power in the executive found in Westminster-style parliamentary governance. They are considered dual federations in which each of the two levels of government has some exclusive legislative and administrative authority (Thorlakson 2003: 7). But the practical distribution of power in each federation is not easily derived from observing the original constitutional design (Thorlakson 2003: 17).

The Canadian constitution provides residual powers to the federal level and the Australian to the states to allow them room to manoeuvre in conflicts over power. This can be seen in the manner in which formal executive power was understood in each constitution. Following the creation of a federation, the Australian states had not “sunk to the position of the Canadian Provinces, which were subordinated to the Canadian Federal Government....The

Constitutional Convention had deliberately rejected the subordination of State Governors to the Governor-General and the severance of direct links between the States and the United Kingdom. The States therefore regarded themselves as ‘sovereign within their sphere’” (Twomey 2006: 19). Yet over time, the Canadian federation has become more decentralized in favor of the provinces, and its Australian counterpart more centralized in favor of the federal or Commonwealth government.

This divergence has been facilitated by the duplication and overlap inherent in federal arrangements. Duplication suggests that various institutions may be arranged in parallel to multiply the “number of independent channels for any structure or function where failure can be disastrous” (Landau 1973: 188). Overlap can be thought of as the capacity of any component to take up tasks for which it was not intended. Component parts “resist a clear differentiation of function” and are able to adopt new roles in response to changing demands (Landau 1973: 189; Bednar 2009: chapter 6). This suggests that we should be sensitive to novel ways in which the federal principle might find expression in political institutions beyond that envisaged in founding documents. In particular for our cases, we need to consider how it interacts with the concentration of executive power found in Westminster-style parliaments and with which it seems at odds.

The federal executive in Canada is sometimes referred to as an elected dictatorship while in Australia it is associated with the centralization of power in the federal government (Savoie 1999; Simpson 2001; Fenna 2007). Both countries experience executive control of the political agenda. Understanding power in Canada and Australia requires tracing the development of overlapping and duplicated institutional arrangements and their interaction with this executive authority. The distinction between “inter-state” and “intra-state” federalism provides a means for identifying the flow of power in federal states over time. Together they capture the two broad ways in which political decisions are made within federations (Cairns 1979; Smiley and Watts 1985; Scharpf 1988, 1997; Broschek 2010). Inter-state federalism refers to relations among component governments, while intra-state mechanisms are those that bring the diverse interests of the federal polity directly into national political institutions.

Our two case studies reveal divergent institutional trajectories. Canadians have relied heavily upon inter-state mechanisms for distributing power across the federation with relatively little work being done by the institutions of intra-state federalism. They have made use of the concentration of executive authority in parliamentary systems to fashion a competitive and asymmetric form of decision-making among governments. Prime ministers are generally bound to use these arrangements to implement national public policy. Australian federalism relies on both intra-state and inter-state mechanisms for

distributing power in a more classically federal set of joint decision-making mechanisms. The sometimes hidden federal impulse limits the capacity of the prime minister to dominate both national and intergovernmental political institutions, notably the federal cabinet.

Much of the dynamic underlying these trajectories can be understood as friction between institutional and ideational forces at work in each federation. In the Canadian case, competition between different conceptions of federalism continues to reset the operation of political institutions, generating novel forms of decentralization via competitive inter-state mechanisms (see Schmidt 2008 and 2011). Federal development in Canada is best understood as a sequence of redirections that continue to reshape the distribution of power. For Australia, greater harmony at the ideational level allows for patterned behavior in both the intra-state mechanisms associated with the Senate and political parties and inter-state institutions such as the Council of Australian Governments (COAG). While there are patterns of stability and change in both federations, developments in Australia manifest greater institutional predictability and are more amenable to path-dependent explanations than its Canadian counterpart (see Broschek 2010: figure 1; Benz and Colino 2011).

This divergence in two similar federations is a striking example of what Pierson calls the “limits of constitutional design” (2004: 103ff). Explicit competition for power between government units, the role of judicial interpretation, and a capacity for redundancy make federations particularly susceptible to complex rewiring of their institutional order. That Canadians have used the concentration of power in competing executives to distribute it, and that the federal distribution of power in Australia has helped make Westminster parliament more effective, are surprising results that can only be understood by considering the development of institutions within their social and political context (Thelen 1999; Pierson 2004: figure 1; Streeck and Thelen 2005). Madison and constitutional; founders in Australian and Canada might be surprised at the manner in which the federal principle finds expression in each country, but reassured by its resilience (Bednar 2009).

9.2 Executive Power in Canada and Australia

The concentration of executive power in parliamentary democracies, encouraged by the rise of modern parties, seems at odds with the dividing of powers that is the *sine qua non* of federalism. In recent times Canadians have expressed concern as to the rising power of the prime minister (the “friendly dictatorship” of Simpson 2001; Aucoin et al. 2011). Following a century of decline in the policy-making power of Parliament, there is now concern that the cabinet and caucus are also being bypassed. In *Governing from the Centre*

(1999), Donald Savoie suggests policy is now made by the prime minister and a cadre of close advisers. Concern over executive power is much more muted in Australia, although it is taken for granted that the prime minister has a great deal of power in negotiations with the states due to the Commonwealth's superior revenue-raising capacity (Fenna 2007).

Events in the 1990s seem to confirm Savoie's view of prime ministerial power in Canada. In 1997, armed with the first budget surplus in Canada in over twenty-five years, cabinet met to consider spending priorities. Encouraged to provide options, each cabinet minister and his or her department expended enormous effort identifying such priorities. One after another, their suggestions were rejected by prime minister Jean Chrétien and finance minister Paul Martin. Minister Allan Rock finally exploded in anger at how cabinet consultation had become a charade: "We all ran around, briefing our ministers on how to sell the departments and coming up with ways we could spend money, and in the end we all just looked silly," recalls a deputy minister in another department. "It was obvious that Martin and the PM had already decided where to spend the money. Ministers got the message. In subsequent months, they appealed directly to Chrétien for their projects" (Wallace 1998).

Savoie points to a range of factors to account for growing prime ministerial dominance. The Canadian unity crisis and globalization require a central coordinating office and administrative reforms that have centralized power. Along with the focus of the media and lobbyists on the executive, the result has been the 'presidentialization' of the role of prime minister (Savoie 1999). More recently, prime minister Harper has been called variously the most controlling or most powerful prime minister in Canadian history (Martin 2011).

Internationalization and globalization also contribute to the power of the prime minister. Growing numbers of increasingly detailed international agreements require prime ministers to commit to policy objectives that impinge on provincial jurisdictions. The velocity of international negotiations increases pressure on prime ministers to react quickly and heightens expectations that he or she can speak for the country. One example of this power to bypass cabinet deliberation and commit to international agreements came when then prime minister Chrétien committed Canada to the Kyoto Accord: environment minister David Anderson had been tipped off, but many had no idea that Chrétien was about to stand up in Johannesburg and commit Canada to voting on the controversial Kyoto agreement on greenhouse gas emissions by the end of the year. "The minister learned about it the same way other Canadians learned about it and that was by reading the headlines in the newspaper the next day," confided an aide to one minister (Thompson 2002). Not only was the majority of the Cabinet unaware of the decision

about to be made, the commitments made by the prime minister deeply impacted the provinces. Led by Alberta, the provincial premiers condemned the prime minister's failure to consult them (Bueckert 2005).

In contrast to the situation in Canada, there has been relatively little concern expressed about the power of Australian prime ministers. Most analysts agree with Bakvis (2001) that the office is nowhere near as powerful as its Canadian counterpart. A detailed analysis of the extensive reform of the Australian economy during the 1980s and 1990s provides examples of times when prime ministers were thwarted by cabinet ministers, caucuses, bureaucrats, party organizations, and non-state actors. While the central agencies were often important, as would be expected in economic policy decisions, they were not the only organizations contributing ideas to economic policy, and their direct influence on decision-making varied depending on the decision being studied. Influence on economic policy was sometimes diffuse with other government elites including cabinet, the prime ministerial and ministerial offices, and other departments also important, while some decisions were made contrary to the advice of the central agencies.

Constraints upon prime ministerial authority in Australia focus on the cabinet's collective character and its role in making or unmaking the prime minister (Moon and Sharman 2003; Weller 2007). As well, the party caucus plays a key role, particularly in the Labor party with its formalized factions, in determining the composition of cabinet. In the case of conservative governments, normally Liberal-National Party coalitions, cabinets reflect bargains between the two parties rather than prime ministerial fiat.

This collective behavior rests on the inability of the prime minister to dominate parliament or his or her party. As we shall show, these limitations have their roots not in the logic of Westminster cabinets, but federalism. The particular constellation of institutions in Australia has facilitated *détente* between the concentrating of executive power of parliamentary government and the division of powers inherent to federalism.

9.3 Intra-state Federalism in Canada

Intra-state mechanisms for distributing power in federations are found in the institutions of the central government. These include the legislature, second chambers, divisions between the executive and legislature, and the role of courts and offices tasked with overseeing government activity.

The limited capacity of the Canadian parliament to constrain executive power has long been known (Mallory 1971: 96; Sproule-Jones 1984; Smiley 1987: 60–1).

Parliamentary checks on prime ministerial power, such as opposition parties and question period in the House of Commons, are seen as increasingly ineffectual. Moreover, informal checks such as media and public opinion polls are sporadic and unpredictable (Savoie 1999). The prime minister and a few close advisors have nearly absolute control over the legislative process.

There are few checks on the prime ministerial power to appoint ministers and their deputies and use a range of measure to ensure discipline and loyalty (Bakvis 2001). Savoie notes “[t]he prime minister has access to virtually all the necessary levers in Cabinet to ensure that he or she is the “boss” in cabinet, and that if he so wishes—and prime ministers usually do—he can dominate Cabinet deliberations and its decision making” (1999: 81). It is not surprising that prime ministers are prone to make legislative decisions and major policy changes without consulting cabinet colleagues.

The Canadian parliamentary committee structure is relatively weak, and is dominated by the executive. Docherty notes the committee system in Canada is only as strong as the chamber allows it to be, and in this case, the Commons is dominated by the executive. As proof, Docherty and White (2004) note that during the first Chrétien administration “[g]overnment MPs lost their committee chairs, were removed from committees or demoted in other ways” as punishment for breaking government ranks (Docherty 2005: 620). This undermines the independence of the committee chairperson and the development of expertise among MPs. Pal (1995) argues that this failed committee structure encourages interest groups in Canada to target the executive directly with their concerns. This further strengthens the hand of the prime minister against other parliamentary actors, such that the Prime Minister’s Office (PMO) and Privy Council Office (PCO) becomes the central agency for coordinating access to the legislative process.

One potential intra-state constraint on executive power in federal states is the second chamber. The Canadian Senate stands in sharp contrast to its elected counterparts in other federations. Appointed by the prime minister rather than elected, it plays a valuable but minor role in the legislative process. Dawson, Dawson, and Ward note:

A government finds senatorships most useful as rewards for duty faithfully performed; as influences to produce immediate activity in the hope of recognition in the future; as inducements to persuade members of the Commons to resign and vacate a seat for new or defeated cabinet ministers or to make room for a younger MP... as a convenient scrap-heap on which to cast ministers who have outlived their usefulness or who have become for one reason or another trying colleagues. (Dawson et al. 1971: 70)

The appointed Senate robs Canada of two intra-state mechanisms for limiting executive power. It neither checks the legislative authority of the government, nor does it encourage the development of a unified national party system that might act as a conduit for intra-state representation (see Bakvis 1994). Instead, the Canadian party system is fractured across two dimensions; different constellations of parties contest federal elections in different provinces and regions, and links between federal and provincial parties with the same name are in most cases limited or nonexistent. This lack of integration reflects the distinctiveness of the provinces. Leaders of parties with the same name at each level have reasons to keep their distance from each other. As well, differences across the regions have encouraged the development of distinctive parties (Thorlakson 2009).

The character of party organization also plays a role in strengthening the hand of the prime minister against potential opponents. Canadian parties use a national leadership convention or plebiscite of party members to select party leaders, and by extension, potential prime ministers. This removes a role for caucus and cabinet in selecting (and deselecting) leaders, further weakening cabinet vis-à-vis the prime minister. Party-wide selection gives Canadian prime ministers an independent source of power much like that enjoyed by leaders in semi-presidential systems.

Selection of party leaders by party membership leaves the leader beholden to no-one other than a few close advisors and supporters. A prime minister has few obligations to the ministers or MPs, yet near-absolute control of the things that shape their political lives, such as election timing, departmental budgets, the cabinet and legislative agenda, and government policy-making (Savoie 1999, 1999a). As well, the *Canada Elections Act* requires the party leader to sign the nomination papers of any party candidate (Canada 2000). This is unique among Western democracies and gives leaders in Canada the capacity to make or unmake the careers of fellow MPs. While outright rejection is uncommon, the capacity to shape who runs for the party is a weapon that can be used by prime ministers to divert potential challengers and control the behavior of caucus colleagues.

Cross suggests that former prime minister Jean Chrétien was especially active in this regard, imposing his candidate of choice on local riding associations. Provincial campaign chairs (also appointed by the prime minister) have “regularly told would-be candidates that they were unacceptable to the party and should not seek the nomination” risking the “public embarrassment of having the leader reject their nomination” (Cross 2004: 55). Moreover, “central party officials have occasionally rigged the process to ensure the nomination of a favoured candidate” (2004: 55). Long-time Liberal MP and cabinet minister

Brian Tobin concluded that the party's current rules governing candidate selection amount to a "massive shift of power from riding associations and provincial organizations to the national leader and then national campaign committee" (quoted in Cross 2004: 55).

Given the prime minister's nearly unfettered power to shape the cabinet, ministerial fortunes are tied to the leader.¹ Chrétien's successor and long-time rival Paul Martin encouraged prominent businessman David Emerson to run for the party in Vancouver by offering him a position in cabinet. When Martin's Liberals fell to defeat in early 2006, Emerson crossed the floor to join the new Conservative cabinet. His public statements made it clear that his allegiance was not to the Liberal party but to Paul Martin, and that this was conditional on Martin remaining in power:

I fundamentally went through the thought processes many times over, and came to the conclusion I can be more helpful to the people of my riding, the people of my city, the people of my province and the people of my country doing this [crossing the floor], as opposed to being in opposition and trying to become a powerful political partisan which I have never been. (quoted in Brown 2006)

Finally, Savoie (1999) and Bakvis (2001) note that a candidate's electoral fortunes are heavily dependent on the performance and perception of the party leader. Docherty claims that "the minimal personal vote in Canada means that member's careers are heavily dependent on the leader" (Docherty 2005: 159). Damaging a leader's image either by publicly opposing him or her or by creating negative press is likely to hurt the electoral and career fortunes of MPs and ministers alike.

An unelected Senate and the operation of parties and the party system in Canada limit the expression of the division of powers in central political institutions. Intra-state federalism is weak, with little duplication and overlap hampering federal executive power. The majoritarian character of Westminster-style government is unchallenged, allowing Canadian prime ministers to dominate the operations of cabinet, parliament, and the life of political parties (Weller 1997). Ideational tensions rooted in competing visions of the country—associated with both regional and ethno-linguistic diversity—find no easy means of expression at institutions of central government (Broschek 2012: 11). Like grinding tectonic plates, pressure has built in response to differences across the country and between provinces. But it has limited opportunities to be released via intra-state mechanisms which have led to an increasing concentration of power in the prime minister.

¹ The only caveat here is that prime ministers are sensitive to a range of regional, language, ethnicity, and gender balance considerations when constructing their cabinets.

9.4 Intra-state Federalism in Australia

The central claim of studies of prime ministerial power in Australia is that to the degree it is constrained, it is so by the operation of cabinet government (Weller 2007). But these cabinet dynamics have their roots in federal structures as much as Westminster tradition (Sharman 1990). The power and relevancy of the Senate requires a prime minister to share legislative authority with the leader of the government in that chamber. In favoring nationally integrated parties, the Senate also strengthens the role of state-based forces in national politics. More directly, the Senate limits the power the chamber in which the prime minister sits and he or she controls.

The Australian Senate strengthens parliamentary oversight of executive through its “coordinate” legislative power with the House of Representatives, and the fact that it is rarely controlled by the governing party. The upper house shares legislative power with the lower house, save for tax and spending bills, which are the exclusive domain of House of Representatives.² As a result of the adoption of using proportional representation (single transferable vote) in 1949, the government now rarely controls the Senate, where its legislation faces close scrutiny. In order to pass legislation, it must negotiate at different times with major opposition parties, minor parties, and independents. As a result a complex web of inter-institutional and inter-party relationships has developed requiring compromise and moderation among political parties (Bach 2003).

Uhr (2002: 15) illustrates this point with data from the second Howard term (1998–2001). Of the 379 bills introduced by the Howard Government, the Senate suggested 3379 amendments (about eleven per bill). In 75 percent of the cases, the House accepted the Senate changes, and in the remaining 25 percent the two houses were often able to negotiate a settlement. Uhr notes that “in 46 (or 25 per cent) of the bills amended or involving the Senate (105 requests over three years), there were disagreements between the Houses, usually terminated through behind-the-scenes parliamentary negotiation” (Uhr 2002: 15).

Many of the Senate structures required for this oversight function, such as the comprehensive committee system, were first developed in the 1970s, twenty-five years after the introduction of proportional representation. This system began with a modest eight committees and now spans the entire panoply of policy responsibilities (Bach 2003: 190). With the additional

² Section 53 of the Australian Constitution states the Senate may not initiate proposed laws “appropriating revenue or moneys, or imposing taxation,” or amend proposed laws imposing taxation appropriating revenue for the ordinary annual services of the Government, or “so as to increase any proposed change or burden on the people.” However, the Senate can suggest changes to money and taxation bills.

responsibility vested in the committee system to conduct special inquiries, it has been suggested that committee chairs rival ministers in terms of power (Hamer, quoted in Bach 2003: 306).

Senate committees are vested with the ability to call ministers and question them about specific legislation. While only ministers who are senators are required to attend such hearings, ministers of the House often attend when legislation hangs in the balance. Famously in 1993, treasurer John Dawkins was not only questioned, but he and the government were forced to accept substantial Senate amendments to the budget. The amendments, which lowered tax rates, show the power of the Senate to alter government policy. In order to pass his budget the following year, Dawkins had to agree to formal consultations with the minor parties during the budgetary process (Ward 1998).

One of the most visible of the Australian Senate committees is the *Scrutiny of Bills* committee. Established in 1973, this committee issues a weekly briefing alerting senators to provisions in bills that may affect the civil rights and liberties of individuals. Its reports “generally incorporate fresh ministerial explanations of suspect provisions, thereby strengthening parliamentary deliberation during the legislative process” (Uhr 2002: 13). Rather than being used for partisan advantage, “parliamentary observers [argue that] committees conduct their business in a measured non-partisan way and almost always manage to reach conclusions in which all their members join, regardless of party” (Bach 2003: 191).

These arrangements place a premium on competent senators. A government must have ministers in the Senate capable of defending its interests. In particular, the leader of the government in the Senate must have the authority to negotiate on behalf of the government, potentially making agreements against the preferences of the prime minister. Such independence is necessary for other actors to trust this person and allow for the real compromises required to pass government legislation.

A major difference between Canada and Australia is the distinctive role played by the national party leadership in nominating candidates for parliament. Major Australian national parties are federations of state branches. In Australian parlance, preselection for Senate and House of Representatives seats is controlled by these state branches. This reflects the fact that political parties have roots in the colonies that predate the federation and the presumption that candidate selection for the Senate rightly belongs with state branches.

State control of candidate selection limits national control of the composition of federal caucuses and constrains prime ministerial choice in the composition of cabinet. The dynamics of state branches, with various factional balances in the case of Labor and personality driven cliques in the case of Liberal and National parties, are imported into national politics. MPs often

owe a much greater allegiance to state-based forces that control the preselection process than to the leader. In preselection battles prior to the 2007 election, state branches of their respective parties ignored the expressed preferences of both the Liberal and Labor leaders, replacing sitting MPs with local favorites (ABC 2006; Barrass 2006).

The prime minister must appoint a cabinet with an eye to respecting and balancing powerful state-based actors and factions. Removing ministers is equally fraught with factional danger. Given state control of MP selection, party financing, and sway over policy, the national leader must be careful not to generate damaging intra-party fighting. Recent history on both sides of politics indicates how important it is for leaders to pay attention to state-based caucus politics. Former prime minister Kevin Rudd's removal and replacement by Julia Gillard in 2010 was precipitated by elements of the New South Wales Labor Party (Archer 2010). Maintaining a cabinet with talent but not inordinate ambition is one of the central tasks of any successful Australian leader.

The federal nature of the party system produces other checks on executive power. Bakvis notes that the federated party system provides the conduits along which intra-state representation flow (1994: 273–5). Although the Senate has not acted as a "states-house" the equality of representation from the states has led to an overrepresentation of small states in party caucuses. Policy discussions are shaped by this federal component. With a short electoral cycle (under three years between elections), the prime minister must be careful not to affect any one region or state adversely for fear of damaging the government's electoral fortunes.

The Senate also constrains the prime minister's power over the calling of elections. Its semi-fixed six-year term limits the prime minister's room for manoeuvre in this regard. Governments are notoriously less popular mid-term. A prime minister who creates mid-term Senate elections as a result of insisting on an election for the House of Representatives may suffer at the polls and introduce to caucus and parliament Senators whose policy preferences are shaped by an election that revolves to an abnormal degree around criticism of the incumbent government.

The character of intra-state federalism in both Canada and Australia is heavily shaped by the role of their respect Senates and political parties (Simeon 2006: 328–9; see also Riker and Schaps 1987). In general, the capacity of parliament to oversee the executive withered in both countries with the arrival of mass political parties (see Beer 1966; Cox 1987). The evolution of intra-state institutions including the Senate and the state-based character of national political parties has helped sustain this function in the Australian parliament (Sharman 1990). The robust character of intra-state mechanisms in Australia allows for continued interaction between political institutions and ideational forces in a bi-directional manner. Underlying social and

cultural differences in Australian society are expressed in political institutions and in return are domesticated, that is, made to conform to the rules and norms of the federal political process.

9.5 Inter-state Federalism in Canada

The division of powers in the constitution, the use of executive federalism as well as vertical and horizontal financial imbalances, are all elements that shape inter-state federalism. The power of the Canadian provinces over major policy decisions limits prime ministerial capacity to execute policy. The result is that Canadian prime ministers are powerful over a limited terrain, that being the central institutions of government. Beyond the realm of central institutions, prime ministerial power is usually much diminished. The exception to this is the federal spending power, which allows the federal government to spend in nearly any area it sees fit (Banting 2007: 138, 147). But its very occasional use is testament to the unwillingness of the federal government to disturb the already fraught character of intergovernmental negotiations except under extraordinary circumstances.

While accepting Savoie's main point that cabinet as a collective has become less powerful, Bakvis (2001: 66) argues that the concern over the apparent power of the prime minister is overdrawn. Both cabinet and intergovernmental relations provide some checks on executive power. He rejects the idea of a halcyon period of cabinet equality. Nor does he believe that the power of the cabinet's role in policy-making has lessened over time. Rather, Bakvis argues that the role of the cabinet reflects the governing style of the prime minister and suggests that the power has trickled down to individual ministers and their departments.

But even Bakvis, focused as he is on the intensity of the prime minister's power rather than its extent, suggests the Canadian case "represents the more extreme example of the concentration of power" in the office of the prime minister (Bakvis 2001: 67). He notes that intergovernmental relations may provide the only significant restraint on prime ministerial power. "In the total scheme of things, the presence of sophisticated and highly centralized provincial governments likely constitutes the largest single counterweight to the power of the federal government and, indirectly, the prime minister's exercise of power" (Bakvis 2001: 68).

Intergovernmental meetings are often the epicenter for major policy debates, displacing federal or provincial cabinets. Overlapping constitutional jurisdiction requires that governments regularly renegotiate policy implementation. It is arguable that executive federalism, the development of policy

amongst first ministers (or federal–provincial diplomacy), was invented in Canada, and remains its defining institutional feature (Simeon 1972, 2006).

The elite nature of negotiations reflects in part the strength of each of the first ministers in relation to their own parliaments (Bolleyer 2006). Rarely do first ministers expect to have their authority challenged by their respective legislatures, giving them the authority to speak in all negotiations. The prime minister and premiers may not even discuss the details of these negotiations with their cabinet colleagues (Savoie 1999). It could be argued that *primus inter pares* is more aptly applied to First Ministers Meetings rather than the federal or provincial cabinets.

The power of the provinces and the complexities of intergovernmental relations constrain the power of the prime minister. While it is true that the federal government has more money than responsibility and provinces the reverse, the presence of Quebec and the relative fiscal independence of some provinces requires that the federal government cajole them into major policy agreements. If it cannot, it has few options. Jean Chrétien may have signed the Kyoto accord, but without the provincial agreement his actions made less likely, the federal government was unable to implement the agreement.

The judiciary has often limited federal executive power in Canada. For much of the twentieth century, the Judicial Committee of the Privy Council (JCPC) expanded the powers of provinces and limited the powers of the federal government (see, for example, Cairns 1971; Saywell 2002; Russell 2004). In the Charter era “the Supreme Court now functions [more] like a *de facto* third Chamber of the legislature” (Knopff and Morton 2000), and has favored the federal government over the provinces (see, for example, Manfredi 1993; Morton 1995). But it is to yet undo the earlier work of the JCPC.

Even with these apparent constraints on executive power, there remains evidence of the power of a determined prime minister. The federal government is the most powerful financial actor in the federation and has access to nearly unfettered spending power. Federal success in reducing social spending beginning in 1994–95, resulting in the largest reduction in federal transfers to the provinces in Canadian history (C\$40 billion), is evidence of prime ministerial power in this arena.³ Not only was Jean Chrétien able to ignore provincial complaints, the resulting federal surplus became a key element of his successful re-election campaigns. In their rarity, such actions make the point that prime ministers appear reluctant to use this power to override provincial preferences given the potential impact on already tumultuous inter-state negotiations. The ability to complete other agreements critical to the federal government may well be upset by such a move.

³ In this category we might also include prime minister Pierre Trudeau’s success in patriating the Canadian constitution with the addition of a Charter of Rights and Freedoms in 1982.

A Canadian prime minister has few means of guaranteeing political outcomes in negotiations with the provinces. The exceptions are when he or she has access to sufficient funds to buy off provincial disagreement or confronts a crisis that radically reshapes political opportunities and makes use of the federal spending power. As well, in sharp contrast to the Australian case, the prime minister usually requires provincial acquiescence in order to implement international agreements. Inter-state federalism in Canada complicates the task of the prime minister and limits the capacity of the federal government to act unilaterally.

As nearly the only route for the expression of deep social and cultural tensions in the pursuit of national political outcomes, managing inter-state relations has become the central task of the prime minister. Given the strength and complexity of the ideational forces in a divided society, the flexible character of intergovernmental relations has been a great asset in resolving federal tensions in Canada (Broschek 2012). Canadian governments, if they choose, can respond quickly to any crisis, and may make novel agreements that are regularly asymmetrical in form, taking account of the great differences across the country and between provinces.

9.6 Inter-state Federalism in Australia

The standard view of intergovernmental relations in Australia is that the Commonwealth dominates the states due to its extensive revenue-raising and therefore spending power. While this is undoubtedly true, it may well overstate the dominance of the federal level—and therefore prime minister—in intergovernmental relations. We suggest an alternative view of this relationship that provides for greater balance between the states and Commonwealth. This balance is important because it provides an additional route by which ideational pressures find expression in the Australia federation. It is in part because both intra- and inter-state federal mechanisms offer such outlets that the development of the Australian federation has travelled a more predictable, path-dependent route.

The extension of Commonwealth power in Australia owes much to judicial interpretation. A series of Australian High Court decisions since the 1920s has expanded the Commonwealth's jurisdictional reach and, in the particular in the 1940s, extended its power over taxation (see Galligan 1987: chapter 4). The growth in the importance of international agreements has seen it use its foreign affairs powers to impose outcomes on the states in areas beyond its direct constitutional reach. Given this, most of the discussion of Commonwealth power revolves around its spending power.

Table 9.1. National government share of revenue and workforce

Measure	Canada	Australia
National Government Share of Total Government Revenues	45% (1999)	67% (1999)
National Government Share of Total Government Workforce	12% (2010)	13% (2010)

Sources: Thorlakson (2009, 165); Australian Government 2010; Parliament of Australia 2010; Stascan <http://www.statcan.gc.ca/pub/68-213-s/2006000/t/4152727-eng.htm> and <http://www40.statcan.gc.ca/l01/cst01/govt65a-eng.htm> (accessed April 6, 2010);

As shown in the first row of Table 9.1, Australia and Canada are very distinctive in this regard, with the Commonwealth having control of two-thirds of total government revenues while the Canadian federal government controls less than half. The Commonwealth government is able to use its financial resources to shape policy in areas of state jurisdiction by offering them tied or conditional grants, leading some to claim that Australia is clearly the most centralized of all federations (Fenna 2007; but see Brown 2004).

But as measures of government dominance, taxing and spending have their own challenges. We know that enforcement and auditing mechanisms are difficult to implement in a federation (see Bednar 2009: table 5.1 and pp. 143–6). There is indirect evidence that premiers seek to avoid the opprobrium of collecting taxes (Dollery and Worthington 1995) preferring the advantages of spending money, even if it is in the form of directed transfers from the Commonwealth. The Commonwealth has limited capacity to oversee how transfers are spent, and facing a short electoral cycle of less than three years is further constrained in its capacity to punish states for non-compliance. For state premiers, some constraints on how money is spent in order to avoid the political cost of collecting taxes would seem to be a reasonable bargain.

Another approach to understanding the power of governments is in terms of their capacity to govern. In Ziblatt’s (2006) formulation this can be understood as the “infrastructure” power of government. It is associated with measurable capacity to implement policy. Our first measure for this is the workforce data shown in Table 9.1. Two things are striking about these data. First, national governments in Canada and Australia encompass only a small and very similar fraction of the public servants responsible for delivering government goods and services across each country. The comparative infrastructural capacities of national (and therefore, sub-national) governments understood in terms of workforce in Canada and Australia are very similar. By this measure, it would be difficult to argue that the Commonwealth was more capable than the Canadian federal government, or that states were less capable than their provincial counterparts. Moreover, if divided into various categories, such as those that define state activity (policing, for example) and other functions such as providing physical and social infrastructure, the states

have as many of the critical defining portfolios as the Commonwealth (Moon and Sayers 1999). The Commonwealth appears as just one among many governments.

Recent events support the claim that the Commonwealth has relatively little direct capacity to control policy outcomes. It has failed to successfully implement significant policies for seniors' care, economic stimulus, health policy, and the environment, all areas of state jurisdiction. In all these areas, the Commonwealth has faced major and embarrassing failures (Wallace 2009; Cresswall 2010; Shanahan 2010). The Commonwealth has money, but few effective means for spending its wealth.

In contrast, the infrastructure capability of Australian states fits well with their constitutional authority in major policy areas. Control of criminal law and policing by Australian states involves not only legislative competence over a central feature of any polity but the concomitant provision of courts, policing, and policies that all require massive government effort. As well, like their Canadian counterparts, states retain control of major functions such as education and health care, two of the largest consumers of public funds in the modern state.

Allowing state governments to deliver services paid for by the Commonwealth accommodates the objectives of premiers, who do not have to raise taxes, and the prime minister who can appear to be proactive. But states retain a great deal of control of the making and implementation of policy, and critically, over the central means by which the modern state extends control over its territory. This suggests that the common presumption that the capacity to spend money leads unproblematically to political control may not be warranted.

State control of critical functions limits the need for constant negotiations across with the Commonwealth, reducing opportunities for conflict. States may more readily tailor legislation and its implementation to local conditions, reducing the likelihood of friction resulting from central imposition of inappropriate policies. Since ideas related to federal unity and state diversity can be expressed by intra-state mechanisms, the likelihood of friction resulting from central imposition of policies on the states is low. Reduced competition between levels of government underpins the predictable and path-dependent character of institutional change in the Australian federation.

9.7 Conclusion

Federalism divides power and limits executive authority in both Canada and Australia, but it does so in ways that reflect substantial modification of federal political institutions over time. In Canada, inter-state mechanisms have turned out to carry the greatest load in this regard, making the

concentrated use of executive authority at both levels of government to in fact disperse power across the federation via intergovernmental bargaining. In the Australian case, both intra-state and inter-state mechanisms operate to provide joint decision-making opportunities at the federal level and the need to collaborate between levels that limit executive authority. The redundant design of federal states makes them peculiarly susceptible to the reworking of political institutions in this manner. The interaction of ideational and institutional layers of federal states helps to explain both how and why these changes have occurred over time.

In the Canadian case, the need to deal with great distinctions across provinces and to keep Quebec in the federation placed a heavy burden on the integrative capacity of political institutions. Yet the original constitutional design—an unelected Senate, a difficult-to-amend constitution, and majoritarian parliaments—provide few pathways for the resolution of these tensions. The lack of an integrated party system adds to this difficulty, reflecting, as it does, the logic of pointing out differences rather than commonalities across the two levels of government. With intense ideational differences to manage, but few mechanisms for doing so, governments have come to rely on often antagonistic federal-provincial negotiations and asymmetrical outcomes to resolve conflicts over power.

The dominant role of executives in Westminster-style parliaments facilitated this development, particularly the capacity of the prime minister to fashion through negotiation authoritative national agreements. Repeated bargaining reinforced a reliance on executive federalism but also represents a major constraint on the power of the prime minister. Major political decisions are difficult to make without widespread agreement across the federal-provincial divide. Those times when the federal government has opted to use its extensive powers to make unilateral decisions, such as the cutting of federal transfers to the provinces in the 1990s and the signing the Kyoto Accord, resulted in heightened tensions and increased the unpredictability of these intergovernmental relations. The relative instability of these arrangements means that their development is best understood as a set of sequential modifications rather than as a path-dependent process.

In Australia, the integrative burden on major institutions has been less severe than in Canada. There have been only occasional regionally based challenges to the federation, with the ideational layer relative quiescent compared with its Canadian counterpart. The somewhat accidental development of the Senate as a strong second chamber has helped invigorate intra-state mechanisms for managing conflict over power. This has also modified the operation of the cabinet and reduced executive power and underpinned the development of an integrated national party system (Thorlakson 2009). The national parties and a federated party system act as conduits for the

expression of regional grievances in central institutions. In addition, a variety of inter-state mechanisms, such as the Council of Australian Governments, offer further arenas in which these tensions are worked through. Intergovernmental relations have had to carry a modest load in terms of conflict resolution, allowing them to be more easily regularized than for their Canadian counterparts. Although generally held to be dominated by the Commonwealth, we have argued that a broader view of power suggests that a much more balanced relationship between the two levels of government have emerged. The federal government is in fact constrained by the intra-state and inter-state division of powers.

The lower level of tension across the Australian federation in comparison with Canada reflects not only less diversity across the states, but the reinforcing character of successful intra-state and inter-state federal mechanisms. In regularizing federal–state relations, these mechanisms have helped governments to negotiate through their differences. There is, as a result, much greater predictability to the development of Australian federal institutions. Their development appears to be much more path dependent, with occasional small corrections over time.

References

- ABC (2006), “MP quits over labor preselection battle,” *Australian Broadcasting Corporation*. <http://www.abc.net.au/news/stories/2006/02/28/1580079.htm> accessed April 20, 2010.
- Archer, Lincoln (2010), “Kevin Rudd Julia Gillard Leadership Spill FAQ,” *News.com.au*. <http://www.news.com.au/features/federal-election/kevin-rudd-julia-gillard-leadershipspill-faq/story-e6frflr-1225883529409> accessed May 17, 2011.
- Aucoin, Peter, Jarvis, Mark, and Turnbull, Lori (2011), *Democratizing the Constitution: Reforming Responsible Government* (Toronto: Emond Montgomery Publications).
- Australian Government (2010), *Australian Public Service Statistical Bulletin*. <http://www.apsc.gov.au/stateoftheservice/0910/statistics/bulletin.pdf> accessed May 20, 2011.
- Bach, Stanley (2003), *Platypus and Parliament: The Australian Senate in Theory and Practice* (Canberra: Department of the Senate).
- Bakvis, Herman (1994), “Intrastate federalism in Australia,” *Australian Journal of Political Science* 29, 259–76
- (2001), “Prime Minister and cabinet in Canada: An autocracy in need of reform?” *Journal of Canadian Studies* 35 (4), 60–80.
- Banting, Keith (2007), “The three federalisms: Social policy and intergovernmental decision-making,” in Herman Bakvis and Grace Skogstad (eds.), *Canadian Federalism: Performance, Effectiveness, and Legitimacy*. 2nd edition (Don Mills: Oxford University Press), 137–60.

- Barrass, Tony (2006), "Benefactor holds key to preselection battle," *The Australian*. <http://www.theaustralian.com.au/news/nation/benefactor-holds-key-to-preselectionbattle/story-e6frg6nf-111112336635> accessed April 20, 2010.
- Bednar, Jenna (2009), *The Robust Federation: Principles of Design* (Cambridge: Cambridge University Press).
- Beer, Samuel H. (1966), *British Politics in the Collectivist Age* (New York: Knopf).
- Benz, Arthur and Colino, César (2011), "Constitutional change in federations: A framework for analysis," *Regional and Federal Studies* 21 (4), 381–40.
- Bolleyer, Nicole (2006), "Federal system dynamics in Canada, the United States, and Switzerland: How substates' internal organization affects intergovernmental relations," *Publius: The Journal of Federalism* 36 (4), 471–50.
- Broschek, Jörg (2010), "Federalism and political change: Canada and Germany in historical-institutionalist perspective," *Canadian Journal of Political Science* 43 (1), 1–24.
- (2012), "Historical institutionalism and the varieties of federalism in Germany and Canada," *Publius: The Journal of Federalism* 40 (1) (forthcoming).
- Brown, Andrew J. (2004), "One continent, two federalisms: Rediscovering the original meanings of Australian federal ideas," *Australian Journal of Political Science* 39 (3), 485–504.
- Brown, Rob (2006), "Former liberal Emerson defects to Tories," *CTV News*, accessed July 10, 2006. http://www.ctv.ca/CTVNews/Canada/20060206/emerson_defection_060206/ accessed April 20, 2010.
- Bueckert, Dennis (2005), "Alberta poised to battle Ottawa over Kyoto Implementation Plan," *The Globe and Mail* November 2: A18.
- Cairns, Alan C. (1971), "The judicial committee and its critics," *Canadian Journal of Political Science* 4 (3), 301–45.
- (1979), *From Interstate to Intrastate Federalism in Canada* (Kingston: Institute of Intergovernmental Relations).
- Canada (2000), *Canada Elections Act* (Toronto: S.C. 2000).
- Cox, Gary W. (1987), *The Efficient Secret: The Cabinet, and the Development of Political Parties in Victorian England* (Cambridge: Cambridge University Press).
- Cresswell, Adam (2010), "Another blow to health reform," *The Australian*, July 10.
- Cross, William P. (2004), *Political Parties* (Vancouver: UBC Press).
- Dawson, MacGregor R., Dawson, W.F., and Ward, Norma (1971), *Democratic Government in Canada* (Toronto: University of Toronto Press).
- Docherty, David C. (2005), *Legislatures* (Vancouver: UBC Press).
- and White, Stephen (2004), "Parliamentary democracy in Canada," *Parliamentary Affairs* 57 (3), 613–29.
- Dollery, Brian and Worthington, Andrew (1995), "Federal expenditure and fiscal illusion: An Australian test of the flypaper hypothesis," *Publius: The Journal of Federalism* 25 (1), 23–34.
- Fenna, Alan (2007), "The malaise of federalism: Comparative reflections on Commonwealth-state relations," *Australian Journal of Public Administration* 66 (3), 298–306.
- Galligan, Brian (1987), *Politics of the High Court: A Study of the Judicial Branch of Government in Australia* (Brisbane: University of Queensland Press).
- Hamilton, Alexander, Madison, James and Jay, John (2003 [1788]), *The Federalist Papers* (intro. Gary Willis) (New York: Bantam Dell).

- Knopff, Rainer and Morton, Frederick L. (2000), *The Charter Revolution and the Court Party* (Peterborough, ON.: Broadview Press).
- Landau, Martin (1973), "Federalism, redundancy, and system reliability," *Publius: The Journal of federalism* 3 (2), 173–96.
- Mallory, James R. (1971), *The Structure of Canadian Government* (Toronto: Macmillan).
- Manfredi, Christopher P. (1993), "Constitutional rights and interest advocacy: Litigating educational reform in Canada and the United States," in Leslie F. Seidle (ed.), *Equity and Community: The Charter, Interest Advocacy and Representation* (Montreal: IRPP), 91–118.
- Martin, Lawrence (2011), "Behold the most powerful PM ever." <http://ipolitics.ca/2011/05/20/lawrence-martin-behold-the-most-powerful-primeminister-ever/> accessed May 21, 2011.
- Moon, Jeremy and Sayers, Anthony (1999), "The dynamics of governmental activity: A long-run analysis of the changing scope and profile of Australian ministerial portfolios," *Australian Journal of Political Science* 34, 149–67.
- Moon, Jeremy and Sharman, Campbell (2003), *Australian Politics and Government: The Commonwealth, the States, and the Territories* (Cambridge: Cambridge University Press).
- Morton, Frederick L. (1995), "The effect of the Charter of Rights on Canadian federalism," *Publius: The Journal of Federalism* (3), 173–88.
- Pal, Leslie A. (1995), *Interests of State: the Politics of Language, Multiculturalism and Feminism in Canada* (Montreal: McGill-Queens University Press).
- Pierson, Paul (2004), *Politics in Time, History, Institutions, and Social Analysis* (Princeton: Princeton University Press).
- Riker, William H. and Schaps, Ronald (1987), "Disharmony in federal government," in William H. Riker (ed.), *The Development of American Federalism* (Boston: Kluwer Academic Publishers), 73–97.
- Russell, Peter H. (2004), *Constitutional Odyssey: Can Canadians Become a Sovereign People?* 3rd edition (Toronto: University of Toronto Press).
- Savoie, Donald J. (1999), *Governing from the Centre: The Concentration of Power in Canadian Politics* (Toronto: University of Toronto Press).
- (1999a), "The rise of court government in Canada," *Canadian Journal of Political Science* 32 (4), 635–64.
- Sayers, Anthony and Moon, Jeremy (2002), "State government convergence and partisanship: A long run analysis of Australian ministerial portfolios," *Canadian Journal of Political Science* 35 (3), 589–612.
- Saywell, John T. (2002), *The Lawmakers: Judicial Power and the Shaping of Canadian Federalism* (Toronto: University of Toronto Press).
- Scharpf, Fritz W. (1988), "The joint-decision trap: Lessons from German Federalism and European Integration," *Public Administration* 66 (2), 239–78.
- Schmidt, Vivien A. (2008), "Discursive institutionalism: The explanatory power of ideas and discourse," *Annual Review of Political Science* 11, 303–26.
- (2011), "Reconciling ideas and institutions through discursive institutionalism," in Daniel Béland and Robert H. Cox (eds.), *Ideas and Politics in Social Science Research* (New York: Oxford University Press), 47–64.

- Shanahan, Dennis (2010), "PM on the run from policy failures," *The Australian*, April 23.
- Sharman, Campbell (1990), "Australia as a compound republic," *Politics* 25 (1), 1–5.
- Simeon, Richard (1972), *Federal-Provincial Diplomacy: The Making of Recent Policy in Canada*, 2nd edition (Toronto: University of Toronto Press).
- (2006), *Federal-Provincial Diplomacy: The Making of Recent Policy in Canada* (Toronto: University of Toronto Press).
- Simpson, Jeffrey (2001), *The Friendly Dictatorship* (Toronto: McClelland & Stewart).
- Smiley, Donald V. (1987), *The Federal Condition in Canada* (Toronto: McGraw-Hill Ryerson Limited).
- Smiley, Donald V. and Watts, Ronald L. (1985), *Intrastate Federalism in Canada* (Toronto: University of Toronto Press).
- Sproule-Jones, Mark (1984), "The enduring colony? Political institutions and political science in Canada," *Publius: The Journal of Federalism* 14 (1), 93–108.
- Streeck, Wolfgang, and Thelen, Kathleen (eds.) (1999), *Beyond Continuity: Historical Change in Advanced Industrial Economies* (Oxford: Oxford University Press).
- Thelen, Kathleen (1999), "Historical institutionalism in comparative politics," *Annual Review of Political Science* 2, 269–404.
- Thompson, Elizabeth (2002), "Balance of power: Is the PMO so powerful that cabinet is becoming irrelevant?" *Saskatoon Star—Phoenix*, October 5, E1.
- Thorlakson, Lori (2003), "Comparing federal institutions: Power and representation in six federations," *West European Politics* 26 (2), 1–22.
- (2009), "Patterns of party integration, influence, and autonomy in seven federations," *Party Politics* 15 (2), 157–77.
- Twomey, Anne (2006), *The Chameleon Crown: The Queen and Her Australian Governors* (Sydney: Federation Press).
- Uhr, John (2002), "Explicating the Australian Senate," *The Journal of Legislative Studies* 8 (3), 3–26.
- Wallace, Bruce (1998), "For the love of power: Is Jean Chretien a closet autocrat?" *Maclean's* 111 (42), 16.
- Wallace, Rick (2009), "NSW stealing Snowy's precious flows," *The Australian*, February 7.
- Ward, Alan J. (1998), "Redesigning Westminster legislatures in Australia," paper presented at The Dominion Concept: Inter-state and Domestic Politics in the British Empire, University of Warwick, England.
- Weller, Patrick (1997), "Political parties and the core executive," in Patrick Weller, Herman Bakvis and R. A. W. Rhodes (eds.), *The Hollow Crown: Countervailing Trends in the Core Executive* (London: Macmillan Press).
- (2007), *Cabinet Government in Australia, 1901–2006* (Sydney: University of New South Wales Press).
- Ziblatt, Daniel (2006), *Structuring the State: The Formation of Italy and Germany and the Puzzle of Federalism* (Princeton: Princeton University Press).

This page intentionally left blank

Part III

Social Change and Political Structuring

This page intentionally left blank

10

Federalism, nationalist politics, and social policy: How ideas and institutions shape federal dynamics

Daniel Béland and André Lecours

10.1 Introduction

Federal dynamics is about both ideas and institutions. When it comes to understanding public policy in federal systems, both need to be taken into account. There is, of course, a wide range of ideas at work in federal systems but in one particular type of federation, the multinational federation, where at least one large group of citizens identify with a different nation than the one associated with the central state, ideas about the nation are particularly significant and represent a potential source for change. From an institutionalist perspective, however, we also know that federal systems come in many different forms and that institutional mechanisms can either facilitate, hinder, or even prevent change.

This chapter uses social policy development in multinational contexts as a terrain to explore federal dynamics. Debates over the territorial organization of social programs are present in many federal systems (Obinger, Leibfried, and Castles 2005). In multinational federal systems, there tends to be a particular uncertainty about the territorial organization of social programs, as claims for regional autonomy put pressure on existing structures. As argued in this chapter, this multinational reality points to the role of ideational processes in the changing relationship between nationalism and social policy, as the struggles over the territorial configuration of social programs involve powerful framing and claim-making processes that have long been central to the literature on ideas and public policy (Schmidt 2002; Campbell 2004). When advocating the decentralization of social programs, sub-state nationalism puts

pressure on the institutions underpinning the territorial organization of social policy. Yet these ideological and political pressures do not always reshape the territorial configuration of social programs because institutional factors affect the likelihood and the nature of welfare-state decentralization. In other words, nationalist ideas do not always triumph because of such institutional obstacles. This is in part why turning to the changing interaction between (nationalist) ideas and (federal) institutions is essential for understanding the politics of welfare state nationalism in multinational federal systems. More generally, these remarks point to the need to explore federal dynamics in a way that considers the relationship between ideational and institutional processes.

In order to contribute to the comparative study of federal dynamics, this chapter explores the changing interaction between nationalist ideas, federalism, and social policy in Belgium and Canada, two multinational countries where the territorial politics of the welfare state is a key policy issue (Béland and Lecours 2008). The chapter shows how the consequences of nationalist ideas about the territorial governance of social policy are largely conditioned by the institutional context. The chapter is divided into four sections. The first section discusses the role of ideas in the nationalism–social policy nexus before explaining how different institutional designs and dynamics linked to federalism, executive decision-making, and welfare-state structures can impact sociopolitical and policy outcomes. The second section surveys nationalist ideas, political institutions, and social policy arrangements in Belgium and Canada. The third section discusses how Flemish and Quebecers nationalism both seek to decentralize social programs and why ideological differences largely explain why this quest for welfare decentralization takes a unique form in each country. The fourth section stresses the impact of institutions on the specific effects of nationalist ideas and pressures on the territorial organization of social programs in Belgium and Canada, respectively.

10.2 Ideas and Institutions: Pressures for, and Resistance to Policy Change

Over the last decade, following of the path of pioneers like Peter Hall (1993), a growing number of institutionalist scholars have turned to the study of ideational processes to deal with the issue of policy change, with which traditional institutionalist models have struggled (Blyth 2002; Lieberman 2002; Schmidt 2002; Campbell 2004; Peters, Pierre and King 2005). In a recent contribution, for example, Vivien Schmidt (2011) argues that institutionalist scholars have begun to pay increasing attention to the role of ideas in policy change, and that the future of institutionalist theory lies in what she calls “discursive institutionalism.” This is just one of the many recent attempts to bridge the

literatures on ideas and institutions in order to shed light on policy change (Béland and Cox 2011). This new scholarship points to the ways in which ideas and institutions interact over time to either produce or prevent path-departing change. In fact, the claim that ideas interact with other causal factors is a major claim of the contemporary ideational literature (Walsh 2000; Campbell 2004; Parsons 2007; Pademsee 2009). The main theoretical claim of our chapter is that it is impossible to explain the push for welfare-state decentralization in Belgium and Canada without directly taking into account the institutionally mediated role of nationalist ideas. Generally speaking, nationalist ideas participate in the construction of the “need to reform” (Cox 2001) social programs toward greater territorial decentralization. Despite the presence of territorial economic disparities, the quest for decentralization is not only about money but about identity formation and ideological imperatives stemming from sub-state nationalism. Indeed, nationalism is about the territorial construction of a meaningful “imagined community” (Anderson 1991), and the actions of nationalist movements involve a redefinition of territorial solidarity so that members of “their nation” are the only subjects and participants in collective mechanisms of redistributive welfare protection (Béland and Lecours 2008). Our main argument in this chapter is that it is important to turn to institutions such as federalism and policy legacies in order to explain why the presence of bold nationalist ideas about welfare-state decentralization is not always sufficient to trigger massive decentralization. In other words, we claim that exploring the dynamic interaction of nationalist ideas and political institutions is necessary to explain why the nationalist-driven push for decentralization is more successful in some multinational federal countries than in others. This is not a way to downplay the role of ideational factors, as it is clear that, in many cases, nationalist movements would not emphasize decentralization so much if it was not to seek a direct convergence between the ideological vision that drives their mobilization and the territorial organization of social policy. However, in order to explain why nationalist actors sometimes fail to implement their ideas and vision, turning to institutional legacies seems necessary.

Let us clarify the respective places of ideas and institutions in our analysis of federal dynamics around social policy in Belgium and Canada. One of our claims is that ideas, in this case nationalist ideas, motivate political actors to challenge existing policy legacies, in this case welfare-state centralization. From this angle, ideas constitute a societal source of change, whose impact is mediated by the structuring role of powerful institutional mechanisms. Thus, to quote the Introduction of this volume, in our analysis, ideas as “sources” refer to “more foundational factors that stimulate demand for change in federal systems” while institutions constitute “mechanisms” that “are more proximate and immediate causes of change” or, in some cases,

stability over time. Although in many circumstances ideas can act as powerful causal mechanisms in their own right (Béland and Cox 2011), our analysis emphasizes their role as a “source” of change that affects social policy change and, more generally, federal dynamics through their interaction with existing institutional legacies.

Regarding this issue, one of the most important contributions of the social sciences in the last twenty years has been to show the centrality of political institutions for the understanding of sociopolitical and policy outcomes (Steinmo, Thelen, and Longstreth 1992; Pierson 1994; Peters 1999; Lecours 2005). Indeed, under the general heading of “new institutionalism,” scholars have explained how different institutional settings produce distinct outcomes even when social, cultural, and economic conditions are roughly similar (Maioni 1998; Smith 2008). Thus, cross-national differences in sociopolitical and policy and outcomes are often the product of institutional, rather than societal, differences.

From this theoretical standpoint, federalism itself is one of the institutional structures that can generate sociopolitical and policy divergence between countries. Federal countries feature at least two constitutionally empowered levels of government, and, as a result, many different political systems and communities. As such, they typically have a level of internal complexity greater than centralized unitary states. A state’s territorial division of power is crucial in modulating social, cultural, and economic forces. This modulation can, in the long term, shape the basic nature of a society. For example, federal countries typically sustain national and territorially grounded ethnic diversity in a country, whereas centralized unitary structures most often work toward its eradication. When it comes to public policy, it is not only that the presence of federal structures in a country may yield different policies from those in a centralized unitary state, but that it typically produces policy divergence within the federal country as well.

Of course, federations come in many different shapes and forms, and many states use principles of federalism to structure their territory without formally being federations. Therefore, institutional differences between federal states can also produce sociopolitical and policy divergence. From this perspective, many potential points of difference can be important, including very basic things like the nature of the constitutional division of powers and the fiscal capacity of federal and constituent unit governments. Also of foremost importance in conditioning outcomes across federal systems is the nature of the contacts between federal and constituent unit governments (for example, “intra-state” federalism involves a representation of constituent units within central institutions whereas “inter-state”/executive federalism features networks of intergovernmental relations) and the structure of political parties (are they integrated across levels of government or not?).

Different systems of government can also produce different sociopolitical and policy outcomes (Weaver and Rockman 1992). The impacts of parliamentarism and presidentialism on democracy, for example, have been the object of much debate (Linz 1990a, 1990b; Mainwaring and Shugart 1997). Even within the large family of parliamentary systems, there exist many differences that shape politics from the structure of party systems and to the styles of decision-making. Multi-party systems, typically stemming from a strong proportionality element in the electoral system, often involve coalition governments, whereas two-party systems lead to majority governments. Executive decision-making in the former tends to be more complicated than in the latter. In some societies that are severely segmented (for example, Northern Ireland), political actors from the various groups agree that the executive will be formed by an equal number of members from each group and that, therefore, decision-making will feature a consensual rather than adversarial-majoritarian dynamic (McRae 1997). In these consociational democracies (Lijphart 1977), groups that are formally recognized as “segments” in the system have a veto over executive decisions.

When it comes to welfare states, institutional differences strongly impact opportunities for change (Bonoli 2000). In Beveridgian systems, some key social programs are financed by general state revenues and government alone administers the programs. In Bismarckian systems, the state provides the legal framework social insurance schemes (which are often fragmented between professional categories) but “social partners” (that is, employers and labor unions) are formally involved in their management. Although, the politics of social policy reform are different in countries that have Beveridgian and Bismarckian social insurance systems, the formal presence of “social partners” in the administration of social policy complicates reform because the executive cannot always act unilaterally to enact changes.

Federalism and other political institutions directly impact social policy development. Yet federalism is not always an obstacle to welfare-state expansion and federal arrangements do not always trigger a “race to the bottom” leading to a decline in social benefits (Noël 2000; Théret 2002; Obinger, Leibfried, and Castles 2005). In fact, under specific institutional and ideological circumstances, federalism can actually stimulate the development of generous social programs. Of course, as stated above, federalism can take different forms and thus, the relationship between federalism and welfare-state development varies from one country to another. In addition to the nature of federal systems themselves, the way they interact with formal political institutions, party systems, and existing policy legacies are all likely to shape the impact of federalism on the welfare state. To consider the weight of institutional factors as a causal mechanism in welfare-state development involves taking into account the multifaceted nature of federalism and of the political

institutions with which it may interact to produce inertia or change. Additionally, as suggested above, in the case of the relationship between sub-state nationalism and the welfare state, it is also necessary to study how these institutional legacies interact with nationalist ideas about territorial solidarity and redistribution, which can represent a direct “source” of change by providing a strong political and societal rationale for the very push for change. Thus, the analysis of the nationalism–social policy nexus in multinational federal system is about a set of complex interactions between various ideational and institutional factors, which act as “sources” and “mechanisms” of change, respectively.

10.3 Federalism, Executive Decision-making, and Social Policy Arrangements¹

10.3.1 *Belgium*

Created in 1830, Belgium emerged as a centralized unitary state in which the French-speaking bourgeoisie dominated the new country’s economic and political life. In the mid–late nineteenth century, the Flemish Movement emerged largely as a reaction against the centralizing nation building project of the French-speaking Belgian elite. At first, the main objective of the early Flemish Movement was to transform Belgium into a bilingual and bicultural state. Because the French-speaking elite rejected the idea of a bilingual Belgium, the Flemish Movement began to focus mainly on the expression of a distinct Flemish identity.

Yet religious and class-based cleavages (rather than linguistic ones) were at the centre of nineteenth-century Belgian society. In the aftermath of independence, however, the most important social and political conflicts in Belgium centered around religion and class rather than around language, as tensions between clericalism and anti-clericalism led to the creation of antagonistic Liberal and Catholic pillars, which provided education and social benefits to their respective members. Later in the century, the industrial revolution led to the advent of the *Parti ouvrier belge* and the related Socialist pillar, which developed alongside the Liberal and the Catholic pillars. Considering all these trends, Belgium entered the twentieth century as a country where societal fragmentation clashed with the centralized nature of the state. In the following decades, Bismarckian social insurance

¹ For a much more detailed analysis of these two cases on which the following discussion partially draws, see Béland and Lecours (2008).

fragmentation reflected and exacerbated class divisions and the pillarization of Belgian society.

By the beginning of World War II, employers, labor unions, mutualities, and other voluntary organizations played the most essential roles in the country's Balkanized social insurance system (Vanthemsche 1994). After the war, attempts to unify this system failed miserably, and the immediate post-war era simply witnessed an extension and a rationalization of the pre-war social insurance. In this system, which remains largely in place to this day, "social partners" (that is, labor unions and business interests) play a central governance role.

Although it has not yet reshaped this social insurance system, a massive federalization process has taken place in Belgium since the early 1970s.² These waves of institutional reform and decentralization are related to the splitting of political parties along linguistic lines, which began during the 1960s and had a profound effect on Belgian politics. For instance, since that split, Belgian governments have taken the form of coalitions between Flemish and French-speaking parties requiring an equal number of Flemish and Francophone ministers, and, thus, requiring the support of both communities. Over the last few years, it has proven increasingly difficult for the Flemish and the French-speaking parties to strike coalition deals. This difficulty stems from the different conceptions of Belgium and of federalism that are held in each community as well as from distinct policy ideas that are closely linked to the "community question." The Flemish push for the decentralization of social security, and Francophone resistance to it, are major contributors to the government formation problems experienced in Belgium, and these problems, in turn, represent a major source of political instability.

The complex structure of the contemporary federal system in Belgium is related to a compromise between Flemish and Francophone ideas about federalism. On the one hand, in order to protect the Dutch language and Flemish culture, Flemish leaders favored a dualist institutional model, in which regional governments would represent and defend the perceived interests of the two main language communities. On the other, Walloons sought to remove authority on economic development from the hands of Flemings but also Francophone Brusselers. This is precisely why Walloon leaders embraced a tripartite regional model featuring Flanders, Wallonia, and Brussels.³ As a consequence of these divergent ideas and identities, Belgian federalism features two types of federated units: the Communities and the Regions.

² For details on these reforms and their dynamics, see Falter (1998).

³ There was also a strategic element to this choice because the existence of two Francophone units against only one Flemish unit could have been thought to structure political power to the advantage of Francophones.

There are three linguistic Communities (Flemish, French, and German-speaking) that take care of “personal matters” (*matières personnalisables*) involving person-to-person contact like education and health services, and there are three Regions (Wallonia, Flanders, and Brussels) that have jurisdiction over issues that are more territorial than culture-based, such as economic development and transportation. As political parties are integrated across the three orders of government, the control of this highly complex federal system is not so much about intergovernmental relations in the traditional sense of the term but about constant bargaining between Flemish and Francophone parties.

10.3.2 Canada

Canada has been a federation since its creation in 1867. The English-speaking elite typically favored a unitary state and the main rationale for federalism came from French Canadians, who wanted Francophones to live as a majority within “their” province. As a result, Canada emerged as a relatively centralized federal country. The Constitution granted the federal government power over matters then seen as particularly crucial (that is, banking, currency, national defense, transportation, trade, and commerce). As for the provinces, they were competent over matters that were then perceived as of more limited importance (that is, education, healthcare, municipal institutions, and social welfare). In the 1960s, the ideological transformation of sub-state nationalism in Quebec legitimized a push to decentralize the federation in a new context where more activist Quebec governments claimed that they needed greater power to protect the cultural and linguistic distinctiveness of Quebecers while promoting the economic advancement of French Canadians in “their” province. Other provinces followed this strategy. Lacking a presence in central institutions, provincial governments sought direct contacts with the federal government through First Ministers conferences and other, less visible, channels of intergovernmental relations. In the post-Quiet Revolution period, Quebec was well-represented in the federal executive (with most Prime Ministers hailing from that province) and the so-called “brokerage parties” (mainly the Liberal party, but also the Conservatives) blended Quebec and the rest of the country politically. No power-sharing principles informed executive formation and decision-making, although regional representation in Cabinet was always a concern. In 1993, the separatist *Bloc Québécois* (BQ), which only fields candidates in Quebec and claims to speak for Quebec, gained strong representation in the House of Commons. The BQ has to this day kept this strong presence, which has produced, in the last few years, minority governments. No consociational practices have been implemented as a result of the existence of a Quebec-only party.

Despite efforts to create a federal welfare state in the mid-1930s, it was only in 1940 that, after the provinces approved a constitutional change, the first federal social insurance program was successfully adopted in Canada. Three years later, the 1943 Marsh Report promoted a greater social role for the federal government in the name of a Keynesian policy paradigm similar to the one embedded in the Beveridge Report, which was published a year earlier in the United Kingdom (Marsh 1943). In 1944, the adoption of the Family Allowance Act led to the controversial distribution of federal family allowances (Guest 1980: 130), a situation that would create much political opposition in Quebec in the name of “provincial autonomy” (Marshall 1994). This emerging federal welfare state took a statist form rather than a Bismarckian path, where occupational fragmentation and direct labor and business participation in social insurance governance are the norm.

In post-war Quebec, nationalist ideas about provincial autonomy and national identity directly clashed with the development of the federal welfare state. For French-Canadian nationalists, the growing role of the federal government in Quebec through the allocation of social benefits like family allowances and unemployment insurance appeared as direct threats to the institutional autonomy of the province and to the survival of the French culture and language. French-Canadian nationalists like Premier Maurice Duplessis also stressed that, at first, federal family allowances unfairly penalized large families then overrepresented in Quebec’s Catholic society (Marshall 1994).

10.4 Nationalist Pressures for Social Policy Decentralization

10.4.1 *Belgium*

In Belgium, the connection between sub-state nationalism and social policy developed later than in Canada. The institutional background for the development of Flemish claims for the “federalization” of Social Security (that is, social insurance) was the upward swing of Flanders’ economy in relation to Wallonia. For over a century, Wallonia had been the economic engine of the country as a consequence of steel and coal industries resulting from early industrialization. Flanders, for its part, remained more rural and poorer. By the 1950s, the situation was changing to the point where, somewhere between 1965 and 1970, Flanders caught up with, and overtook, Wallonia economically according to almost all indicators (McRae 1986: 77–89). A consequence of this structural change was the politicization of the territorial dimension of social security. In the context of the Flemish Movement’s push for the federalization of the state and the consolidation of monolingual language areas, Flemish intellectuals and academics produced studies showing

that social security featured implicit transfers from wealthier Flanders to poorer Wallonia (for example, van Rompuy 1998).

These studies have been central to the Flemish project of further decentralizing Belgian federalism. In early 1996, the Christian Democratic-led Flemish government released a document signaling its intention to launch a new round of state reform (Gouvernement Flamand 1996). This document, while defending inter-regional solidarity in principle, spoke of the need to end unjustified transfers and to allow each region/community to tailor its social policy according to its preferences and culture (Poirier and Vansteenkiste 2000). In 1997, the Committee on state reform of Flanders' Parliament supported the creation of a Flemish healthcare and family policy; representatives of all Flemish parties voted in favor except for Agalev's who abstained (Poirier and Vansteenkiste 2000: 349).

In 1999, the Flemish Parliament made a strong statement for more substantial institutional change in Belgium by adopting a series of resolutions (Pagano 2000). These widely publicized resolutions were hailed in Flanders but condemned by Francophones; in fact, the Walloon and French Community Parliaments rebuked these proposals through counter-resolutions that were unanimously supported (Pagano 2000: 7–8). In the Flemish Parliament, the five general principles behind the resolutions found the support of the Christian Democrats, Liberals, *Volksumie*, and, after much hesitation, the Socialists.⁴ Agalev abstained because it felt the resolutions hinted at a confederal rather than a federal model. Representatives from the then *Vlaams Blok* were not present as the far-right nationalist party argued that the resolutions did not go far enough.⁵ One of these resolutions, supported by a strong majority of Flemish parliamentarians (Christian Democrats, Liberals, and *Volksumie*), stated that healthcare and family allowances should be federalized while Brussels residents would be able to choose to which regime they would belong (Pagano 2000: 44).

By the end of the 1990s, there was strong backing for a partial federalization of social security among Flemish political parties and within Flemish political institutions, although this was not necessarily reflected in Flanders' general population (Baudewyns and Dandoy 2003). In this context, the various steps that have led to the definition of this position should not be seen strictly, or even primarily, as the reflection of popular preferences, but rather as a nation-building exercise.⁶ Much as the great linguistic struggles did decades before, the debate over the federalization of social security has revolved as much

⁴ On the positions of the various political parties see Pagano (2000: 12–13, 16). The voting was slightly differentiated depending on the specific resolution.

⁵ *Vlaams Blok* became *Vlaams Belang* in 2004.

⁶ On the paradox between popular preferences and institutional reform in Belgium, see Lecours (2002).

around an idea (the distinctiveness of Flemings) as it has around financial considerations.

10.4.2 *Canada*

Canada's federal system came under pressure in the 1960s as a result of major transformations in Quebec and in nationalism in the province. Before that decade, the community of reference for nationalist leaders in Quebec was Catholic French-Canadians living across Canada. With the Quiet Revolution, religion became much less central to nationalist discourse, which now focused primarily on language issues. As a consequence, the connection between the *Belle Province* and French speakers living in other provinces gradually weakened. At the level of political ideology, the shift from French-Canadian to Quebec nationalism also meant that the market liberal creed of the Duplessis years declined at the expense of a statist vision that strongly supported welfare-state expansion, albeit in a decentralized, Quebec-centric fashion. Overall, breaking from the market liberalism and religious conservatism tied to French-Canadian nationalism, the Quiet Revolution appeared as an ambitious state and nation building project that clashed with the expansionist agenda of the federal government. Just like its federal counterpart, the Quebec government decided to use social policy as nation building tool aimed at redrawing the boundaries of economic and social solidarity. This is why Quebec Premier Robert Bourassa once stated, "Income security is far from being merely a means of redistributing wealth; it touches the very fibre of a culture" (quoted in Banting 1987: 130). In general, the ideological shift that took place in the 1960s and the 1970s favored a change in nationalist ideas, which proved increasingly consistent with a social-democratic agenda.

During the 1960s, Quebec governments sought great social policy decentralization. They were successful in some cases (hospital insurance, social assistance, and vocational training), but not in others (for example, unemployment insurance) (Banting 1995). For Quebec governments, the ability to craft and implement social policy meant the opportunity to establish concrete links with Quebecers by providing such crucial services as health-care. It was also politically important that decentralizing social policy fit the claim of Quebec's new nationalism that the province should have a special status within Canada because it bore the unique responsibility of overseeing a Francophone majority. The 1960s and the early 1970s saw the development of decentralized social programs like Medicare, which received financial support from Ottawa but was managed solely by the provinces (Maioni 1998; Boychuk 2008).

During the 1970s, the rise of the separatist *Parti Québécois* (PQ) reinforced the connection between Quebec's nation building project and the provincial

welfare state. The PQ advocated outright secession and developed a social democratic platform that helped to create strong ties with Quebec's strong labor and feminist movements. For the PQ as well as for these movements, only independence could favor socio-economic equality. Therefore, two ideas, linked respectively to the nation and social democracy, blended into a powerful pro-independence mix. In the end, the "yes" side fell short as it gathered 40 percent of the vote.

Following the 1980 referendum, the gradual shift toward neoliberalism and fiscal austerity witnessed in most advanced industrial countries affected both Quebecker nationalism and the politics of federal social policy. The push for fiscal austerity and, later, the alliance between Quebecker nationalists and the federal Progressive Conservative Mulroney governments (1984 and 1993) undermined the relationship between the PQ and progressive social policy. The election in 1985 of a Liberal government in Quebec further exacerbated the neoliberal turn in Quebec politics and nationalist discourse. In the 1980s, federal retrenchment efforts proved quite modest, and constitutional politics dominated the Canadian politics. The PQ focused its 1995 sovereignty referendum campaign on the idea that the rest of Canada had rejected Quebec during recent constitutional discussions, rather than on social policy issues.

After the 1995 referendum defeat, Quebec's PQ government sought to create new social programs in the name of the distinct, and seemingly more progressive, Quebec national values. After major frictions with labor unions and feminist groups in the aftermath of fiscal austerity measures, PQ governments created programs such as \$5 per-day childcare (now \$7 per-day) and universal drug insurance that were hailed as examples of how Quebec could do things differently. Such programs were rapidly framed as symbols of Quebec's national identity: they are considered to embody the distinctive national character of Quebeckers, who are said to be more egalitarian and collectivist than people from other provinces. In the late 1990s and early 2000s, Quebec PQ governments also fought off federal efforts at strengthening the so-called Canadian "social union" (Noël 2000).

10.5 The Territorial Structuring of Social Policy: Between Change and Stability

Flemish and Quebecker nationalism have put a lot of pressure on the Belgian and Canadian governments to decentralize social policy but with different results. Surprisingly, the consequence of sub-state nationalism for the territorial structures of Social Security in Belgium has not been great. Despite a solid consensus amongst Flanders' political elites that at least partial decentralization should occur, Belgium social insurance schemes are still run by the federal

government. Indeed, asymmetry in social insurance is limited to the personal care program (that is, dependency insurance) implemented in Flanders but not in Wallonia.⁷

Why does social insurance remain for the most part centralized in Belgium's otherwise decentralized federal system? The first reason has to do with the structure of Belgian federalism and political decision-making rules in the country. Change in Belgian federalism requires constitutional change. The fact that the mechanisms for amending the Belgian constitution are centered around the existence of the main linguistic communities as opposed to different orders of government per se means that the key to change lies in central institutions where Francophone parties have veto power. Indeed, consociationalism in Belgium has translated into a constitutional obligation for Belgian governments to have an equal number of Flemish and Francophone ministers (Article 99 of the Belgian Constitution). In addition, the division of power relating to the Belgian social insurance system is laid out in so-called "special laws," that is, federal legislations of a constitutional nature, which are even more difficult to amend than the Constitution: changing a "special law" requires a two-thirds overall majority in both chambers of Parliament. Some Francophone parties would thus have to support the decentralization of some parts of social security for that type of reform to go ahead.

The second reason why social insurance schemes remain centralized in Belgium is their "Bismarckian" institutional structure, which means that the administration of social security involves the Belgian federal government and its social partners, labor unions, and employers. Labor unions and the federal body representing the country's employers—organizations that have not split along linguistic lines—have strong incentives to oppose decentralization, which would deprive them of much of the legitimacy they hold as a result of their management of *Belgian* social insurance.

Indeed, the fact that the two largest unions in the country totally oppose the federalization of social insurance is a considerable obstacle to Flemish proposals for change. The largest labor union in Belgium, the Catholic ACV/CSC (Algemeen Christelijk Vakverbond/Confédération des Syndicats Chrétiens), has long rejected this policy alternative in the name of Belgian economic solidarity. Despite the fact that more than the majority of its members live in Flanders, the ACV/CSC supports the preservation of a *federal* social insurance system. The Socialist ABVV/FGTB (Algemeen Belgisch Vakverbond/Fédération Générale des Travailleurs Belges), which is the second largest labor union in Belgium, is an even more committed opponent to the federalization of social insurance than its Catholic counterpart. This is because there are

⁷ On the origin of this legislation, see Poirier and Vansteenkiste (2000: 345–6).

about the same number of Francophone and Flemish members within the socialist union. Therefore, with the Francophone political parties, the ABVV/FGTB is one of the strongest opponents of the Flemish claim for the federalization of social insurance. Like the ACV/CSC, the ABVV/FGTB rejects federalization in the name of Belgian working class solidarity.

On the business front, the leading organization is the VBO/FEB (Verbond van Belgische Ondernemingen/Fédération des Entreprises de Belgique). The position of the VBO/FEB concerning the federalization of the social insurance system is fairly clear: although its discourse remains vague in order to avoid confrontation with Flemish employers, it opposes this policy alternative. Like labor unions, the VBO/FEB participates in the governance of the system, and federalization would certainly weaken its legitimacy. The struggle of the VBO/FEB to preserve its policy relevance is especially evident in the context of the competition coming from VEV (Vlaams Economisch Verbond), a Flemish business organization whose profile has increased in recent years. In line with most Flemish political parties, VEV is a fervent promoter of social insurance decentralization. In contrast, Walloon employers strongly oppose this idea, which would probably mean a regional increase in payroll taxes detrimental to their global competitiveness. The weight of large Walloon firms within the VBO/FEB helps to show why this organization does not support the federalization of the Belgian social insurance system.

The Canadian story is quite different. The consequence of Quebecker nationalism for the welfare state in Canada has been considerable asymmetry. Since the Quiet Revolution, many powers over social policy that had been exercised by the federal government have been decentralized to Quebec but not to the other provinces. Such asymmetrical decentralization, when it occurs, constitutes a response to nationalist pressures in Quebec. Typically, the federal government formally states that it is open to extending decentralization to other provinces, although it is known that only Quebec wants to assume new responsibilities. The earliest instance of asymmetrical decentralization in the field of social policy was pensions. In the mid-1960s, pressures from Quebecker nationalism favored the implementation of distinct but coordinated earnings-related public pension programs: the Quebec Pension Plan (QPP) and the Canada Pension Plan (CPP), covering workers in the nine other provinces. Because the federal and provincial governments share constitutional responsibility for this program, Ottawa must reach an agreement with at least two-thirds of the provinces representing two-thirds of the Canadian population before implementing a reform (Battle 1997: 538). Obviously, not all Quebec's claims for decentralization are met with this type of response from the federal government, which is also keen to retain meaningful social policy ties with Quebeckers.

Institutional and territorial asymmetry in social policy has also come in the form of what has been called “federalism with a footnote” (Noël 2000: 5). Consensus over new social policy initiatives is hard to reach in Canadian federalism because provinces are usually looking to protect their autonomy. However, under most circumstances, provincial governments other than Quebec can be persuaded to accept some policy coordination with the federal government. For Quebec Liberal and PQ governments alike, however, institutional autonomy in the development of social programs is non-negotiable. With the PQ in power during the late 1990s, the push was to disengage from federal–provincial social policy discussions in Canada. Thus, agreements for new policy initiatives like the National Children’s Agenda and the Social Union Framework Agreement (SUFA)⁸ came with a footnote stating that the Quebec government did not wish to participate.

In 2004, a final pattern of asymmetry concerning the implementation of social policy in Canada took the form of a separate agreement between Ottawa and the Quebec government regarding federal healthcare funding. While the general agreement requires the nine other Canadian provinces to comply with measures of accountability regarding the delivery of healthcare services, a controversial side agreement exempted Quebec from these controls. Similarly, the general agreement sets specific priorities for these nine provinces that do not bind the Quebec government in any way.

What explains asymmetry decentralization in the territorial structuring of social policy in Canada? Three factors do. The first is the nature and structure of Canadian federalism and intergovernmental relations. Canadian federalism is not structured along clearly distinct spheres of action. Constitutionally, it features overlapping rather than “water-tight” jurisdictions. In addition, courts have attributed to the federal government a power to spend money in areas of provincial jurisdiction. As a result, decentralizing power over various policy areas does not typically involve constitutional change. In the case of social policy, movement toward decentralization often involves simply a decision by the federal government to refrain from extensively using its power to spend. Also, there is flexibility inherent to the type of executive federalism practiced in Canada that allows for gradual changes in the way social policy is structured territorially. The key mechanisms to the governance of the Canadian federation are intergovernmental relations rather than a central institution representing the provinces or political parties (provincial and federal parties have distinct organizations). These intergovernmental relations feature federal and provincial executives who have the democratic legitimacy to decide on, and the capacity to implement, changes quickly. It is in this context that

⁸ On SUFA, see Gagnon and Segal (2000); Fortin, Noël, and France St-Hilaire (2003).

the federal and Quebec governments can strike agreements that result in an asymmetrical decentralization of social policy in the country.

Of course, the federal government has the opportunity to choose to strike bilateral agreements with any province because it is not bound by a constraining decision-making procedure. This is the second reason explaining fluidity in the territorial structuring of social policy in Canada. Indeed, politics at the federal level is strongly majoritarian: there are no formal power-sharing arrangements between Francophones and Anglophones involving, for example, mutual vetoes. In fact, Canada's parliamentary system concentrates power in the executive and, even in situations of parliamentary minority, the federal government has great latitude in striking intergovernmental agreements. Scholarship on executive decision-making in Canada has shown that, within the executive branch itself, there is concentration of power in the hands of the prime minister at the expense of cabinet ministers (Savoie 1999).

Third, as stated above, Canada's social programs are statist in nature, which means that only bureaucrats and political executives, rather than a collection of social partners, are managing them. As a consequence, the issue of the level of government running social programs is the subject of intergovernmental talks rather than interactions with business and labor actors who have a vested interest in preserving certain types of territorial arrangements in order to keep their own managerial role and the prestige and/or resources that come with it.

10.6 Conclusion

In an attempt to contribute to the analysis of political dynamics in federal systems, this chapter has examined the issue of change in the territorial governance of social policy in Belgium and Canada. As argued, it is the weight of nationalist ideas about territorial solidarity and redistribution that explains the quest for welfare-state decentralization in both countries. In other words, to use the language of this volume, nationalist ideas are the "sources" of the drive for policy change in both countries. What is interesting here is that a purely economic analysis in terms of "objective" material interests does not tell the whole story about nationalist mobilization in these two countries. Although material interests do play a role in Flanders, reducing the quest for social policy decentralization to them is misleading at best (Béland and Lecours 2008). More important as "sources" of mobilization are ideas linked to nationhood. It is also interesting to note that nationalist ideas can generate pressure for decentralization independently of specific ideological (left-right) outlooks. As suggested, ideas related to the politics of nationalism are at the heart of pressures to change the territorial structuring of social policy in multinational settings.

Yet while both cases feature powerful discourses and pressures that legitimize social policy decentralization, the level of policy decentralization stemming from nationalist mobilization is much greater in Canada than in Belgium. We have identified three institutional factors for the diverging cross-national outcomes (change in Canada and stability in Belgium). The first is the structure of the country's federal system. Overlapping constitutional jurisdictions and inter-state, executive federalism in Canada mean that social policy decentralization can often be implemented through federal-provincial agreements. In Belgium, the decentralization of social security is impossible without a formal constitutional amendment and, consequently, broad cross-community consensus. The second is the structure of executive decision-making. On one hand, the consociational nature of Belgian politics means that the federalization of social security cannot occur without support from Francophone parties. On the other hand, in Canada, politics at the federal level is predominantly majoritarian, as most policy decisions are made by the executive, especially the prime minister. The third is the institutional nature of social policy arrangements. Social partners (labor unions and business associations) play a central role in Belgium's social security system. Because these organizations derive much of their legitimacy from their participation in social insurance governance, and, because they have not split upon linguistic lines like political parties, they strongly oppose federalization. In Canada, the social policy model typically excludes social partners from the administration of social programs, which remain statist in nature. In this Beveridgian institutional context, the debate over the control over social programs is strictly an intergovernmental issue, which is not the case in Belgium, where class solidarity is embedded in Bismarckian institutional legacies.

In the end, the contrast between change in the territorial structuring of social policy in Canada and its relative stability in Belgium is explained by institutional factors. In other words, different institutional mechanisms in the two countries have led to change (in Canada) and stability (in Belgium). From this perspective, our research speaks to the debate between societal and institutional approaches to federalism (Erk 2008). Of course, to understand federalism and the welfare state in Canada and Belgium requires a focus on society—in our case the analysis of nationalist ideas and discourses—which cannot be reduced to either material interests or objective institutional legacies. The two countries are multinational (in both, a significant segment of the population identifies with a different national identity from the one promoted by the central government), which generates strong ideological pressures to decentralize social programs. Indeed, nationalist movements will try to make “their” national community coherent with the community of redistribution because their solidarity does not extend the “other” (Francophones in Belgium and

English-Canadians in Canada). This logic points to the role of ideas in the construction of both nationalist mobilization and social programs in federal multinational states. In the above analysis, these nationalist ideas are the societal “sources” of change. However, solely looking at societal dynamics and, in our case, the role of nationalist ideas themselves, cannot explain the Belgian puzzle of continued centralization in the face of intense, ideologically driven nationalist pressures for decentralization. From this perspective, turning to political institutions as causal mechanisms that constrain the impact of ideas on policy outcomes is necessary to understand the federalism-nationalism-social policy connection in multinational federal countries like Belgium and Canada. More generally, this chapter points to the interaction between ideas as “sources” of territorial mobilization and institutions as “mechanisms” of change in policy development. Thus, our chapter contributes to the general understanding of federal dynamics by providing more ground to the claim that paying equal attention to the ideas of actors and the institutional environment in which they operate is essential for explaining key policy developments in federal systems. This remark is consistent with the broader literature about the respective role of ideas and institutions in policy change (Blyth 2002; Lieberman 2002; Schmidt 2002; Béland and Hacker 2004; Campbell 2004; Peters, Pierre, and King 2005).

References

- Anderson, Benedict (1991), *Imagined Communities*. (2nd edition. London: Verso).
- Banting, Keith (1987), *The Welfare State and Canadian Federalism*. 2nd edition (Montreal/Kingston: McGill Queen’s University Press).
- (1995), “The welfare state as statecraft,” in Stephan Leibfried and Paul Pierson (eds.), *European Social Policy: Between Fragmentation and Integration* (Washington, DC: Brookings Institute), 269–300.
- Battle, Ken (1997), “Pension reform in Canada,” *Canadian Journal on Aging* 16 (3), 519–52.
- Baudewyns, Pierre and Dandoy, Régis (2003), “Federalism and social security in Belgium,” paper presented at the ECPR Joint Sessions (Edinburgh).
- Béland, Daniel and Cox, Robert H. (eds.) (2011), *Ideas and Politics in Social Science Research* (New York: Oxford University Press).
- Béland, Daniel and Hacker, Jacob S. (2004), “Ideas, private institutions, and American welfare state ‘exceptionalism,’” *International Journal of Social Welfare* 13 (1), 42–54.
- Béland, Daniel and Lecours, André (2008), *Nationalism and Social Policy* (Oxford: Oxford University Press).
- Blyth, Mark (2002), *Great Transformations* (Cambridge: Cambridge University Press).
- Bonoli, Gianlino (2000), *The Politics of Pension Reform* (Cambridge: Cambridge University Press).

- Boychuck, Gerard W. (2008), *National Health Insurance in Canada and the United States* (Washington, DC: Georgetown University Press).
- Campbell, John L. (2004), *Institutional Change and Globalization* (Princeton: Princeton University Press).
- Cox, Robert H. (2001), "The social construction of an imperative," *World Politics* 53, 463–98.
- Erk, Jan (2008), *Explaining Federalism* (London: Routledge).
- Falter, Rolf (1998), "Belgium's peculiar way to federalism," in Kas Deprez and Louis Vos (eds.), *Nationalism in Belgium*. (New York: St-Martin's Press), 177–97.
- Fortin, Sarah, Noël, Alain, and St-Hilaire, France (eds.) (2003), *Forging the Canadian Social Union* (Montreal: Institute for Research on Public Policy).
- Gagnon, Alain G. and Segal, Hugh (eds.) (2000), *The Canadian Social Union without Quebec* (Montreal: Institute for Research on Public Policy).
- Gouvernement Flamand (1996), *Note de discussion pour une nouvelle étape dans la réforme de l'État* (Brussels: Gouvernement Flamand, February 29).
- Guest, Dennis T. (1980), *The Emergence of Social Security in Canada* (Vancouver: University of British Columbia Press).
- Hall, Peter A. (1993), "Policy paradigms, social learning and the state," *Comparative Politics* 25 (3): 275–296.
- Lecours, André (2002), "Solving the Belgian paradox," *Canadian Review of Studies in Nationalism* 29, 139–83.
- (ed.) (2005), *New Institutionalism* (Toronto: University of Toronto Press).
- Lieberman, Robert C. (2002), "Ideas, institutions, and political order," *American Political Science Review* 96 (4), 697–712.
- Lijphart, Arendt (1977), *Democracy in Plural Societies* (New Haven: Yale University Press).
- Linz, Juan (1990a), "The perils of presidentialism," *Journal of Democracy* 1, 51–69.
- (1990b), "The virtues of parliamentarism," *Journal of Democracy* 1, 84–91.
- McRae, Kenneth (1997), "Contrasting styles of democratic decision-making," *International Political Science Review* 18 (3), 279–96.
- Mainwaring, Scott and Shugart, Matthew S. (1997), "Juan Linz, presidentialism, and democracy," *Comparative Politics* 29 (4), 449–71.
- Maioni, Antonia (1998), *Parting at the Crossroads* (Princeton: Princeton University Press).
- Marsh, Leonard (1943), *Report on Social Security for Canada* (Ottawa: Edmond Cloutier).
- Marshall, Dominique (1994), "Nationalisme et politiques sociales au Québec depuis 1867," *British Journal of Canadian Studies* 9, 301–47.
- McRae, Kenneth D. (1986), *Conflict and Compromise in Multilingual Societies* (Waterloo: Wilfrid Laurier University Press).
- Noël, Alain (2000), "Without Québec," IRPP Working Paper, Vol. 1, No. 2, Montreal.
- Obinger, Herbert, Leibfried, Stephan, and Castles, Francis G. (eds.) (2005), *Federalism and the Welfare State* (Cambridge: Cambridge University Press).
- Padamsee, Tasleem J. (2009), "Culture in connection," *Social Politics* 16 (4), 413–45.
- Pagano, Guisepppe (2000), *Les résolutions du Parlement flamand pour une réforme de l'État* (Brussels: CRISP Courrier hebdomadaire no. 1670–1671).

Social Change and Political Structuring

- Parsons, Craig (2007), *How to Map Arguments in Political Science* (Oxford: Oxford University Press).
- Peters, B. Guy (1999), *Institutional Theory in Political Science* (London: Continuum).
- Peters, Guy B., Pierre, Jon, and King, Desmond S. (2005), "The politics of path dependence," *Journal of Politics* 67 (4), 1275–300.
- Pierson, Paul (1994), *Dismantling the Welfare State?* (Cambridge: Cambridge University Press).
- Poirier, Johanne and Vansteenkiste, Steven (2000), "Le débat sur la fédéralisation de la sécurité sociale en Belgique," *Revue belge de sécurité sociale* 2, 348–9.
- Savoie, Donald (1999), *Governing from the Centre* (Toronto: University of Toronto Press).
- Schmidt, Vivien A. (2002), *The Futures of European Capitalism* (Oxford: Oxford University Press).
- (2011), "Reconciling ideas and institutions through discursive institutionalism," in Daniel Béland and Robert H. Cox (eds.), *Ideas and Politics in Social Science Research* (New York: Oxford University Press), 47–64.
- Smith, Miriam (2008), *Political Institutions and Lesbian and Gay Rights in the United States and Canada* (London: Routledge).
- Steinmo, Sven, Thelen, Kathleen, and Longstreth, Franck (eds.) (1992), *Structuring Politics* (Cambridge: Cambridge University Press).
- Théret, Bruno (2002), *Protection sociale et fédéralisme* (Brussels: Peter Lang; Montreal: Presses de l'Université de Montréal).
- Vanthemsche, Guy (1994), *La sécurité sociale* (Brussels: DeBoeck).
- van Rompuy, Paul (1998), "10 jaar financiële stromen tussen de Gewesten in België," *Leuvense Economische Standpunten* (Leuven: Katholieke Universiteit Leuven, Center for Economic Studies), no. 45.
- Walsh, James I. (2000), "When do ideas matter?," *Comparative Political Studies* 33 (4), 483–516.
- Weaver, Kent and Rockman, Bert (eds.) (1992), *Do Institutions Matter?* (Washington, DC: Brookings Institution).

11

Dynamics of change in federal representation

Lori Thorlakson

Whatever the general social conditions, if any, that sustain the federal bargain, there is one institutional condition that controls the nature of the bargain . . . This is the structure of the party system, which may be regarded as the main variable intervening between the background social conditions and the specific nature of the federal bargain. (Riker 1964: 136)

11.1 Introduction

A federal institutional design is often a deliberate choice in constitutional engineering, adopted to enhance subnational representation, bring government closer to the people, create or preserve stability and security, enhance local responsiveness, and maximize efficiency in public policy provision. Even in cases where the federal design is the product of unintended consequences or administrative convenience rather than a conscious design, federal institutions and principles have come to be defended for their effects on preserving autonomy and regional representation. These benefits are not always borne out in practice. There is no clear link between federalism and standard measures of democratic performance (Lane and Errson 2005; Treisman 2007). Federalism has a mixed record as a tool of ethnic conflict management. In multi-ethnic states, evidence suggests that it is associated with increased mobilization of regional identities (Brancati 2008), and often leads to secession, attempted or achieved (McGarry and O'Leary 1993: 34).

These ambiguous findings are not surprising. Identifying the impact of a federal institutional design is difficult when federalism comes in many institutional configurations. Also, the impact of federal institutions on outcomes such as representation and democracy can be contingent on the form and

functioning of representative democracy. Local responsiveness can depend on whether subnational parties enjoy sufficient autonomy to develop party programs responsive to local preferences and, in turn, whether voters pay attention to these. Democratic accountability can be weakened if voters use subnational elections to reward or punish the performance of the federal, rather than the regional government. In a similar vein, the ability of a federal institutional design to deliver stability and manage conflict can depend on whether party competition cross-cuts territorial divisions.

If we are interested in how federalism delivers on aspects of performance related to representation and conflict management, it is useful to focus on both federal institutions and federal representation. Taking federal design and party competition together can improve our understanding of the potential for federalism to deliver stability, enhanced democratic representation, and accountability. This chapter examines how federal representation is created by a configuration of federal institutions and party competition. I argue that the elements of party competition—including voter behavior, party organization, and party system structures—interact with federal institutional design. Party competition can create forms of horizontal and vertical coordination across territorial boundaries. This can result in the creation of integrative political forces that cross-cut the territorial divisions of federalism. Alternatively, highly autonomous parties and dissimilar party systems across a federation can contribute to the maintenance of political communities that reinforce the territorial divisions created by federal institutions. This chapter proposes a framework of how these layers interact, and the dynamics through which federal representation changes over time.

11.2 Party Competition in the Federal State

Imagine three federations, all multi-ethnic with a moderate degree of fiscal and policy decentralization, and where important policy areas, such as education, healthcare, and natural resources are controlled by the subnational governments. In the first federation, the two largest parties in the party system compete polity-wide and have thriving organizations not only at the federal level but within each federal unit to contest regional elections. These two parties also dominate most regional elections, where they campaign using the logos that voters have come to recognize from federal elections, and with platforms consistent with (and sometimes approved by) the federal party. Federal and regional party systems are usually similar and commentators often interpret elections results at the regional level as a barometer of support for the party at the federal level.

In the second federation, federal elections are contests between some strong regional parties and one or two parties that although polity-wide in name, are really little more than broad federal-level coalitions of distinct and autonomous subnational parties. When issues arise that have distributive consequences for subnational governments, the resulting tensions sometimes threaten splits or defections. When the regional parties are required as a coalition partner, they extract concessions on policies that affect core interests of their federal unit. In the third federation, federal competition at first glance appears similar to that in the first federation, dominated by polity-wide parties. At the subnational level the differences become clear. Here, we find many unique parties that have emerged only to contest subnational elections in a particular region. The remaining parties have distanced themselves in organizational, strategic, and policy terms from their federal namesakes.

These three federations are similar in their institutional design and social underpinnings, yet they exhibit markedly different forms of party competition that channel territorial conflict in very different ways. Assessing the impacts of federal design in conjunction with party competition helps us gain a clearer picture of how a federation will affect representation and the organization of conflict. Party competition can create forces of vertical and horizontal coordination that may mitigate or reinforce the way in which federal institutional design structures conflict and representation. *Horizontal coordination* can occur across the units of the federation, through the strategies, electoral appeals, and organizational choices of polity-wide parties, through the development of nationalized identities and patterns of voting behavior, and through the formation of nationalized party systems or through the participation of regional parties in governing coalitions. Parties, party systems, and electorates can also generate forces of *vertical coordination* or integration, through the presence of integrated parties that compete at the federal and state level, and common political identities forged across levels of competition. We will look at these in turn.

11.2.1 *Horizontal Coordination*

The first federation in the example above had the potential to counteract centrifugal forces through the integrating dynamic created by polity-wide political competition. Party competition can create forces of horizontal coordination through the nationalization of politics, parties, and party systems. The nationalization of politics is the result of the development of a national political community where the electorate is oriented to national forces and stimuli, such as national leaders, events, and policies, rather than local stimuli. It can be measured by the spatial uniformity of electoral responses; for instance, whether the swing for a party tends to be similar across districts and

regions from one election to the next (Claggett, Flanigan, and Zingale 1984; Caramani 1996, 2004).

The nationalization of parties refers to the spatial distribution of support for parties across constituencies or other territorial units and the way in which candidates coordinate or aggregate across districts to form national or polity-wide parties (Cox 1997, 1999; Chhibber and Kollman 2004). Territorial concentration of party support can occur as a result of the party's failure to win votes across the country, or it may be a deliberate party strategy to organize and compete in certain regions only. National party systems are created when parties become polity-wide in scope, organizing and competing across the units of the federation. In nationalized party systems, narrow regional interests and identities are gradually supplanted by broader national platforms and the creation of the nationalized electorate, oriented toward national identities and policies. To compete effectively for federal office, polity-wide parties need intra-party horizontal coordinating mechanisms to allow them to broker regional interests and forge a common policy vision across the federated units.

Horizontal coordination can occur whether or not the party competes at both the federal and subnational levels and maintains organizational links across these party organizations, or truncated, competing at only one territorial level. In Canada, federal parties compete polity-wide, yet many maintain minimal or no links to provincial-level parties. In cases like this, horizontal coordination is still required to balance regions across the country and maintain a party capable of winning votes polity-wide. Truncation may make the task of horizontal coordination easier because coordination occurs among party organizations that exist to seek federal office only, rather than in parties that face dual goals of competition for both federal and subnational office.

11.2.2 *Vertical Coordination*

Party competition in multi-level systems can also create forces of vertical coordination that contribute to the creation of linked competition between the subnational and federal arenas at the level of the party, party system, or electoral behavior. Vertical coordination can link subnational and national political life through party organizational structures, the forging of shared loyalties among party elites, linked party system dynamics, and the cognitive orientations of voters.

Among the electorate, the development of nationalized politics can contribute to the development and maintenance of an integrated political community. Barometer and "second-order" models of voting predict that voters tend to treat ballots in subnational elections as barometers of support for federal party performance, cognitively orientating themselves toward the level of government where more is "at stake" (see Reif and Schmidt 1980: 8; Anderson

and Ward 1996; van der Eijk and Franklin 1996; van der Eijk, Franklin, and Marsh 1996; Anderson and Wlezien 1997; Lohmann, Brady, and Rivers 1997: 444; Marsh 1998; Rodden and Wibbels 2011). Because less is “at stake” in subnational—and supranational—elections, voters make their decisions based on national-level considerations and will use these regional elections as an opportunity to express support for or lodge protest votes against the federal governing party—if they bother to vote at all. Kedar (2006) argues that voters in multi-level contexts engage in “vertical balancing” of their policy preferences in federal and subnational elections. Similarly, coat tails models explain success of state party candidates in concurrent elections as a function of their shared party affiliation with a popular and successful federal leader (Miller 1955; Calvert and Ferejohn 1983), or, in the reverse case found in Brazil, explain the success of national legislative candidates as a function of support for gubernatorial candidates (Samuels 2003: 84). While a multi-level setting in itself may invite such “vertical balancing” or second-order voting behavior, the nationalization of political forces and the presence of similar party systems at both federal and subnational levels can facilitate the linked identifications that underpin second-order voting.

Party organizations can create highly visible and powerful forms of vertical coordination in a federation. This “vertical integration” includes the organizational links, interdependence, and cooperation between federal and state party organizations in both the parliamentary and extra-parliamentary arenas (Huckshorn et al. 1986: 978; Smiley 1987: 103ff; Dyck 1991: 130; Filippov, Ordeshook, and Shvetsova 2004: 190; Thorlakson 2009: 2011; Fabre 2011). Through the organization of a single integrated party, a common identity, and sense of a common fate may develop where the subnational parties view the electoral success of the federal party to be integral to their own success. Conversely, federal parties see the support and strength of the local level to be an important component of their success. The commitment of both levels of the party to a shared goal—the survival and success of the party as a whole—cements the federal balance (Filippov, Ordeshook, and Shvetsova 2004: 194–5). Not all parties in multi-level systems are vertically integrated. Truncated parties, as in the federation three in our example, exist at one territorial level only, with no formal linkages to parties at the subnational level. This precludes the development of intra-party ties that could be used to coordinate between the state and federal level, and loads vertical conflict into the intergovernmental arena.

At the party system level, the similarity of structures and competitive dynamics of federal and subnational party systems can create coordination pressures that can influence coalition formation. Two effects have been identified. First, when party systems are similar at each level in terms of the relative size of the party and government–opposition dynamics, it can constrain

coalition possibilities at the subnational level of government. Governments generally try to avoid creating subnational coalitions that cross the federal government-opposition divide (Downs 1998; Däubler and Debus 2009; Deschouwer 2009; Stefuriuc 2009). Research has also found that parties will use the subnational level as a “proving ground” for new coalition possibilities that are untested at the federal level (Downs 1998). Another competitive link may emerge when governments or governing coalitions are “incongruent” (of a different composition than the federal government). This can lead to a tendency for partisan opposition to be played out in the second chamber (Pallarés and Keating 2006).

11.3 Effects of Horizontal and Vertical Coordination

Horizontal and vertical coordination has implications for stability and democratic performance in federations. Federations need party competition that generates some element of coordination to serve as an integrative force to sustain the union. At the same time, some of federalism’s purported benefits, such as enhanced representation of local interests and efficiency and local responsiveness in public service provision, can be undermined if these linkages constrain local party autonomy or blur lines of accountability.

Nationalized party systems are an integrating force, reflecting, and perpetuating the existence of a single, national electorate (Chhibber and Kollman 2004; Caramani 2004). Vote-seeking parties must appeal to and represent voters based on issues that cross-cut territorial boundaries. This creates a mechanism for mediating territorial conflict within the party. When the federal party system is territorially concentrated, either as a result of electoral weakness of the party in certain regions of the country or due to the presence of parties that choose to compete in a limited number of territorial units, the party system reinforces federalism’s territorial lines of conflict. Territorially concentrated party systems, like the regionally based parties in Belgium after 1970 or the First Nigerian Republic from 1960 to 1966, have a limited ability to draw on intra-party horizontal coordination mechanisms to mediate inter-governmental conflict. This can load more conflict between parties in the federal legislative arena. For this reason, Alfred Stepan warns that polity-wide parties are preferable to territorially concentrated parties in multi-ethnic federations undergoing democratic consolidation (Stepan 2004: 43).

Just as horizontal coordination creates integrative political forces, vertical coordination helps to forge linked arenas of competition through unified party organizations that can foster convergent identities and policy positions. Vertical coordination allows voters to regard the subnational and federal parties as one and the same. Federations with minimal vertical coordination

help to preserve separate worlds of competition with little incentive for subnational parties to moderate their demands in order to strengthen the party as a whole. The vertical linkages of parties have been hypothesized to be crucially important for federal stability. In Filippov, Ordeshook, and Shvetsova's (2004: 194) model, the development of a notion of a shared fate and identity for state- and federal-level parties creates the incentive for parties at both levels to commit to the mutual accommodation required to preserve the federal balance.

What is good for stability is not necessarily best for maximizing accountability and enhancing representation. Linked arenas of competition generated by vertical coordination could undermine local responsiveness in representation and weaken federalism's potential for efficient representation. When party programs or electoral appeals of subnational parties are shaped or constrained by considerations of intra-party cohesion with the federal level of the party, or when voters make choices in subnational elections guided by cognitive orientations toward federal party positions and performance, this can weaken the efficiency of the vote as a mechanism for the transmission of voter preferences on subnational performance and policy. As a result, federalism can impede one of the accountability mechanisms in a democracy—the ability of voters to use elections to evaluate government performance and “throw the rascals out” via the ballot box. Links can also limit party responsiveness to local needs, requiring subnational parties to moderate their positions if these conflict with party policy. In systems with low vertical linkages, such as in Canada, subnational parties can pursue their territorial interests without pulling punches, even if it means damaging the party at the federal level. During the 1998 federal election in Canada, Conservative Newfoundland premier Danny Williams launched the “Anything But Conservative” campaign urging voters to shun the federal Conservative party because of the federal equalization policy's impact on Newfoundland.

Low vertical integration in parties can contribute to the creation of separate spheres of competition at the federal and subnational levels. While truncation in the party system offers little in the way of conflict-reducing mechanisms, its preservation of “separate worlds” of political competition does help to preserve a more direct link between voter preference and party position or performance. Voters who recognize parties at the federal and subnational levels as distinct organizations with separate goals may be less likely to cast ballots in subnational elections on the basis of a performance evaluation of the federal incumbent. Instead, subnational elections are more likely to function as efficient indicators of voter assessments of subnational government performance and policy preferences at the subnational level.

Forms of horizontal and vertical coordination in multi-level systems can combine to form four different models or types of federal representation

Social Change and Political Structuring

Table 11.1. Coincidence of horizontal and vertical coordination

		Horizontal coordination	
		Low	High
Vertical coordination	Low	Territorially concentrated party systems with weak party, electoral vertical linkages (Canada in mid-1990s).	National party systems, dissimilar, truncated parties at the subnational level (Canada).
	High	Territorially concentrated parties compete at both levels (Belgium, Spain, EU).	Nationalized party system with integrated parties, congruent party system (Germany, Austria, Australia).

(Table 11.1). This underscores the argument that we cannot in a general sense argue that “federalism matters”: that federalism in and of itself results in particular outcomes for democracy, efficiency, or stability. Instead, the interaction of a federal institutional design with its context of party competition results in a particular combination of horizontal and vertical coordination, generating four types of federal representation. These are heuristic devices; in practice, federations may straddle categories or shift categories over time.

The relatively rare combination of low vertical coordination and low horizontal coordination is depicted in the upper-left-hand quadrant. These systems have territorially concentrated party systems, either as a result of parties that pursue a deliberate regional strategy, or due to parties with polity-wide ambitions that have not successfully expanded their electoral base. In this scenario, parties do not play a significant role in integration because organizationally, they rarely cross territorial borders. With low vertical linkage, party systems may be highly incongruent from one unit to the next, preserving “separate worlds” of politics (Blake 1982, 1985). As a result, politics and parties do not serve as a countervailing force to bind or integrate the country. Instead, patterns of competition can reinforce territorial boundaries. This potentially destabilizing form of federal representation is not very common. One example is Canada in the early 1990s, when territorial concentration of the party system peaked due to Reform Party strength in the western provinces and a strong *Bloc Québécois* presence in Quebec. The pattern of representation emerging in some recently decentralizing unitary states such as Indonesia post-2002 resembles this type. One of the hallmarks of federations with low horizontal and vertical coordination is party weakness or instability.

The opposite situation can be found when there is high horizontal coordination and high vertical coordination, represented by the lower-right-hand quadrant. Here, parties tend to organize, compete, and thrive polity-wide, and at the federal and subnational levels, offering the possibility of intra-party mediation of policy conflict between the levels of government. These

are the vertically integrated parties, hypothesized to serve as a stabilizing force in federations (Filippov, Ordeshook, and Shvetsova 2004). Germany, Austria, and Australia are examples of this type of federal representation.

In between, we have the situation where low vertical coordination combines with high horizontal coordination: federal politics is dominated by polity-wide parties but remains detached from politics at the subnational level (upper-right-hand quadrant). Party organizational links between parties at the subnational and federal level, even where they share the same name, are often weak or non-existent. This is typical of the Canadian party system, with the exception of the early 1990s.

Finally, low horizontal coordination can be coupled with high vertical coordination, where non-polity-wide parties organize and compete at both the regional and federal levels (lower-left-hand quadrant). Belgium is the starkest example of this form of federal representation. The strength of regional parties in Spain, particularly in Catalonia, Galicia, and the Basque Country, makes Spain a partial fit in this category (these regional parties exist alongside polity-wide parties, the *Partido Popular* (PP), *Partido Socialista Obrero Español* (PSOE), and *Izquierda Unida* (IU)). These tendencies can also be seen in India, where a relative decline in Congress electoral support has occurred alongside the proliferation of regionally based parties from the mid 1990s onward, including the fragmentation of Janata Dal into regional parties and the Bahujan Samaj Party, which has limited electoral support beyond Uttar Pradesh.

The implications of these various types of representation depend upon the pressures that particular federations face for either the representation of diversity or forging stable, integrated political society. Party competition with low horizontal coordination offers little in the way of countervailing forces against centrifugal pressures, but may allow the most forceful and direct representation of territorial interests in the federal legislature. The combination of coordination pressures may also make a difference: when a system with low horizontal coordination is coupled with high vertical coordination, the result may be to reinforce the territorial framing of party conflict; low vertical coordination would allow for the possibility of cross-cutting conflicts.

11.4 Creating Links: Interactions between Party Competition and Federal Design

We now turn to the question of how forms of federal representation are shaped and sustained and attempt to make sense of the processes of change—its pace, timing, duration, and source. The causal mechanisms between federal design and party competition are complex. The impact of

Social Change and Political Structuring

federal institutional design is mediated by party competition. In turn, patterns of party competition may be shaped over time by federal institutional design.

The elements of federal institutional design structure the opportunities and incentives in the environment of parties and voters. Federal institutional design structures the location of fiscal and jurisdictional resources, the degree of autonomy or interdependence in policy-making and the extent to which territorial cleavages correspond to social divisions. These rules affect the incentives that shape parties' and voters' choice of venue for political organization and cognitive orientations and they affect the opportunities for political mobilization (see Table 11.2). By shaping *where* conflict is channeled, and the diversity and intensity of these conflicts, federal institutions have a hand in the development of links through political competition that in turn can be important for stability and democratic performance.

Federal institutional designs combine shared rule with self-rule, constitutionally guaranteeing a territorial division of power that provides a measure of autonomy for the constituent units while preserving a meaningful federal jurisdictional space. The many variations in federal institutional design affect the organization of political representation and party competition. The number of federal units and the coincidence of territorial boundaries with social cleavages can affect the representation of interests and the containment of conflict. Territorial boundaries that coincide with the underlying federal societies (Stein 1968), especially in multi-ethnic federations, allow federalism to provide a measure of autonomy and self-government to these groups. Increasing the number of units can disperse conflict, reducing the conflict load on the center and the presence of cross-cutting cleavages or "sub-ethnic lines of conflict" can create cross-cutting cleavages that lessen the impact of ethnic divisions (Horowitz 1985: 604).

The constitutional allocation of fiscal resources between the federal and constituent governments can affect the relative power and capacity to act of the respective levels of government. Fiscal power is derived from the power to

Table 11.2. Impacts of federal design on party competition

Institutional design feature	Impact
Fiscal and jurisdictional decentralization	Affects the relative importance of the subnational arena for office-seeking parties and for voters.
Jurisdictional interdependence	Increases the potential for "differential mobilization." Creates incentives for maintaining intra-party vertical coordination mechanisms. Blurs lines of policy accountability of governments in the eyes of voters.
Jurisdictional autonomy	Increases differential mobilization potential.
Coincidence of territorial and social cleavages	Affects conflict mobilization potential.

tax and spend, and particularly from autonomous control over borrowing and determining the tax base and rate (Rodden 2004: 483). Decentralization in terms of policy jurisdiction occurs when the constitution assigns the subnational units exclusive jurisdiction over a broad range of policy areas.

The allocation of policy jurisdiction can affect the extent to which these jurisdictions preserve autonomy or create pressures for interdependence in policy-making between levels of government. As the literature recognizes in its distinction between “joint” or “cooperative” and “dual” federations (see Benz 1987; Scharpf 1995), some federal designs encourage a high degree of interaction between the federal governments and the federated units, while others preserve autonomous areas of action to a much greater extent. Interdependence can be produced through the participation of the federated units in federal decision-making through bicameralism and through a functional allocation of competences, in which the federal level develops framework legislation implemented by the subnational units, and, to a lesser extent, shared powers (Bolleyer and Thorlakson 2008).

Sometimes federal institutional rules can create an asymmetrical assignment of policy jurisdiction or executive and legislative powers, what Watts terms “constitutional asymmetry” (Watts 1999: 57). Such asymmetry, often found in multi-ethnic federations (Stepan 2004: 40), can occur in response to asymmetrical demand for self-government. If federalism is used as a conflict management device, constitutional asymmetry can provide the flexibility to provide the greatest degree of self-government in areas where it is most demanded, without creating jurisdictional and fiscal decentralization across the federation as a whole.

Federal designs provide for some form of bicameralism, but bicameralism differs widely in terms of the strength of the second chamber, the overrepresentation of the constituent units and the method of sub-unit representation in federal decision-making. When the upper chamber represents the subnational governments or parliaments, as in Germany, Austria, or South Africa, the institutional interests of the subnational unit are directly represented in federal decision-making, creating a “structural safeguard” of state interests (see Riker 1955; Kramer 2000: 223–5). In contrast, when the federal chamber is composed of directly elected members from the federated units, as in the case in the United States, Australia, or Switzerland, the elected representatives may represent local interests without representing the state institutional interests.

These institutional parameters are embedded within a broader set of institutions that can affect party competition and the strength of parties. Presidentialism concentrates executive power in a single office, creating strong incentives for candidates across the state to coordinate and aggregate under a single-party banner, forming nationalized party systems (Cox 1997; Chhibber

and Kollman 2004). Majoritarian electoral rules usually, but not always, discourage territorial concentration as a strategy because they tend to produce majority governments. For parties with the option to do so, a more viable path to power is to aggregate to form a single party. Districting and the timing of elections can also be important. Congruent districting at the federal and subnational levels can facilitate vertically integrated party organizations; staggered elections may encourage barometer or second-order effects. Methods of candidate selection in parties can impact federal party systems by creating incentives for strong and disciplined parties. Candidate-centered selection processes, such as primaries or constituency-based selection without central party oversight can produce candidates whose loyalties lie with the local party base that selected them, while party-controlled selection techniques, such as party lists can produce candidates loyal to the broader party—and particularly to the level that possesses veto power in the selection process.

The federal institutional environment shapes the strategic decisions, incentives, opportunities of voters and parties alongside a backdrop of contextual factors that play a role in the development of party competition. Some of these, such as the social cleavage basis, historical paths of party and nation formation, influence party system developments over the long run and others, such as crises, mobilizing events, or leadership effects, may have a more sudden impact on party competition. In the other direction, parties may enact institutional changes. Parties in federal government may enact centralizing reforms that constrain the policy and fiscal autonomy of states. Regional or state parties are often a strong force mobilizing for further fiscal and policy decentralization. Parties can also pursue electoral reforms that have significant impacts on party systems.

11.4.1 *How Decentralization Affects Party Competition*

By expanding subnational governments' sphere of action, decentralization can increase the potential for variation in the way issues are mobilized and political conflict is organized across units of the federation. This allows parties greater power to shape the agenda and respond to local concerns. Such variation in mobilization may eventually produce distinct conflict dimensions that in time become institutionalized in party systems.

It is not novel to argue that decentralized federations allow policy variations across federal units to reflect underlying federal diversity. One of the rationales for federalism, after all, is to allow for responsiveness to underlying social cleavages, especially in multinational federations where such diversity can be deeply entrenched and potentially destabilizing. In contrast, this argument emphasizes the possibility that processes of differential mobilization facilitated by decentralization can, over time, *generate* diversity (see Thorlakson

2007). While the initial endowment of social diversity is important, it is not deterministic. Issues can be translated, expanded, or contained through political handling (Schattschneider 1960; Sartori 1990), the practice of which will vary from one jurisdiction to the next.

Issues emerge and are framed differently across units of the federation, with greater potential for variation when the federation is more decentralized. The literatures on agenda-setting and political-opportunity structure suggest that differences in the macro-political context—the conflict dimensions and the relative strength of parties and lobby groups—can have an important impact on the way agendas are shaped, and can allow for the swift mobilization of issues. Multiple jurisdictions provide an opportunity for venue selection, and multiple pathways for agenda shaping (Baumgartner and Jones 1993).

Some causal complexity enters the picture here: issues can be mobilized differently across units of the federation because of underlying differences in patterns of conflict and opposition. They can also lead to the development of new patterns of conflict and opposition, when the mobilization of issues coincides with a subnational election, leading perhaps to the electoral collapse of an old party and emergence of a new one. Differential mobilization can have implications for linking. As the strategic and ideational environments become increasingly divergent, it can lead to strains in intra-party relationships across levels and create pressure for party splits or greater subnational party autonomy.

Decentralization can also have an impact on the links that characterize federal representation by shaping the reward structure for parties. As the subnational government controls greater fiscal and jurisdictional resources, it becomes a more powerful and important site of competition in the eyes of parties, voters, and lobbyists. This enhances the rewards of targeting the subnational arena and for successful competition for subnational office. These insights can be found in the literature on social mobilization and political movements, which argues that the decentralization of the state can affect the choice of location of lobbyists and parties because these political actors target the site of power (Tarrow 2011: 175). The literature on second-order elections also starts from the assumption that voters and parties are oriented toward the most important electoral arena in a multi-level setting (Reif and Schmitt 1980; van der Eijk and Franklin 1996).

Decentralization can also affect horizontal links in party systems through its impact on the nationalization of parties and the party system. As an elite-shaped process, party system nationalization responds to the incentive of the centralization of authority. Centralization increases the prize of capturing national executive office and this requires linking constituencies through a nationalized party organization and nominations. Conversely, decentralization has been argued to inhibit the formation of nationalized party systems

because it allows localized competition and state-party organizations to flourish, yielding a regionalized party system (Chhibber and Kollman 2004: 21).

11.4.2 *Impacts of Interdependence in Jurisdictional Allocation*

Jurisdictional interdependence, which occurs when the federal constitution assigns authority in a manner jointly exercised by the subnational and federal levels (through a functional allocation of power) can create requirements for vertical coordination. Effective policy-making requires that parties in federal government coordinate with subnational governments. In this setting, policy-making requires a high degree of intergovernmental cooperation and there is a greater incentive for parties to maintain integrative linkages as an internal party mechanism to facilitate policy coordination.

Polity-wide parties are able to reduce their costs if they use vertically integrated party structures to facilitate such coordination. A functional allocation of power can also limit the potential for differential mobilization by subnational parties, as the need for policy coordination constrained autonomous policy space. By contrast, governments in dual federations are more likely to operate with a higher degree of autonomy. When little coordination with the federal government is required, the state governments can build a distinctive and independent profile in their areas of jurisdiction and are reflected as doing so in media coverage.

Interdependence can affect the clarity of responsibility and the resulting propensity of voters to perceive state and federal levels of government as being either separate and distinct entities or a single interlocked system. A functional allocation of power, in which both governments are active in the same policy fields, creates a high degree of coordination and cooperation between levels of government, making it difficult for voters to assign policy blame or credit to a single level of government. This environment rewards integrated party strategies where a single party identity can prevail.

11.4.3 *Institutional Interactions and the Dynamics of Change*

Federal institutional design may gradually shape elements of party competition, but elements of party and party system linking—which can be considered to be sets of secondary institutions—can also reinforce each other. The degree of vertical integration of a party has the potential to affect other aspects of political linkage in multi-level systems. It can affect the similarity and coherence of the message that the party projects to voters. It stands to reason that parties are better able to develop and project a consistent public image and policy package across jurisdictions when they are organizationally unified than if they are loosely organized collections of highly autonomous

and fractious units. In turn, the strategic activities of parties—the logos and campaign slogans they adopt, the way they frame and position their party and policies, and either distance themselves from or associate themselves with the federal party—can affect whether voters tend to identify the state and federal parties as a common political force, or as distinct, and even antipathetic organizations. Vertically integrated party organizations can facilitate the formation and maintenance of a common partisanship across both levels of government. This, in turn, can reinforce a tendency for voters to make state-level vote choices based on assessments of federal party performance.

Party system nationalization may be facilitated by the presence of similar state party systems (Jones and Mainwaring 2003: 159; Chhibber and Kollman 2004: 4). Party system congruence can also facilitate electoral links between the federal and state arenas by presenting voters with similar choices in state and federal elections. The presence of structurally incongruent party systems, by contrast, may introduce different strategic possibilities for the voter at state and federal elections. This section has sketched out some possible forms of interaction between institutions of party competition. There is much further work that needs to be done here to map out the forms and processes of interactions systematically: the importance of sequencing and intensity of their impact.

In general terms, the processes by which federal institutional design affects federal representation are shaped by different temporal dynamics. The development of nationalized politics is typically understood as a gradual—and sometimes uneven—developmental process associated with state and nation formation, democratization, and the development of a shared political community, facilitated by a shared communication network and institutionalized through the formation of party organizations (Deutsch 1953; Lipset and Rokkan 1967; Caramani 2004). Explanations of nationalization tend to focus on long-term social forces, as well as the effect of the incentives provided by federal institutional design that play out in the medium to long-term (Chhibber and Kollman 2004), or else explain the vulnerability of a system to rapid change that occurs when underlying vulnerability coincides with rapid change due to crisis, mobilizing events, party organizational change, or party failure. Territorial concentration of party systems can suddenly sharply increase through electoral volatility, with the breakthrough of new parties and the breakdown of existing parties, such as the linguistic split of Belgian parties in the early 1970s, the territorial concentration of Canadian federal party support following the 1993 election, or the demise of the Congress party and rise of state-based parties in India through the 1990s.

Differential mobilization, the process through which distinct or dissimilar patterns of party competition can develop across units and levels of the federation, can also follow different temporal trajectories. Uneven “endowments” of

distinct social, ethno-linguistic cleavages, or economic or resource allocations and institutional designs that facilitate autonomous issue mobilization can facilitate constant gradual pressure for differential mobilization of issues. In contrast, the appearance of mobilizing events or the presence of a political entrepreneur to effect change may be episodic, sudden, and difficult to predict.

Dynamics of differential mobilization may be self-reinforcing. Differential mobilization can translate into party system differences as issues are mobilized differently in some units of the federation, generating new and different policy regimes, and shaping the lines of conflict and opposition in party competition, or perhaps leading to the emergence of a new party. These new policy regimes and patterns of opposition can create self-reinforcing properties: policies, patterns of competition, and party system structures are all forms of secondary institutions that constrain the format and substance of future party competition, and affect how issues are mobilized and framed (Lipset and Rokkan 1990; Pierson 2004: 150). These developments can institutionalize and reinforce processes of differential mobilization.

11.5 Conclusion

Federalism and party systems act together to structure conflict in the federal state. We cannot draw conclusions about the performance or impact of federalism from its institutional design alone. Its performance, and particularly whether it delivers enhanced representation, efficiency, and stability, depends upon the nature of party competition. Party competition can cross-cut territorial divisions through forms of horizontal and vertical coordination between and within parties, thus attenuating potential lines of territorial conflict. When such coordination is weak, as we find in territorially concentrated party systems, party competition can reinforce or intensify territorial conflict.

While parties and party system outcomes are influenced by their histories, by the social cleavages basis of society, and the heterogeneity of a federation, they are not captive to these forces. Parties are shaped by choice and strategy, and they, along with voters, respond to the incentive structure around them. These can be shaped by the institutional design of federalism, which over time can exert pressure for party system change through pressure for stronger or weaker vertical integration in parties, through strong incentives for parties to coordinate horizontally to create national party systems, or through the creation of both opportunities and incentives for parties to pursue local policies and preferences, and mobilize issues in subnational jurisdictions in a manner that is transformational and contributes to the creation of distinct political communities in separate jurisdictions. Some elements of party competition in

multi-level contexts can facilitate the development or maintenance of other aspects: vertically integrated parties can obscure clarity of responsibility and encourage vertical links in voter behavior and make strong party system incongruence less likely. Party system congruence may increase the odds of creating and maintaining nationalized party systems. This chapter has made some preliminary observations on the interactions that can shape the development of federal representation, and the temporal trajectories that such development can take. There is much more work to be done to map out these interactions.

If federal party systems can be designed, to some extent, is there an ideal form of a party system for a federation? The answer to this question depends on the case-specific vulnerabilities of the federation. The presence of a divided society and mobilized nationalist movements in federal subunits can create centrifugal pressures that put federal stability at risk. Elsewhere, centralization pressures may threaten the federal balance. The ideal party system is one that can counter-balance these threats. While mobilized substate nationalism is likely to find expression in regional parties, and so lead to a party system that is at least partially territorially concentrated, balancing this with forms of party organization and party competition that contribute to the development of horizontal and vertical coordination could mitigate the risks of instability. An institutional design that accommodated regional interests through decentralization yet produced elements of interdependence through jurisdictional allocation or bicameral design might achieve this.

An ideal party system also depends on what normative outcome of federalism is most highly prized. Federalism requires trade-offs. Achieving stability through the facilitation of strong integrative party and party system forces may require sacrificing on the quality of enhanced subnational representation or efficiency, as horizontal and vertical coordination requires parties to trade off pursuit of their local interests for the sake of broader party success, and as the development of an integrated political community makes subnational elections less reliable indicators of the electorate's assessments of subnational policy performance. Institutional rules can shape the development of integrated or separate spheres of competition in a federal state, but only politics can tell us what degree of integration is desirable in a political system.

References

- Anderson, Christopher J. and Ward, Daniel S. (1996), "Barometer elections in comparative perspective," *Electoral Studies* 15 (4), 447–60.
- Anderson, Christopher J. and Wlezien, Christopher (1997), "The economics of politics in comparative perspective revisited: An introduction," *Political Behavior* 19 (1), 1–5.

- Baumgartner, Frank and Bryan, Jones (1993), *Agendas and Instability in American Politics* (Chicago: University of Chicago Press).
- Benz, Arthur (1987), "Regionalization and decentralization," in Herman Bakvis and William Chandler (eds.), *Federalism and the Role of the State* (London: University of Toronto Press), 127–46.
- Blake, Donald (1982), "The consistency of inconsistency: Party identification in federal and provincial politics," *Canadian Journal of Political Science* 15 (4): 691–710.
- (1985), *Two Political Worlds: Parties and Voting in British Columbia* (Vancouver: University of British Columbia Press).
- Bolleyer, Nicole and Thorlakson, Lori (2008), "Beyond decentralization: Conceptualizing and measuring the interlocked state," Paper prepared for the meeting of the Midwest Political Science Association, Chicago.
- Brancati, Dawn (2008), "The origins and strength of regional parties," *British Journal of Political Science* 38 (1), 135–59.
- Calvert, Randell L. and Ferejohn, John A. (1983), "Coattail voting in recent presidential elections," *American Political Science Review* 77 (2), 407–19.
- Caramani, Daniele (1996), "The nationalisation of electoral politics: A conceptual reconstruction and a review of the literature," *West European Politics* 19, 205–24.
- (2004). *The Nationalization of Politics: The Formation of National Electorates and Party Systems in Western Europe* (Cambridge: Cambridge University Press).
- Chhibber, Pradeep and Kollman, Ken (2004), *The Formation of National Party Systems: Federalism and Party Competition in Canada, Great Britain, India and the United States* (Princeton: Princeton University Press).
- Claggett, William, Flanigan, William, and Zingale, Nancy (1984), "Nationalization of the American electorate," *American Political Science Review* 78, 77–91.
- Cox, Gary (1997), *Making Votes Count: Strategic Coordination in the World's Electoral Systems* (New York: Cambridge University Press).
- (1999), "Electoral rules and electoral coordination," *Annual Review of Political Science* 2, 145–61.
- Däubler, Thomas and Debus, Marc (2009), "Government formation and policy formulation in the German states," *Regional and Federal Studies* 19 (1), 73–95.
- Deschouwer, Kris (2009), "Coalition formation and congruence in a multi-layered setting: Belgium 1995–2008," *Regional and Federal Studies* 19 (1), 13–35.
- Deutsch, Karl (1953), *Nationalism and Social Communication: An Inquiry into the Foundations of Nationality* (Cambridge, MA: The MIT Press).
- Downs, William (1998), *Coalition Government, Subnational Style: Multiparty politics in Europe's Regional Parliaments* (Columbus: Ohio State University Press).
- Dyck, Rand (1991), "Links between federal and provincial parties and party systems," in Herman Bakvis (ed.), *Representation, Integration and Political Parties in Canada* (Toronto: Dundurn Press), 129–78.
- Fabre, Elodie (2011), "Measuring party organization: The vertical dimension of the multi-level organization of state-wide parties in Spain and the UK," *Party Politics* 17 (3), 343–63.

- Filippov, Mikhail, Ordeshook, Peter, and Shvetsova, Olga (2004), *Designing Federalism: A Theory of Self-Sustainable Federal Institutions* (Cambridge: Cambridge University Press).
- Horowitz, Donald (1985), *Ethnic Groups in Conflict* (London: University of California Press).
- Huckshorn, Robert, Gibson, James, Cotter, Cornelius, and Bibby, John (1986), "Party integration and party organizational strength," *The Journal of Politics* 48, 976–91.
- Jones, Mark R. and Mainwaring, Scott (2003), "The nationalization of parties and party systems: An empirical measure and an application to the Americas," *Party Politics* 9 (2), 139–66.
- Kedar, Orit (2006), "How voters work around institutions: Policy balancing in staggered elections," *Electoral Studies* 25 (3), 509–27.
- Kramer, Larry (2000), "Putting the politics back into the political safeguards of federalism," *Columbia Law Review* 100, 215–93.
- Lane, Jan-Erik and Errson, Svante (2005), "The riddle of federalism: Does federalism impact on democracy?" *Democratization* 12 (2), 163–82.
- Lipset, Seymour Martin and Rokkan, Stein (1990 [1967]), "Cleavage structures, party systems and voter alignments," in Peter Mair (ed.), *The West European Party System* (Oxford: Oxford University Press), 91–111.
- Lipset, Seymour M. and Rokkan, Stein (1967), "Cleavage structures, party systems and voter alignments: an introduction", in Seymour M. Lipset and Stein Rokkan (eds.), *Party Systems and Voter Alignments* (New York: Free Press), 1–64.
- Lohmann, Susanne, Brady, David, and Rivers, Douglas (1997), "Party identification, retrospective voting and moderating elections in a federal system: West Germany, 1961–1989," *Comparative Political Studies* 30 (August), 420–49.
- Marsh, Michael (1998), "Testing the second-order model after four European elections," *British Journal of Political Science* 28, 591–607.
- McGarry, John and O'Leary, Brendan (1993), "Introduction: The macro-political regulation of ethnic conflict," in John McGarry and Brendan O'Leary (eds.), *The Politics of Ethnic Conflict* (London: Routledge), 1–40.
- Miller, Warren E. (1955), "Presidential coattails: A study in political myth and mythology," *Public Opinion Quarterly* 19 (4), 353–68.
- Pierson, Paul (2004), *Politics in Time* (Princeton: Princeton University Press).
- Reif, Karlheinz and Schmitt, Hermann (1980), "Nine second-order national elections: A conceptual framework for the analysis of European election results," *European Journal of Political Research* 8 (1), 3–45.
- Riker, William H. (1955), "The Senate and American federalism," *American Political Science Review* 49 (2), 452–69.
- (1964), *Federalism: Origin, Operation, Significance* (Boston: Little, Brown and Company).
- Rodden, Jonathan (2004), "Comparative federalism and decentralization: On meaning and measurement," *Comparative Politics* 36 (4), 481–501.
- Rodden, Jonathan and Wibbels, Erik (2011), "Dual accountability and the nationalization of party competition: Evidence from four federations," *Party Politics* 17 (5), 629–53.

- Samuels, David (2003), *Ambition, Federalism and Legislative Politics in Brazil* (Cambridge: Cambridge University Press).
- Sartori, Giovanni (1990 [1968]), "The sociology of parties: a critical review," in Peter Mair (ed.), *The West European Party System* (Oxford: Oxford University Press), 150–82. Reprinted from Otto Stammer (ed.), *Party Systems, Party Organisations and the Politics of New Masses* (Berlin: Institution for Political Science, Free University at Berlin), 1–25.
- Scharpf, Fritz (1995), "Federal arrangements and multi-party systems," *Australian Journal of Political Science* 30, 27–39.
- Schattschneider, Elmaer E. (1960), *The Semisovereign People: A Realist's View of Democracy in America* (Chicago: Holt, Rinehart and Winston).
- Smiley, Donald (1987), *The Federal Condition in Canada* (Toronto: McGraw-Hill Ryerson).
- Stefuriuc, Irina (2009), "Explaining government formation in multi-level settings: Coalition theory revisited—Evidence from the Spanish case," *Regional and Federal Studies* 19 (1), 97–116.
- Stein, Michael B. (1968), "Federal political systems and federal societies," *World Politics* 20 (4), 721–47.
- Stepan, Alfred (2004), "Toward a new comparative politics of federalism, multinationalism, and democracy," in Edward Gibson (ed.), *Federalism and Democracy in Latin America* (Baltimore and London: Johns Hopkins University Press), 29–84.
- Tarrow, Sidney (2011), *Power in Movement: Social Movements and Contentious Politics*. 3rd edition (New York: Cambridge University Press).
- Thorlakson, Lori (2007), "An institutional explanation of party system congruence: Evidence from six federations," *European Journal of Political Research* 46 (1), 69–95.
- (2009), "Patterns of party integration, influence and autonomy in seven federations," *Party Politics* 15 (2), 157–77.
- (2011), "Measuring vertical integration in parties with multi-level systems data," *Party Politics, Online First*, July 29, 2011, doi 10.1177/1354068811411024.
- Treisman, Daniel (2007), *The Architecture of Government: Rethinking Political Decentralization* (Cambridge: Cambridge University Press).
- van der Eijk, Cees and Franklin, Mark (1996), *Choosing Europe? The European Electorate and National Politics in the Face of Union* (Ann Arbor: University of Michigan Press)
- and Marsh, Michael (1996), "What voters teach us about Europe-wide elections: What Europe-wide elections teach us about voters," *Electoral Studies* 15 (2), 149–66.
- Watts, Ronald L. (1999), *Comparing Federal Systems* (Montreal: Mc Gill-Queen's University Press).

12

Mainstream parties and territorial dynamics in the UK, Spain, and India

Wilfried Swenden and Simon Toubeau

12.1 Introduction

This chapter analyzes the role of mainstream parties in the process of authority migration in three multinational states: the UK, Spain, and India. We define mainstream parties as parties that represent one of the major ideologies of the state and that seek to gain polity-wide representation in elections across all levels of the state (federal or central, regional, municipal, etc.).¹ Gerber and Kollman (2004: 397) define authority migration, our dependent variable, as the “movement of power within a political system—both upwards (that is, centralization) and downwards (that is, decentralization).” (De)centralization can be the outcome of processes of explicit and formal (*de jure*) territorial reform that shift power from one level to another or changes in how existing powers are exercised in practice (*de facto*), or both.

In this chapter we are primarily concerned with decentralization because we want to study how mainstream parties accommodate the demands of regionalist parties for safeguarding regional interests, for greater territorial autonomy, or for the independence of a particular region.² However, we are aware that mainstream parties also wish to strengthen the center; for instance, in order to fight wars or an economic crisis, to maintain national cultural and

¹ These parties are also referred to in the literature as polity-wide (Stepan, Linz, and Yadav 2011) or statewide parties (Hopkin and Van Houten 2009; Swenden and Maddens 2009, see also Thorlakson, Chapter 11, this volume)

² Sometimes these parties are also referred to as ethno-regionalist (De Winter and Türsan 1998) or stateless nationalist and regionalist (Hepburn 2009). Unlike mainstream parties, they have a limited territorial reach (confined to one or at the most a few regions of the state) although they usually file candidates in polity-wide and regional elections.

economic unity, to harmonize public services and undertake resource redistribution, and to defend the equal rights of citizens of the state.

Parties play a key role in driving authority migration, because they channel social preferences into concrete political actions. Mainstream parties speak to *each* of the four dimensions of federal dynamics that were highlighted in the introduction.

First, they must respond to societal changes—or as Benz and Broschek (see Chapter 1, this volume) put it, to “a gradual reconfiguration of territorially defined cultural, linguistic, religious, or economic cleavages underlying the political order”—because a failure to do so could trigger their electoral decline. In multinational states, the recognition of such social changes often follows from the rise of partisan challengers that mobilize electorates on the basis of distinct social cleavages and compete for mainstream parties’ share of the electorate. Second, the willingness and ability of mainstream parties to tackle these challengers by adjusting their territorial policy, will be conditioned by their *ideology* or, to put it differently, by a set of values, norms, and ideas that guide their political action and by their interpretative framework for analyzing the social and political environment around them (Freeden 1998). Third, mainstream parties play a key role in translating such ideas into substantive policies that changes the territorial distribution of authority. As the dominant actors in national party systems and central governments, they constitute the *constellation of actors* that design and execute reforms which decentralize power through the granting of autonomy and/or the allocation of resources, on a symmetrical or asymmetrical basis, either through a constitutional territorial reform or a change in practice. Fourth, as a result of their actions, mainstream parties affect the *constitutional and institutional setting* within which the dynamics of authority migration unfold.

The aim of this chapter is to investigate under what conditions mainstream parties accommodate regionalist parties’ demands and decentralize authority. The premise is that mainstream parties will maintain the institutional status quo, unless they are faced with strategic incentives for responding to the pressures of regionalist parties. However, even when faced with such incentives, mainstream parties will only accommodate regionalist demands if decentralization is a vote-maximizing strategy that is in tune with their own ideology and organization. There are two key *mechanisms* relating regionalist parties’ demands to changes in the territorial distribution of authority. The first assumes “congruence” between a mainstream party’s decentralist policy and the openness to decentralization manifested in its ideological profile and organizational structures. The second assumes a causal nexus between organization and ideology which

together enable the party to adopt a decentralist policy. Without these conditions, mainstream parties will select to decentralize power in practice (rather than formally) or to resist decentralization.

In analyzing why, when, and how mainstream parties opt for a decentralizing strategy we consider the trajectory of three parties in the UK, Spain, and India. We selected these countries because each has gone through a process of decentralization in which the center has ceded control in some areas to the devolved governments (Scotland, Wales, Northern Ireland), Autonomous Communities (AC) (Spain), or the states, and Union Territories (India). Second, each country is a multinational state in which, regionalist parties have challenged mainstream parties and raised demands for more autonomy, and in some cases, secession from the state. Third, these countries are parliamentary democracies, which makes the presence of disciplined, cohesive, and institutionalized party organizations necessary.³

Within these polities, we selected the Labour Party, the *Partido Socialista Obrero Español* (PSOE), and the Indian National Congress (INC, or simply, Congress) for comparative analysis. These parties have headed several central governments in the past four to five decades and have played a key role in accommodating regionalist party demands and shaping the territorial structure of the state. Yet as parties of the center-left, they have also placed strong emphasis on interpersonal and inter-territorial solidarity and equality, which are achieved through centralized means of economic planning and resource redistribution. Their ideology thus features values, principles, and traditions that are not always favorable to autonomy. This chapter seeks to explain this paradoxical stance by examining the conditions under which their decentralist ideas predominate.

The chapter is structured in three parts. In the first part, we provide a theoretical framework for explaining why and how mainstream parties introduce decentralizing reforms. Next, we bring together the empirical evidence of our case-studies by dividing them into two types of outcomes: *accommodation through decentralist reforms* (in form or practice) and *resistance to change* (status quo or centralization in form or practice). The purpose is to look at whether the pressures of regionalist parties are associated with decentralization or not, to look at specific constellations of factors responsible for each type of outcome, and to identify the convergent or divergent pathways to decentralization. In the final part we summarize the key argument and findings and suggest avenues for further research.

³ These countries are highly different in size, historical trajectory, and level of economic development, but opting for a most different systems design, we can exclude a number of the macro-structural variables that influence the migration of authority, enhancing the ability of our key arguments to be generalized.

12.2 Theoretical Framework: Why do Mainstream Parties Decentralize?

Our starting assumption is that mainstream parties endorse decentralist reforms to safeguard their position as key political actors in the multi-level polity. In other words, if mainstream parties did *not* feel threatened in their electoral position or in their capacity to capture national and regional office, they would not adjust their territorial policy in a more decentralist direction. The main drivers underlying any departure from this default position are the capacity of regionalist parties to set the political agenda.

12.2.1 *The Source of Decentralization*

The distant *source* of decentralization is the set of societal changes that transform center–periphery relations and increase the salience of the territorial cleavage, such as growing disparities in wealth between the regions, a reversal of economic fortunes between regions, an imbalance between economic and political power, discrimination against particular groups, or patterns of migration that upset the balance between different ethnic or national groups within the state (Rokkan et al. 1999).

The societal changes give rise to regionalist parties which compete in a geographically delimited area, mobilize electoral support on the basis of a territorial identity, and campaign on platforms that seek the defence of regional interests and/or greater autonomy within the state, sometimes up to the point of demanding independence.⁴ The advancement of these objectives depends on the capacity of regionalist parties to set the political agenda and to persuade governments to acknowledge and consider their demands (Toubeau 2011). This usually follows from a reconfiguration of the partisan distribution of power that stems from their ability to wield blackmail or coalition potential (Sartori 1976) at different levels of government. In sum, pressures of regionalist parties are the key proximate *source* of change that forces mainstream parties into adapting a clear territorial strategy.

12.2.2 *The Mechanism of Decentralization*

How does the pressure exerted by regionalist parties translate into the decentralization of authority? What are the different steps in the process through which this occurs? We argue that there are three key steps linking regionalist

⁴ The defense of regionalist interests may entail an “output” type of concession, through the allocation of greater resources (or “pork”) to a region without ceding legal or political control over the decision where, when, and how to allocate these resources.

pressures to decentralization which allows mainstream parties to respond credibly to strategic incentives and undertake territorial reforms.

12.2.2.1 STRATEGIC INCENTIVES

In the first step, there must be powerful *strategic incentives* for mainstream parties to respond to regionalist demands, associated with their vote- and office-seeking goals (Strom 1990; Müller and Strom 1999). Mainstream parties which face growing *electoral* competition from regionalist parties in regional and national elections have the incentive to address some of their demands in order to undermine the latter's ownership of the territorial issues, to persuade voters to switch allegiance, and to recoup electoral losses. Following Meguid (2005, 2008), we argue that mainstream parties under pressure are likely to adopt an accommodative (pro-decentralization), rather than an adversarial or dismissive (pro-centralization) strategy. This holds *unless* they see the regionalist parties as a more direct threat to their mainstream rival, in which case they may prefer to play the centralist card in order to increase the salience of the issue in the election and undermine the strategic readjustment of their mainstream competitor(s).

Mainstream party strategies are also linked to their desire to control office both at the central and regional level. Therefore, mainstream parties will be compelled to accommodate regionalist demands if they cannot *hold office* without the legislative support or government participation of regionalist parties, whether in central or regional government. Finally, whether the mainstream party is in *government or opposition* affects its attitude toward decentralization. During prolonged periods of regional incumbency (but central opposition), a party may become more supportive of decentralization, whereas the opposite is true for a mainstream party which faces stronger prospects for governing at the central level (O'Neill 2003).

12.2.2.2 IDEOLOGICAL AND ORGANIZATIONAL CONSTRAINTS

While a significant external pressure may be a necessary condition for the mainstream party to endorse decentralist reforms, it may not be a sufficient condition. Most vote- and office-seeking assumptions see party strategies as resulting primarily from short-term cost-benefit calculations. Yet parties may *not* opt for a strategy that generates an optimal pay-off, if they are constrained in the type of response they can provide by endogenous factors related to their ideological profile and organizational structure.

Thus, in the second step, mainstream parties must display a degree of *ideological and organizational openness* in order to respond to their strategic incentives and adopt an accommodative territorial policy. Ideology constrains a mainstream party's ability to undertake a policy shift by conditioning the "credibility" of its strategy (Downs 1957; Robertson 1976; Meguid 2008); that

is, a programmatic readjustment will only be electorally rewarding if the party exhibits an ideological tradition or existing policy commitment to decentralization which voters could use as a guide for assessing the sincerity of its repositioning (Bowler 1990). A mainstream party with an ideology that has been traditionally averse to territorial accommodation will find it difficult to deploy a decentralist response. A radical adjustment at relatively short notice could undermine its credibility or tarnish what voters and party activists perceive to be the party "brand." Typically, changing the party brand can upset the party rank-and-file and provoke revolt in party conferences or alienate a party's traditional "vote bank" or electorate. But even mainstream parties that credibly endorse decentralization, can only be expected to shift their policy on regional autonomy within reasonable limits and cannot fully meet the demands of regionalist parties, since this would strain the policy stance with which they have been associated. Thus, the openness of a party's ideology on the issue of decentralization is a crucial ingredient in conditioning its *willingness* to accommodate regionalist demands.

The ability of a mainstream party to deploy a credible accommodating strategy is also conditioned by its organizational structures. There are two key *mechanisms* underlying a shift in a mainstream party's territorial policy. In the first, mainstream parties exhibit a degree of "congruence" between their ideology and organization; that is, there is a strong correlation between what they think state structures should look like and their own organization (Swenden and Maddens 2009). Thus a mainstream party endorses decentralization as a strategic policy, as this policy is consistent with its ideological profile and its party's organizational structures. In the second, there is a more direct two-way causal relationship between ideology and organization which interacts to enable the party to undertake a territorial policy shift. From a top-down perspective the central party leadership can adjust the party's organization in a way that allows it to be more responsive to regionalist demands by providing its regional branches with greater self-rule, and by decentralizing responsibility for determining regional party policy.⁵ From a bottom-up perspective, regional branches develop ideas that are favorable to territorial autonomy, and can use the formal and informal channels of influence in the party's organizational structure to shape the central party leadership's thinking on the territorial issue.

⁵ But decentralisation of party organization also bears certain risks. Mainstream parties must strike a balance between an organizational and policy strategy that is sufficiently receptive to territorial peculiarities, yet also sufficiently centralized and coherent to provide a common identity and sense of purpose to party members and voters across the polity as a whole. Empowering regional governments or regional party branches may dilute a party's ideological and programmatic coherence, may duplicate the costs of running campaigns, trigger intra-party rivalries and factionalism, and lead to "agency slack" (Swenden and Maddens 2009; Van Houten 2009). Central party leaders may thus resist such intra-party shifts.

12.2.2.3 GOVERNMENT COHESION

The third step is the capacity of mainstream parties to decentralize political authority. This is shaped by the *cohesion* of the governing party(ies) responsible for enacting decentralization: any disagreement within or between them about the desirability and scope of reforms may lead to their blockage. The two components that determine their cohesion are the number of veto players involved in the decision-making process and the ideological distance between them (Tsebelis 1995, 2002). The number of veto players will be shaped by the decision-rules that stipulate the legislative thresholds required to effect decentralization. This variable is especially important where decentralization requires constitutional reform with super-majorities. Ideological distance is shaped by the relative distance of each veto player's ideal preference point from the status quo; the larger the distance, the smaller the likelihood of territorial reform.

On the other hand, where formal territorial reforms fail, mainstream parties can undertake decentralization through changes in practice. They can do so by distributing central resources in a way that is more reflective of territorial needs or by being more tolerant of regional governments adopting divergent policies. Alternatively, auxiliary institutions such as a supreme court or constitutional court may step into the process as additional institutional veto players that recalibrate center-state relations through non-partisan means.

12.3 Putting the Claims to the Test: Mainstream Parties and Pathways to Decentralization

The purpose of this section is to uncover the conditions under which regionalist parties have compelled mainstream parties to alter the territorial distribution of authority by undertaking a systematic comparative analysis between the different observations, identified in the three countries as critical episodes of change. In order to shed light on the significance of factors that have produced decentralization (either formally or in practice), this section divides the observations into two broad types—*decentralist reforms* and *resistance to change*. The purpose is to look at whether the pressures of regionalist parties are associated with the two types, to view the observations within each type as a configuration of factors that have produced similar outcomes and to identify the convergent or divergent pathways to authority migration.⁶ Exploring

⁶ A detailed descriptive analysis of each case study used to code values on the key variables presented in the tables below is available from the authors upon request. A detailed analytical narrative for the case of Scotland is found in Meguid (2005, 2008), while Toubeau (2010) provides a

patterns of diversity across and within each type, enables us to “transcend generability and complexity” (Ragin 2000: 21), and to arrive at a historically embedded explanation of the phenomenon that can nevertheless offer insights from which generalizations can be made, about certain systemic relationships.⁷

12.3.1 *Decentralist Reforms*

12.3.1.1 REGIONALIST PARTIES SET THE AGENDA

In our three cases, we find strong evidence in support of our claim that mainstream parties deploy accommodating strategies in response to the capacity of assertive regionalist parties to set the political agenda: in the observations listed on the left-hand side of Table 12.1, one of the necessary conditions for decentralization (either formally or in practice) is indeed the capacity of regionalist parties to set the agenda, as this variable was assigned a value of one for all observations under examination.

Evidently, the micro-level variables that shape the agenda-setting capacity of regionalist parties varied according to the context. In the UK, the Scottish National Party (SNP) exerted blackmail relevance from the late 1980s by adopting a center-left platform and by competing directly against the Labour Party, in the context of an imbalanced, polity-wide, two-party system and a growing territorial heterogeneity of electoral support, which increased Labour’s dependence on Scottish seats and heightened its exposure to the threats of the SNP (McAlister and Studlar 1992). The SNP set the agenda once again following the Scottish elections of 2007, by seizing the opportunities offered by the new devolved system. It drained electoral support from the Labour Party and displaced it from regional office, and formed a minority government committed to independence, marking the first time that Labour lost control of its Scottish fief.

During the democratic transition in Spain, the Catalan, and Basque nationalist parties did not exert immediate pressures on the PSOE. However, the presence of nationalist sentiment and a vocal demand for territorial autonomy across socio-economic segments in these two regions certainly affected its strategic incentives (Linz 1981). During the 1990s and early 2000s, the continuous grip

comparative analysis of Great Britain, Spain, and Belgium. The interplay between party politics and dynamics of federalism has not been explored as systematically for the case of India; but overviews are found in Sáez (2002), Singh and Saxena (2008), Bhattacharyya (2010), Sridharan (2010).

⁷ The inferences drawn from these comparisons are based in a causal reasoning grounded in the analysis of necessity and sufficiency. The weakness of this form of reasoning is that it is too deterministic and that it cannot therefore take into account the presence of deviant cases, the impact of random fluctuation and the bias of measurement error (Mahoney 2000). However, it is nevertheless possible to produce probabilistic statements by looking at the frequency at which certain conditions are either necessary or sufficient, Little (1991) refers to these as enhancing or inhibiting conditions.

Table 12.1. Conditions producing decentralizing reforms

Pathway to decentralization	Mainstream party	Agenda-Setting capacity of regionalist parties	Openness of ideology to decentralization	Decentralization of Party organization	Incumbency at the center	Decentralization (in form)	Decentralization (in practice)
I	Labour (87–98)	1	1	1	0	1	1
	PSOE (77–82)	1	1	1	0	1	1
	PSOE (96–04)	1	1	1	0	1	1
II	Congress(47–64)	1	1	1	1	1	1
	PSOE (93–96)	1	1	1	1	1	1
	Lab (03–10)	1	1	1	1	1	1
III	Congress (91–96)	1	1 (in practice)	1 (in practice)	1	0	1
	Congress (04–)	1	1 (in practice)	1 (in practice)	1	0	1

of the (*Convergència i Unió* (CiU)), the Catalan center-right nationalist party in the Catalan government also constituted a source of electoral pressure on the Catalan wing of the PSOE, the *Partit dels Socialistes de Catalunya* (PSC), which faced the incentive to adopt a more explicitly Catalanist profile in order to compete better in regional elections and win regional office. Following the 1993 and 2004 general elections, CiU and the *Esquerra Republicana de Catalunya* (ERC), the left-wing Catalan nationalists exploited the competitiveness of the party system and the advent of a hung national parliament, to extract concessions from the minority PSOE central government during its investiture.

In India, the Tamil parties exercised electoral pressures by displacing Congress from power in Tamil Nadu since 1967, whereas in Punjab, the Akali Dal demanded a more decentralized federation and in the 1970s even paid lip-service to secession from India. Unlike in the UK and Spain, where national party competition resulted in more frequent alternations of power in central office, in India, Congress ruled the center unopposed for most of the time between 1947 and 1989 (except for a brief spell in central opposition between 1978–80). However, the erosion of Congress' support which started at the level of the states, also affected the party's performance at the national level. Hence, since 1989, no central government has been able to govern without the support of regionalist parties either from outside (supporting a minority government) or from within (entering broad-based national coalition governments).

However, although the pressures of regionalist parties encourage the territorial policy shift of mainstream parties, they are not deterministic. A number of factors specific to mainstream parties—their ideological openness to decentralization, the decentralization of their party organization and their position in government and opposition—can either enhance or counteract the incentive to accommodate regionalist parties and will thus determine the decisions of a particular government to decentralize (or not).

12.3.1.2 PARTY IDEOLOGY AND ORGANIZATION AS THE MECHANISMS OF DECENTRALIZATION

Once regionalist parties set the agenda, what conditions are associated with the accommodation of their demands and the decentralization of authority? What emerges from the evidence presented in Table 12.1 is that there are three pathways to decentralization, each of which is structured by a different configuration of factors that condition the willingness of mainstream parties to decentralize authority.

In the first pathway, we observe that authority migration occurred when mainstream parties were in opposition to a centralist Conservative government at the center, were ideologically open to decentralization, and featured

decentralized structures of organization enabling the party leadership to shift the party's policy toward an accommodative stance.

For instance, during the 1980s, the British Labour Party's endorsement of the Constitutional Convention resulted from its opposition to a Conservative government and from the power of the regional branches to articulate its decentralist ideological tradition. The Labour Party accentuated its "Tartan" profile (Geekie and Levy 1989) also in order to compete against its Unionist Conservative rival, which it argued had a weak "mandate" for governing in Scotland. The dynamics underlying the policy shift correspond with the second mechanisms identified in the theoretical framework. Although the Labour Party remained a formally centralized organization, the central party leadership was sensitive to the demands of its Scottish branch for devolution. The Scottish branch had gained an important degree of informal power within the party, partly as a result of its electoral implantation in the Celtic periphery, but mainly because some of its members threatened to defect to the SNP. Adopting this policy was facilitated by the fact that the Labour Party had maintained the commitment to territorial autonomy adopted in the 1970s and that it could rely on the precedent of leading the Scottish National Convention (SNC) in the 1920s (Mitchell 1996: 113–21). In sum, the Labour Party's place in opposition and its decentralist ideology and organization, meant that it was open to setting up the Convention and devolving power to Scotland. This translated into a high degree of cohesion within the party during the decision-making phase and into the relatively swift enactment of the devolution bills once it returned to office in 1997.

A comparable alignment of conditions shaped the PSOE's territorial policy during the democratic transition: a flexible federal constitutional structure complemented by regional Statutes of Autonomy (Blas Guerrero 1978). The PSOE's stance also reflected a long-standing opposition to a conservative, Castilian, and centralist dictatorship; the party needed to endorse decentralization if it was to present itself as a credible political force for democratic change. A similar logic animated its decision to undermine the *Union del Centro Democrático* (UCD) government's attempt to exert control over the "stampede for autonomy," by deploying an accommodating strategy that promoted the rapid development of the State of Autonomies.⁸ We witness once again the operation of the second mechanism in the PSOE's territorial policy shifts. The PSOE was organized as a federation of regional autochthonous socialist parties, visible most notably in the PSC's "federated" relationship,

⁸ The constitution outlined two processes by which different degrees of autonomy. Historical nationalities would follow the "fast route" established in Article 151, and have immediate access to a higher degree of autonomy in the field of competences listed in Article 149. In contrast, ordinary regions would have to follow the "slow" route detailed in Article 143 and wait an additional five years before they could demand competences under 149.

which together exerted a high degree of informal influence on the party leadership's decentralist policy (Gunther, Sani, and Shabad 1986; Gillespie 1989). The party's stance was rendered plausible by its historic support for a federation of "Iberian" nationalities in 1918 and its association with left-wing nationalist parties in the ratification of the Catalan Statute of Autonomy during the Second Republic. By striving to reach a cross-partisan consensus, the PSOE played a critical role—alongside the governing UCD and the Catalan nationalist party—in forging the "State of Autonomies."

Fully fledged constitutional reform took place in Spain only when the PSOE returned to office in 2004 and began executing its new territorial policy, elaborated in the Declaration of Santillana de Mar.⁹ This new territorial policy was aligned with the PSOE's objective of dethroning the *Partido Popular* (PP) by criticizing the latter's centralist instincts, evident in its program of Constitutional "Patriotism," which asserted the absolute nature of the constitution and the sovereignty of the Spanish nation (Nunez-Seixas 2005). Again, we find evidence of the working of the second mechanism in that once the PSC was liberated from the constraints of the PSOE's state-level predominance, it made effective use of its self-rule and chartered a new course in Catalan politics for claiming regional office, by electing a new leader, accentuating its Catalanist credentials, and putting forth a project for constitutional reform (Roller and Van Houten 2003). The PSC was also able to exert influence on the policy of the PSOE federal executive, following formal organizational reforms that institutionalized territorial interests within the party and allowed the most pro-federal regional presidents to exert influence on the renewal of the party leadership and to secure a commitment to constitutional reform (Mendez-Lago 2000). The PSOE's stance eventually led to the renegotiation of the States of Autonomies, through the statutory reform of a half-dozen ACs.

12.3.1.3 THE LIMITED EFFECT OF INCUMBENCY

The intervening variable that has the greatest ambiguous effect on authority migration is incumbency at the center, since a place in both opposition and government is associated with decentralization (see p. 257). Indeed, the evidence presented in Table 12.1 suggests that policy adjustments may take place when a party holds central government, and that this is more often the case than not. Looking at observations in the second pathway (II in Table 12.1), we see that incumbency is not so significant as to preclude accommodation, if the

⁹ This included the reform of the Statutes of Autonomy, the participation of Autonomous Communities (AC) in the European Union (EU), a Conference of Presidents and the reform of the Senate. The party recognized the pluralism of national identities in Spain, but also insisted on equal citizenship rights.

party in office is in favor of decentralization, in its ideology and internal organization.

For instance, in India, although Congress was in central office uninterruptedly between 1947 and 1978, the rise of regionalist parties, combined with hunger strikes and mass mobilization, led it to embrace an important constitutional remapping of the federal units between 1956 and 1966 (Brass 1994; Adeney and Wyatt 2010). Exemplifying the second mechanism of decentralization, powerful state party leaders, such as Madras party leader Kamaraj, successfully lobbied Jawaharal Nehru, prime minister for all, and party president for some of this period, to embrace a remapping of Indian federalism by sanctioning linguistically homogeneous states. Between 1947 and 1964 Congress had a rather centralized format in which there was no guaranteed representation of state party leaders in the central party executive and the process of selecting candidates for regional office was closely monitored by the central party office (Kochanek 1968). Yet party positions were fiercely contested and Nehru not only consulted widely with state party leaders but also exercised restraint in intervening in Congressional state politics. By the 1960s, state party leaders had amassed greater informal power within the party and played a key role in the so-called Syndicate, an influential party faction. The party was said to operate as a Congress System (Kothari 1964) in which it could successfully absorb the demands of parties of pressure (not always, but often, regionalist parties like the Tamil DMK or the Punjabi Akali Dal) and balance intra-party factional interests. As a result, the Congress leadership gave up its ideological resistance to linguistic federalism and implemented a constitutional reform to that effect.

In Great Britain, the Labour Party's capacity to adjust its territorial policy in response to the threat of Plaid Cymru (Welsh nationalists) and the SNP was enabled by the way in which its commitment to the status quo was relaxed as a result of the gradual decentralization of party structures, once again illustrating the key mechanism underlying territorial policy shifts. Initially, the Labour Party maintained a highly centralized organization, in particular over matters such as candidate selection, party financing, and regional manifesto drafting, reflecting the continued importance of general elections and the small size of Scotland and Wales relative to England (Hopkin and Bradbury 2006; Swenden 2006). Thereafter, the Labour Party executive gradually eased its grip over the running of the regional branches. In Wales, the election of Rhodri Morgan signaled a new territorial policy centered on the acquisition of enhanced legislative powers. In Scotland, the Scottish Labour Party adopted a distinct stance on the constitutional issue after its defeat to the SNP in 2007, by proposing enhanced powers as an intermediate option between the status quo and independence, and by calling for the establishment of a commission to review the existing constitutional arrangement, in

particular in matters of territorial finance. Thus, the mechanism underlying the Labour Party's policy adjustment on the territorial issue was comparable to that found when it was in opposition: a decentralization of party structure strengthened the decentralist ideological tradition and facilitated a shift in territorial policy.

Similarly in Spain, when the PSOE's softened its centralist stance in 1993, in response to the CiU bargaining power and demand for greater financial resources, the party's policy shift was facilitated by informal changes in its internal power structure. The PSOE's occupation of office and its competition against the centralist PP in opposition effectively removed the territorial issue from mainstream electoral politics. But the PSOE leadership revived an existing but inactive policy on financial arrangements for the common regime AC that enhanced the fiscal responsibility and electoral accountability of regional governments. The space for this policy to re-emerge was created by the replacement of the centralist Alfonso Guerra with the decentralist *Catalan Narcis Serra* (PSC) as vice-president of the cabinet, by the eclipsing of the centralist *Guerrista* faction within the party organization, and the increasing assertiveness of the regional "barons" who had forged an alliance with the *Renovadores*, the liberal wing of the PSOE that took charge of the party's economic program (Puhle 2001). These informal changes in internal power structures enabled the gradual revival of the federalist tradition within the party and eased the granting of concessions to regionalist parties.¹⁰

12.3.1.4 THIRD PATHWAY: DECENTRALIZATION IN PRACTICE WITHOUT PARTY ACCOMMODATION

The Indian case provides a third pathway to decentralization which sets it apart from the other cases. Since 1989, a change in federal practice has occurred as a result of a change in the party's ideology and organizational practices. By the 1990s the Indian party system had become much more fragmented and Congress experienced much stronger competition from state-based parties; for instance, the Teluga Desam Party in Andhra Pradesh, the Assam Gana Parishad (Assam), the Jammu and Kashmir National Conference in Kashmir, in addition to the aforementioned Akali Dal in Punjab and the Tamil parties (Yadav and Palshikar 2003). Similarly, reflecting its diminished electoral strength, since the late 1990s Congress has learned that in order to lead in central government it must invest in pre-electoral alliances and nurture seat-sharing arrangements with state-based parties; it even

¹⁰ However, as a result of the PSOE being in government, a residual centralism continued to color its autonomic policy, and the party proved loath to honor its commitment, making the cession on income tax a temporary measure in the 1994 budget rather than a permanent feature of the common regime.

adopted a common minimum program for all parties included in the UPA, the Congress-led United Progressive Alliance (Yadav and Palshikar 2009). However, the heterogeneity of these state-based coalition parties prevents a common platform of state demands for constitutional reform and many of their grievances can be addressed by providing central policy favors or pork, without ceding central control (Guha Thakurta and Raghuraman 2007; Bhattacharyya 2010). Congress agreed to respond to the request of regional coalition partners to set up commissions for probing into the prospect of constitutional territorial reform, such as the Punchhi Commission (2010a and 2010b), the report of which has not yet been implemented. Furthermore, in the more fragmented Indian party landscape, Congress faced an emboldened Supreme Court that had become much less tolerant of federal incursions in state politics (Sathe 2008). In sum, the change in the practice (rather than the form) of federalism was congruent with the organizational and ideological openness of the party to decentralization, corresponding with the first causal mechanism identified. The party allowed its state branches more freedom to compete more effectively against the state-based parties (interviews with party officials, Delhi, April 22 and 26, 2011). However, at best, these changes made the central party more cautious in interfering in state (party) politics, compared for instance with the highly interventionist era of the 1970s under Indira Gandhi's leadership. They did not produce a formal shift of power to regional branches. In tandem, the ideological openness to decentralization is the indirect effect of a change in the party's prevailing economic paradigm between 1991 and 1995 from a state-controlled to an increasingly liberalized economy. This led to a different assessment of what the central government should do in planning the economy and opened up more space for inter-state competition. Yet this paradigm shift was not a conscious step to embrace a more decentralist ideology, but rather the side-effect of sanctioning a more liberalized economy (Sinha 2004).

12.3.2 *Resistance to Change*

If the pressures exerted by regionalist parties provide a strong impetus for mainstream parties to shift their territorial policy in a more decentralist direction, they are not however sufficient for determining an accommodative response by mainstream parties. Indeed, the ideological hostility of mainstream parties to decentralization may represent a sufficiently important constraint on their capacity for strategic adaptation that it overwhelms any kind of external pressure. The outcome may be the absence of territorial reform, in theory and/or in practice.

Social Change and Political Structuring

Table 12.2. Conditions producing resistance to change

Mainstream parties	Agenda setting capacity of regionalist parties	Openness of ideology to decentralization	Decentralization of party organization	Incumbency at the center	Decentralization (in form)	Decentralization (in practice)
Labour (74–79)	1	0	0	1	0	0
PSOE (82–93)	1	0	0	1	1	0
Congress (67–77)	1	0	0	1	0	0
Congress (78–80)	1	0	0	0	0	0
Congress (80–89)	1	0	0	1	0	0

12.3.2.1 REGIONALIST PARTIES SET THE AGENDA

The study of episodes in which mainstream parties manifested a resistance to change must begin with an appreciation of the capacity of regionalist parties to set the agenda. The reason for this is primarily methodological: it is worth examining the negative set of cases in order to corroborate the significance of factors that explain outcomes in the positive set of cases (Mahoney and Goertz 2004), but it is only helpful to do so in countries in which there was a strong possibility for the positive outcome to be present (Capoccia and Kelemen 2007); that is, in countries in which there was a strong momentum for reform engendered by the pressures of regionalist parties.

Looking at the observations listed in Table 12.2, we find strong evidence that the capacity of regionalist parties to set the agenda was indeed a necessary but not sufficient condition for prompting decentralization, as this variable was assigned the value of one in the cases associated with the resistance to change. Once again, we find that there are a variety of micro-level variables underlying their agenda-setting power.

In Great Britain the factor that placed devolution on the agenda was the SNP's triumph in the elections of February and October 1974, in which it became the second party of Scotland, with 30 percent of the vote.¹¹ The SNP benefited from its centrist position on the left–right dimension, the weakening of the class cleavage and a sudden dealignment of partisanship to obtain the support of both Labour and Conservative voters. However, the Labour Party was in a more vulnerable position, as the crumbling of the two-party system meant that, after losing the election to the Conservative

¹¹ The PC hovered around 10 percent of the Welsh vote, reflecting the weaker and less diffuse sense of national identity in Wales.

party in England, it was itself in a minority government, depending on its Scottish seats for being in power (Crewe, Särilvik, and Alt 1977; Franklin 1984).

In Spain, CiU and the PNV experienced significant difficulties setting the political agenda at the national level during the 1980s following the advent of a dominant party system in the 1982 election, in which the PSOE registered a triumph across the social segments and territories of Spain and secured an absolute parliamentary majority (Caciagli 1986; Puhle 1986; Linz and Montero 1999). However, both parties were nevertheless “relevant” insofar as they controlled regional government and could use this position to project themselves as the party of their respective nations and to exert pressures on the regional branches of the PSOE, who confronted the choice of adapting to their profile or remaining in opposition at the regional level.

In India, the 1967 general and state elections constituted a watershed for the Congress Party. Its national parliamentary support dropped from 75 to 54 percent but the party also lost control of eight state assemblies, either to a coalition of opposition forces or to regionalist parties (Mehra 2003: 21–48). Leaving aside the first half of the 1970s, the support for state-based parties continued to rise, initially with significant effect in state politics only but by the late 1980s also at the level of the center, depriving Congress of a clear-cut parliamentary majority, and necessitating the formation of broad based multi-party alliances and coalitions (Sáez 2002: 56; Sridharan 2010).

12.3.2.2 PARTY IDEOLOGY AND ORGANIZATION AS BARRIERS TO DECENTRALIZATION

Why would mainstream parties refuse to adapt to the pressures of regionalist parties and undertake territorial reforms? We can see from the evidence presented in Table 12.2, that there is a single pathway that leads to a *resistance to change*. In each country, the demands of regionalist parties were rebuffed by mainstream parties that were more often than not in government, whose ideology was closed to decentralization and which featured correspondingly centralized organizational structures.

In the case of Great Britain, for instance, adopting an accommodating position became the condition for the Labour Party to restore its electoral hegemony in Scotland and to maintain government stability. In addition, the Labour Party also needed to consider its rivalry with the Conservative Party, which had put forth a new “Charter for Scotland” (Mitchell 1990: 67–70), in the hope of capturing the median Scottish voter. In spite of these powerful motivations, the Labour Party remained centralist in its attitude. This was the result of the absence of the second mechanisms identified in the theoretical framework; that is, a productive link between the regional branch and the party leadership regarding the desirability of creating devolved structures of government. The Scottish branch of the party was hostile to devolution, as it

felt that the nationalist advance could be contained by the prevailing system of territorial management.¹² Driven purely by expediency, the central party leadership enjoyed the power necessary to impose a pro-devolution policy on the rest of the party, but this had very little following. The Labour Party had officially abandoned its commitment to devolution since 1958, and this stance had become ingrained in the party's ideology (Jones and Keating 1979, 1985). Moreover, it was feared that territorial autonomy would undermine the party's statist approach to public policy, adversely affect the material well-being of the British working-class, and reduce its representation in Westminster. Opposition was prevalent in the Parliamentary Labour Party (PLP), engendering a situation of "divided government" (Laver 1999), that led to the introduction of two institutional veto players—the parliament and the referendum. The persistence of open divisions during the referendum campaign eventually produced the defeat of the devolution bills in 1979.

Circumstances in Spain were slightly different. The PSOE government decentralized legislative powers during the 1980s, in accordance with the provisions of the constitution, enabling ACs to exercise autonomy *in practice*. But it did so in a fashion that was inimical to regionalist parties' demands for differentiated autonomy, by creating a uniform order featuring an important degree of fiscal and administrative centralization. This policy reflected the absence of the second mechanism, in which regional branches actively steer the thinking of the party leadership toward a more decentralist stance. The PSOE's centralist ideology and organization, together stymied any effort to indulge in the ambitions of the PSC to adopt a Catalanist profile, become a more competitive force in regional elections and win regional office. When the party assumed office in 1982, it affirmed that solidarity was the main principle underlying its autonomy policy: this stance was compatible with its redistributive policies (Hamann 2000) and resonated with an older centralist tradition, manifested during the Second Republic, when the party sought to impose nation-wide labor regulations (Carr 1982: 610–25). This centralist policy was buttressed by a highly centralized party organization, in which a nominally federal structure was limited to "self-rule" of regional branches and where the influence of regional leaders in running the central party executive was weak.¹³ This strength of the central party leadership was, moreover,

¹² The system comprised institutions of territorial representation—the Secretaries of the State, administrative decentralization—the Scottish and Welsh Offices, and the insertion of a regional dimension to public policy. The Scottish branch's privileged access to the center was one of the main reasons underlying its hostility to devolution.

¹³ Decentralization had empowered regional "barons"—the leaders of regional party federations and AC governments—by giving them control over votes and patronage. But the central party apparatus exploited divisions between them to subordinate barons that attempted to assert their autonomy, as was the case for regional presidents of Andalusia that were replaced when they were deprived of their general secretaryship.

reinforced by the electoral results reaped by its charismatic leader Felipe Gonzales, by a number of institutional features, and crucially, by the central incumbency of the party.¹⁴ In sum, the centralization of the party's organization prevented the voicing of bottom-up pressures for policy change within the party and resulted in a centralized and symmetrical form of decentralization.

In India, the losses which Congress incurred in the 1967 national and state elections marked an important critical juncture in which the party—against all expectations—adopted a more centralist structure and ideology, notwithstanding the growing support for regionalist parties. The centralization of the party is strongly linked to the replacement of Nehru (and after a brief interregnum Shastri) by his daughter Indira Gandhi as prime minister and party leader. Mrs Gandhi took on a set of powerful state party leaders as well as the party president who had set the party on a decentralist trajectory in the first half of the 1960s. Although Congress performed badly in the 1967 general and state elections (with many Syndicate leaders losing control of their states or even failing to win their seat), Mrs Gandhi performed well. This solidified her position within the party. Bitter infighting between her (entourage) and the Syndicate resulted in a formal party split and the centralization of the party (since most state leaders sided with the Syndicate (Singh 1981)). Mrs Gandhi transformed the Congress System into a Congress Pyramid, crucially, without organizational elections (Kochanek 1976), and with herself at the helm of a highly personalistic and centralized regime. This ruled out the second mechanism of decentralization as state branches were deprived of an autonomous voice. Notwithstanding a dramatic loss in the first elections after Congress had imposed an eighteen-month-long internal Emergency (1975–77) during which all elections were suspended, Mrs Gandhi's appeal remained strong. She managed to overcome another party split, and at the helm of Congress (I—I for Indira) retained a centralist regime which kept on paying her electoral dividends with her predominantly lower-caste, Muslim, and often illiterate electorate, at least in *national*, but not in state elections. After recapturing national power in 1980, she showed some signs of decentralist accommodation (to placate regionalist parties she agreed to set up a Commission, the Sarkaria Commission, that looked into center–state relations). Yet few of its recommendations were implemented and she continued to confront regionalist adversaries, often leading to violent confrontation (especially in Punjab and Assam (Stepan, Linz, and Yadav 2011: 91–110)).

¹⁴ There were a number of institutions that allowed the party secretary, Alfonso Guerra, to keep a tight grip on the party congress and individual MPs: representation to the party congress was determined by majoritarian rules that reduced factionalism, while the electoral system's provisions for closed and blocked lists empowered party leaders to shape the career and thus command the obedience of candidates (Lopez-Guerra 1984; Gunther 1989)

Under Rajiv Gandhi, Indira's second son who succeeded her as Prime Minister, a more reconciliatory approach to center–state relations was adopted which was congruent with a more decentralized party organization in practice, illustrating an instance of the first type of mechanism of decentralization. Yet party organizational elections were not restored (for fear of Indira loyalists losing their jobs) and Rajiv Gandhi felt no inhibition to sack cabinet ministers or chief ministers who openly criticized his authority (Rudolph and Rudolph 1987: 157). The centralized party culture under Mrs Gandhi left a long lasting legacy, which tied the faith of the party to the Gandhi dynasty and left the party organization and ideology largely immune to the dramatic changes in the Indian party system (Sridharan 2010). However, this certainly has not been without cost. Congress has long lost its one-party-dominant position and it cannot credibly aspire to govern the center without the support of regionalist parties. Admittedly, the lack of intra-party democracy and the centralized mode of intra-party decision-making is a common feature of most Indian parties, including most of the regionalist parties which, just like Congress, often revolve around political dynasties (Hasan 2010; French 2011).

12.4 Conclusion

This chapter has illustrated the extent to which political parties act as the main protagonists of federal dynamics. Regionalist parties incarnate societal changes in center–periphery relations and play a key role in setting the agenda and articulating demands for decentralist reforms. However, such reforms rarely happen without the consent of mainstream parties, which remain the gatekeepers of federal structures. In this chapter we revealed the conditions under which mainstream parties accommodate regionalist demands and decentralize authority and we demonstrated the key mechanisms underlying *decentralist reforms* and *resistance to change*.

When examining *decentralist reforms* we found that decentralization (in form or in practice) is more often than not associated with the ideological and organizational openness of mainstream parties to decentralization. The dominant mechanism found in Great Britain and Spain was the second, one in which regional branches persuade the central party leadership to adopt a pro-decentralist position, while India offered evidence of the first, in which a decentralist territorial policy is congruent with a party's ideology and organization, albeit in practice. There was mixed evidence regarding the effect of incumbency. Evidence from Great Britain and Spain demonstrates that Labour and the PSOE embraced territorial reforms, not only when in central opposition but also in government, suggesting that both are equivalent pathways to *decentralist reforms*, if ideological profiles and organizational structures

are open to decentralization. This finding is consistent with what was found in the case of India, as decentralist reforms were undertaken during the Congress' time in office. However, this point should be made with the proviso that Congress' changes in federal practice since the early 1990s were congruent with a more decentralized party organization (in practice), and the openness of its ideology to decentralization, that resulted from its embracing of economic liberalism.

When looking at cases of *resistance to change*, we found that the capacity of regionalist parties to set the agenda was a necessary but not sufficient condition for federal change. In all three cases, we can link such negative cases to the absence of the first or second mechanisms for decentralization; that is, the absence of congruence between the mainstream party's territorial policy on the one hand, and its ideology and organization on the other, or the stifling of the bottom-up demands of its regional branches for decentralization. Furthermore, in all but one case, the absence of decentralist reform is linked with central incumbency, suggesting a close relationship between incumbency and the absence of territorial reform. However, even a cure of central opposition can allow a party to maintain a centralist stance: in India, party organizational reforms that were taken under Mrs Gandhi's helm during the 1970s locked the party into a centralist and dynastic party culture, from which the exit would be highly costly and electorally damaging in the short term.

Our evidence shows that ideological openness *and* party organizational adjustment (at least in practice) are both necessary for territorial reform. Party organizational decentralization requires and ideological openness to a more decentralist state structure, highlighting the correlation between party organizational form and ideology. However, ideological openness and party decentralized organization may be necessary, but they are not sufficient for territorial reform. This is so because when in central opposition, the mainstream party has limited power and influence to enact such reforms, and when in central government the party may still face institutional or party political hurdles which prevent reform from being enacted.

The findings of this chapter have considerable bearing for the study of territorial dynamics elsewhere, as well as for the understanding of the relationship between social cleavages, party systems, and federal dynamics. The study of the relationship between regionalist pressures and decentralization in other multinational democracies would do well to focus on the key mechanisms of decentralization—the ideology and organization of mainstream parties—and study their influence when the mainstream party is in central government and opposition.

Contrary to the conclusions generated by the comparative study by Chibber and Kollman (2004), which asserted a strong effect of federal institutions on party-system aggregation, we found that the causal arrow often runs in the

other direction. Party-system change (at the polity-wide but *also* at the sub-state level) is often visible in the agenda-setting capacity of regionalist parties which in turn trigger decentralization. However, this driver is mediated by the ideology and organization of mainstream parties, which remain the key mechanisms of decentralization. In this respect, our main findings resonate with another recent landmark study on federalism, which asserts that “integrated” parties are the critical ingredient to federal (in)stability (Filipov, Shvetsova, and Ordeshook 2004). Mainstream parties that are sufficiently open to decentralization in their ideology and organization, and in which there is a productive link between regional branches and central party leadership, are more likely to respond to regionalist pressures and to represent simultaneously the interests of the central government and moderate the extent to which regionalist demands are satisfied. They are thus crucial actors in balancing federal structures and setting the pace of territorial change.

References

- Adeney, Katharine and Wyatt Andrew (2010), *Contemporary India* (Basingstoke: Palgrave-Macmillan).
- Bhattacharyya, Harihar (2010), UPA (2004), “Globalization and Indian federalism: A paradigm shift?” Heidelberg Papers in South Asian and Comparative Politics, Working Paper No. 55, June.
- Blas Guerrero, Andres (1978), “El problema nacional regional español en los programas del PSOE y del PCE,” *Revista de Estudios Politicos* 4 (1), 155–70.
- Bowler, Shaun (1990), “Voter perceptions and party strategies,” *Comparative Politics* 23 (1), 61–83.
- Brass, Paul R. (1994), *The Politics of India since Independence*. 2nd edition (Cambridge: Cambridge University Press).
- Caciagli, Mario (1986), *Elecciones y partidos en la transición española* (Madrid: Centro de Investigaciones Sociológicas. Siglo XXI).
- Capocchia, Giovanni and Kelemen, R. Daniel (2007), “The study of critical junctures: Theory, narrative and counterfactual in institutional theory,” *World Politics* 59 (2), 341–69.
- Carr, Raymond (1982), *Spain, 1808–1975* (Oxford: Clarendon Press).
- Chhibber, Pradeep and Kollman, Ken (2004), *The Formation of National Party Systems in Canada, Great Britain, India and the United States* (Princeton: Princeton University Press).
- Crewe, Ivor, Särilvik, Bo, and Alt, James (1977), “Partisan dealignment in Britain 1964–1974,” *British Journal of Political Science* 7 (2), 129–90.
- De Winter, Lieven and Türsan, Huri (eds.) (1998), *Regionalist Parties in Western Europe* (London: Routledge).
- Downs, Anthony (1957), *An Economic Theory of Democracy* (New York: Harper and Row).

- Filipov, Mikhail, Shvetsova Olga, and Ordeshook Peter (2004), *Designing Federalism* (Cambridge: Cambridge University Press).
- Franklin, Mark (1984), "How the decline of class voting opened the way to radical change in British politics," *British Journal of Political Science* 14 (4), 483–508.
- Freeden, Michael (1998), *Ideologies and Political Theory: A Conceptual Approach* (Oxford: Oxford University Press).
- French, Patrick, (ed.) (2011), "Family Politics," *India: A Portrait* (London: Penguin Books), 91–125.
- Geekie, Jack and Levy, Roger (1989), "Devolution and the tartanisation of the Labour Party," *Parliamentary Affairs* 42 (3), 399–411.
- Gerber, Elisabeth R. and Kollman, Ken (2004), "Introduction—Authority migration: Defining an emerging research agenda," *Politics and Political Science* 37 (3), 397–401.
- Gillespie, Richard (1989), *The Spanish Socialist Party: A History of Factionalism* (Oxford: Clarendon Press).
- Guha Thakurta, Paranjyot and Raghuraman, Shankar (2007), *Divided We Stand: India in Time of Coalitions* (New Delhi: Sage).
- Gunther, Richard (1989), "Electoral laws, party systems and elites: The case of Spain," *American Political Science Review* 83 (3), 835–58.
- Gunther, Richard, Sani, Giacomo, and Shabad, Goldie (1986), *Spain after Franco: The Making of a Competitive Party System* (Berkeley: University of California Press).
- Hamann, Kerstin (2000), "Linking policies and economic voting: Explaining reelection in the case of the Spanish Socialist Party," *Comparative Political Studies* 33 (8), 1018–48.
- Hasan, Zoya (2010), "Political parties in India," in Niraja Gopal Jayal and Pratap Bhanu Mehta (eds.), *The Oxford Companion to Politics in India* (Delhi: Oxford University Press), 241–53.
- Hepburn, Eve (2009), "Reconceptualizing sub-state mobilization," *Regional and Federal Studies* 19 (4–5), 477–99.
- Hopkin, Jonathan and Bradbury, Jonathan (2006), "British state-wide parties and multi-level politics," *Publius: The Journal of Federalism* 36 (1), 135–52.
- Hopkin, Jonathan and Van Houten, Pieter (2009), "Decentralization and state-wide parties: Introduction," *Party politics*, 15 (2), 131–6.
- Jones, Barry and Keating, Michael (1979), "The Labour Party as a centralising force," *Studies in Public Policy* 32, 1–46.
- (1985), *Labour and the British State* (Oxford: Clarendon Press).
- Kochanek, Stanley A. (1968), *The Congress Party of India: Dynamics of One Party Democracy* (Princeton: Princeton University Press).
- (1976), "Mrs Gandhi's pyramid," in Henry Hart (ed.), *Indira Gandhi's India* (Boulder, CO: Westview Press), 93–124.
- Kothari, Rajni (1964), "The congress 'system' in India," *Asian Survey* 4 (12), 1161–73.
- Laver, Michael (1999), "Divided parties, divided government," *Legislative Studies Quarterly* 24 (1), 5–29.
- Linz, Juan (1981), *Informe sociológico sobre el cambio político en España, 1975–1981* (Madrid: Fundacion Foessa).
- Linz, Juan J. and Montero, José R. (1999), "The party system of Spain: Old cleavages and new challenges," Working Paper Series. (Juan March Institute 138), 1–119.

- Lopez-Guerra, Luis (1984), "Partidos politicos en España: Evolucion y perspectivas," in Linz, J. J. and de Enterría, E.G. (eds.), *España: Un presente para el futuro, Vol. 2: Las instituciones* (Madrid: Instituto de Estudios Economicos), 121–44.
- Mahoney, James and Goertz, Garry (2004), "The possibility principle: Choosing negative cases in comparative research," *American Political Science Review* 98 (4), 653–69.
- McAllister, Ian and Studlar, Donley (1992), "Region and voting in Britain, 1979–1987: Territorial polarization or artifact," *American Journal of Political Science* 36 (1), 168–99.
- Meguid, Bonnie M. (2005), "Competition between unequals: The role of mainstream party strategy in niche party success," *American Political Science Review* 99 (3), 347–60.
- (2008), *Party Competition between Unequals: Strategies and Electoral Fortunes in Western Europe* (Cambridge: Cambridge University Press).
- Mehra, Ajay K. (2003), "Introduction," in Ajay K. Mehra, Damodar D. Khanna, and Gert W. Kueck (eds.), *Political Parties and Party Systems* (Delhi: Sage), 21–48.
- Mendez-Lago, Mónica (2000), *La Estrategia Organizativa del Partido Socialista Obrero Espanol, 1975–1996* (Madrid: CIS).
- Mitchell, James (1990), *Conservatism and the Union: A Study of Conservative Party Attitudes to Scotland* (Edinburgh: Edinburgh University Press).
- (1996), *Strategies for Self-Government: The Campaigns for a Scottish Parliament* (Edinburgh: Polygon).
- Müller, Wolfgang and Strom, Kaare (eds.) (1999), *Policy, Office, or Votes? How Political Parties in Western Europe make Hard Decisions* (Cambridge: Cambridge University Press).
- Nunez Seixas, Xose-Manuel (2005), "From national-catholic nostalgia to constitutional patriotism: Conservative Spanish nationalism since the early 1990s," in Sebastian Balfour (ed.), *The Politics of Contemporary Spain* (London: Routledge), 121–45.
- O'Neill, Kathleen (2003), "Decentralisation as an electoral strategy," *Comparative Political Studies* 36 (9), 1068–91.
- Puhle, Hans-Jürgen (1986), "El PSOE: Un Partido Predominante y Heterogeneo," in Juan J. Linz and José R. Montero (eds.), *Crisis y Cambio* (Madrid: CIS), 289–344.
- (2001), "Mobilizers and later modernizers: Socialist parties in the new South Europe," in Nikiforos Diamandouros and Richard Gunther (eds.), *Parties, Politics and Democracy in the New South Europe* (Baltimore: Johns Hopkins University Press), 268–328.
- Punchi, Madan M. (2010a), *Commission on Centre-State Relations. Report, Volume I: Evolution of Centre-State Relations in India* (New Delhi: Government of India).
- (2010b), *Commission on Centre-State Relations, Supplementary Volume II: Research Studies* (New Delhi: Government of India).
- Ragin, Charles C. (2000), *Fuzzy-Set Social Science* (Chicago: University of Chicago Press).
- Robertson, David B. (1976), *A Theory of Party Competition* (London: Wiley).
- Rokkan, Stein, Flora, Peter, Kuhnle, Stein, and Urwin, Derek W. (1999), *State Formation, Nation-Building, and Mass Politics in Europe: The Theory of Stein Rokkan Based on His Collected Works* (Oxford: Oxford University Press).
- Roller, Elisa and Van Houten, Pieter (2003), "A national party in a regional party system: The PSC-PSOE in Catalonia," *Regional and Federal Studies* 13 (3), 1–22.

- Rudolph, Lloyd I. and Rudolph, Susanne H. (1987), *In Pursuit of Lakshmi: The Political Economy of the Indian State* (Hyderabad: Orient Longman).
- Sáez, Lawrence (2002), *Federalism without a Centre: The Impact of Political and Economic Reform on India's Federal System* (New Delhi: Sage).
- Sartori, Giovanni (1976), *Parties and Party Systems*, Vol. 1 (Cambridge: Cambridge University Press).
- Sathe, Satyaranjan P. (2008), *Judicial Activism in India: Transgressing Borders and Enforcing Limits*. 2nd edition (New Delhi: Oxford University Press).
- Singh, Mahendra P. (1981), *Split in a Predominant Party: The Indian National Congress in 1969* (New Delhi: Abhinav Publications).
- Singh, Mahendra P. and Saxena, Rekha (2008), *Indian Politics: Contemporary Issues and Concerns* (New Delhi: Prentice Hall of India).
- Sinha, Aseema (2004), "The changing political economy of federalism in India: A historical institutionalist approach," *India Review* 3 (1), 25–63.
- Sridharan, Eswaran (2010), "The party system," in Niraja Gopal Jayal and Pratap Bhanu Mehta (eds.), *The Oxford Companion to Politics in India* (Delhi: Oxford University Press), 117–35.
- Stegan Alfrad C., Linz, Juan J., and Yadav, Yogendra K. (2011), *Crafting State-Nations: India and Other Multinatioanl Democracies* (Baltimore: Johns Hopkins University Press).
- Strom, Kaare (1990), "A behavioral theory of competitive political parties," *American Journal of Political Science* 34 (2), 565.
- Swenden, Wilfried (2006), *Federalism and Regionalism in Western Europe: A Comparative and Thematic Analysis* (Basingstoke: Palgrave-Macmillan).
- Swenden, Wilfried and Maddens, Bart (eds.) (2009), *Territorial Party Politics in Western Europe* (New York: Palgrave-Macmillan).
- Toubeau, Simon (2010), "The accommodation of nationalism: Regionalist parties and territorial restructuring in Great Britain, Spain and Belgium," Ph.D. dissertation (Florence: European University Institute).
- (2011), "Regional nationalist parties and constitutional change in parliamentary democracies: A framework for analysis," *Regional and Federal Studies* 21 (4–5), 427–46.
- Tsebelis, George (1995), "Decision making in political systems: Veto players in presidentialism, parliamentarism, multicameralism and multipartyism," *British Journal of Political Science* 25 (3), 289–325.
- (2002), *Veto Players: How Political Institutions Work* (New York: Russell Sage Foundation).
- Van Houten, Pieter (2009), "Multi-level relations in political parties," *Party Politics* 15 (2), 137–56.
- Yadav, Yogendra and Palshikar, Suhas (2003), "From hegemony to convergence: Party system and electoral politics in the Indian states 1952–2002," *Journal of Indian School of Political Economy* 15 (1&2), 5–44.
- (2009), "Between fortuna and virtù: explaining the Congress' ambiguous victory in 2009," *Economic & Political Weekly* 44 (39), 33–46.

This page intentionally left blank

Part IV

**Actors, Institutions, and Internal
Dynamics**

This page intentionally left blank

13

Constitutional change in federations: The role of complementary institutions

Jenna Bednar

13.1 The Problem, Premise, and Questions

Change to the distribution of authority in federal systems is practically necessary but theoretically elusive. Federalism is a system of government that allocates authority between a national and subnational government in order to achieve common goals relating to economic growth, security, and representation. The federal system is defined by its essential political components (the states and the composition of the national government), the way that authority is distributed between these components, and a set of safeguards to uphold the distribution of authority. In many policy realms, the national and subnational governments share authority. If the distribution of authority is ignored—if states or national government can assume authorities at their own whim, or shirk responsibilities when it suits—then federalism is meaningless. The authority boundary, and how it is drawn and defended, matters for the welfare of the union.

Given the importance of the distribution of authority, its appropriateness should not be assumed to be permanent; instead, as the political, economic, or security environment changes, an alteration to the distribution of authority might improve outcomes. For example, as the efficiencies of scale grow, such as through increasing external trade, the productivity of the union may improve with centralization. On the other hand, as the public grows increasingly dissatisfied with centrally provided policies, either because of mismatch between the uniform policy and local preferences, or because the central government is unable to improve upon its policies, then decentralization may be in order. With decentralization, lower levels of government can tailor

policy to suit local preferences. And when existing policy is inefficient, decentralization creates the policy laboratories that could lead to the discovery of improved policy approaches, to the benefit of the whole country.

Given the natural volatility in the policy environment, it is not a stretch to argue that a federation's longevity and productivity depends upon its ability to adapt its internal rules that dictate which level of government is responsible for what policy domains. And yet existing theory implies that federations are uniquely *unable* to adapt their rules. Scholars from Montesquieu to Madison (as *Publius*) to the modern theory of George Tsebelis (2002) have shown how institutions create veto players that block legislation. Tsebelis's work chronicles how, as the number of veto players grows, policies become locked into the status quo. To Madison, this gridlock is the key to a federation's success, as it prevents either level of government from usurping authority from the other. But what if a federation *needs* those authority boundaries to change? It would seem that federalism's diversity of governments and institutional safeguards dooms it to become stagnant, trapped by the very safeguards designed to protect it.

In this chapter, I leverage recent advances in complexity science to suggest that federations may not be trapped after all, and in fact that their fractal-like, internally diverse nature provides an unusual source of constitutional change through reinterpretation. Somewhat paradoxically, or at least in contrast to the implications of the veto players theory, federalism—with its multiple agents—contributes to the process of change, and is more likely to be incremental, without discontinuities. By viewing the federation as a system, and by examining the effect of multiple imperfect safeguards acting simultaneously, constitutional change is not confined to the periodic reworking of amendments or revisions, but instead is a continuous and dynamic process of constitutional reinterpretation. My goal is not to resolve the question of constitutional change definitively, but instead to give a view of constitutional change that is evolutionary, organic, and often unplanned.

One way to change federalism's boundaries—to alter the level of government responsible for revenues or expenditures, or primary responsibility for policies—is to change the constitutional text that enables that authority. Textual changes occur through a formal process of amendment. All constitutions contain within them language for their own modification. Most federations have fairly inflexible constitutions, requiring not only a supermajority, but incorporating state (subnational) government aggregations as well as population-based aggregations. The rate of constitutional amendment correlates negatively with the magnitude of the barriers to change (Elkins, Ginsburg, and Melton 2009). If demand for change is independent of the institutional process, then in societies governed by more restrictive

amendment procedures, a different method of constitutional change is necessary if the constitution is to adapt and continue to promote social welfare.

The constitutional text is often sufficiently ambiguous that formal amendment is not necessary. Just as multiple phenotypes may be expressed from a common genotype with sufficient plasticity, the words of the constitution are subject to interpretation. As the interpretation changes, the effect of the words change. Therefore constitutional change can occur—and regularly does occur—through an informal process of reinterpretation of the meaning of the words and how they ought to be applied to particular situations. This chapter applies new developments in the theory of complex adaptive systems to understand the microfoundations—at the level of individual incentives and behavior—of how informal constitutional change occurs.

A federation's constitutional court is the most intuitive interpreter of the constitution, but it is not the only one. Many political actors can "interpret" the constitution, and do so daily. When a legislature—state or federal—passes a bill it asserts a claim that the statute is constitutional (Thayer 1893; Whittington 1999). When the bureaucracy interprets legislation in order to implement it, it presumes that its interpretation is constitutional (Eskridge and Ferejohn 2010). When the media opines about government behavior, it offers a perspective on legitimate—constitutional—government action. In each case, as political actors and quasi-political actors carry out their tasks, they interpret federalism's boundaries.

Constitutional change in democratic regimes is a deeper process than political actors interpreting constitutional text opportunistically. True constitutional change implies public acceptance (Friedman 2003; Kramer 2004). Certainly if the change is a formal amendment, it is straightforward to see how public agreement is necessary. But in democracies, informal change too ultimately must face public reckoning. The public has the capacity to reject alterations to federalism's boundaries. The public is an imperfect safeguard, but quite powerful.

Therefore, the moment of constitutional transition implies the realization of a new public expectation. To theorize about constitutional change, it is not sufficient to point out that constitutions are flexible. One must generate a theory of constitutional dynamics that can explain the microprocesses that lead to new public expectations about governmental conduct. A theory of constitutional dynamics in democratic federations must address three questions:

1. How do constitutional innovations happen?
2. How are constitutional changes constrained to be incremental?
3. How does constitutional change spread across domains to create a general trend of peripheralization or centralization?

First, change requires a new idea about how the constitution might be different. Sometimes the idea can remain abstract and still inspire the public, as with cries for greater liberty and limited government. But often to acquire public acceptance, the constitutional idea should be put into practice; successful experience creates confidence and acceptance, or conversely, alerts the public to unforeseen consequences, such as heightened border security in the name of safety and order, infringing on privacy and liberty. Institutional imperfection opens a window for experimentation and federalism; with a multiplicity of governments, the opportunities are multiplied. Section 13.2 explains constitutional innovation in federal systems.

Second, not all experimentation is healthy for the polity. In particular, abrupt transformations can be destabilizing. Therefore, a theory of *robust* constitutional dynamics should include a mechanism for constraining innovations so that change is incremental. Too-rapid policy shifts upset the compact between the public and their government by making the government appear to be unreliable. One only need think of the rioting in Greece and Spain where severe cuts to social welfare programs in the name of austerity may be sound fiscal policy, but these come at the price of shattering the public's vision of the government's role in their lives.

Third, constitutional change often becomes a dynamic trend. Historians of federations often refer to periods of "centralization" or "peripheralization," implying a change to the balance of power between the federal and state governments. These different eras imply a change to the nature of the federal constitutional boundaries. The periods are not identified on the basis of one changed clause alone; the interpretation of individual clauses is related to changed interpretations of other clauses. A theory of constitutional dynamics should ask what force links these clauses. In section 13.4, I describe one possible explanation for the emergence of these trends, tied to an analytical model.

13.2 Innovation

The text of a constitution is subject to interpretation for a simple reason: few clauses are unambiguous. Interpretations naturally are tied to interests, and as long as the interests of those governed by the constitution are distinct, interpretations will vary (Michelman 2003; Balkin 2011; Koppelman 2012). Federal constitutions structure the allocation of authority between federal and state governments. Whenever this allocation is ambiguous (which is to say, in almost every instance), federal or state governments will be tempted to interpret the boundary defining their authority opportunistically.

The components of the federation include of course the various governments—national and state. But it also includes the auxiliary institutions of governance that at times have an opportunity to express a judgment about the constitutionality of governmental action, such as the judiciary, the political parties, the media, and the public. These components are inextricably intertwined and jointly affect the distribution of authority; to study any single component's effect in isolation is to ignore the extent to which each is dependent on the others.

Constitutional boundaries are protected by safeguards, such as a judiciary, or structural safeguards that constrain legislatures and executives by fragmenting authority. These are imperfect: sometimes they make mistakes in judgment, or sometimes their own rules prevent involvement. Because of the imperfection of the safeguards, governmental agents—federal and state governments—have a window to act on their opportunistic urges.

Therefore it is unavoidable to have some variation in the adherence to the distribution of authority (Bednar 2006). National and subnational governments will inevitably press against the boundaries as they pursue policies to serve their own interests, and the safeguards of federalism, themselves imperfect, will tolerate some minor crossing of the line. This pressing is useful, but in itself is not constitutional change.

Setting aside for a moment the question of constitutional change, let us consider why it might be useful for these different governmental agents to interpret the boundaries of authority opportunistically, attempting policies that might not be constitutional. This experimentation is implicitly an inquiry as to whether the line defining governmental authority is drawn correctly.

The boundaries are drawn in order to harness the federal and state governments in service to the welfare of the federation's public. When the constitution says that the federal government may regulate commerce between the states, as nearly all federal constitutions do, it is with the intention of fostering a domestic common market and the welfare benefits that follow from it. The commerce clause implies that those things that are not understood to be commerce may not be capable of regulation by the federal legislature, unless otherwise stated. If the federal government expands its interpretation of the word "commerce" to include insurance, it expands the realm of policies it can prescribe, and policy domains it can enter.

This expansion of the interpretation of the word commerce is not hypothetical, but instead is the crux of the United States's attempt to reform its system of healthcare, an expansion of federal governmental responsibility into a realm where it was previously active only for portions of the population: the poor, the elderly, and veterans. The US Congress is currently relying on a

1944 judicial interpretation that insurance is commerce¹ and a Depression-era judicial interpretation of the aggregate effects on the market prices of one person's actions and the consequential right of the government to force an individual to participate in the market.² Armed with these two constitutional understandings, Congress was able to transform the US health insurance industry radically by creating an individual mandate to acquire insurance. A clause originally written to facilitate free trade between the states became a source of leverage to transform healthcare in the United States.

In June 2012, the US Supreme Court partially upheld the constitutionality of the Affordability of Care Act, but future Congresses may repeal the legislation. Until the legislation is repealed, any aspects of it that have already taken effect provide evidence of the policy's effectiveness, giving the public an opportunity to learn from its implementation. Pundits describe the unintended benefits of Republican strategies during the 2012 presidential campaign season, as the public is now considering the importance to it of access to preventive care and contraception.

Experimentation is a useful way to explore policy, to determine whether any change to the distribution of authority might be welfare-enhancing. And the more diverse the source of the experimentation, the more likely the system will encounter a modification that improves it. This insight was first articulated by evolutionary theorist R.A. Fisher, who noted that the "rate of increase in fitness of any organism at any time is equal to its genetic variance in fitness at that time" (1930: 35). Known as Fisher's fundamental theorem, this insight suggests that improvements to the organism depend on genetic variation, nature's way of trying new ideas (Page 2010).

To understand the intuition, consider the classic complex systems metaphor of problem-solving being akin to finding the highest peak in a mountain range. It is fairly simple to find the local peak, that is, the highest point of whatever mountain you happen to be on: you just climb until you are at the peak. From there, you can compare your mountain's height to neighboring peaks, and move to another if it is higher than your own. But what if your view of the highest mountain in the range is obstructed by other peaks surrounding you, so that you just can't see whether there is any improvement available, let alone in which direction to head in order to climb higher? As all mountain climbers know, it is very common to miss the highest peak from any one vantage point. To recognize the highest peak in the range, it is best to try many approaches from diverse directions. In this sense, diversity leads to adaptation.

¹ *United States v. South-Eastern Underwriters*, 322 U.S. 533 (1944).

² *Wickard v. Filburn*, 317 U.S. 111 (1942).

The mountain-climbing metaphor can be fruitfully applied to political policy-making. If public policy is an act of problem-solving, some solutions are better than others, and the better they are, the higher up the mountain we move. If we are to find new, improved solutions, if we are to move to the global maximum, then having a diversity of perspectives makes us far more likely to reach common improvement (Page 2007).

We are most used to political differences leading to stagnation, and as this chapter described above, the study of veto players (Tsebelis 2002) establishes the relationship between the number of veto players in a system and the stability of policy. If change is needed, veto players obstruct it. All else equal, systems with more veto players will be less likely to adapt to new circumstances, and their welfare will suffer. Political difference, it would seem, is destructive to progress.

Federal unions are different from the typical system because the state governments have significant autonomy to set policy and the federal governments have proven adept at overcoming internal constraints to tug the allocation of authority in their own favor. When different ideas about policy improvement can be acted upon, it is akin to genetic mutation. Sometimes the result of these experiments improves outcomes in ways that others would like to mimic.

Experimentation by the state and federal governments alone is not sufficient for constitutional change; settled law implies public acceptance. Again, one needs a theory of how law might become settled, and for this, we must go beyond what biology can offer. Selection is a complete theory for change, but in political systems, the selection mechanism is public choice.

The multiple safeguards, judicial, political, popular, structural, are each flawed, imperfectly stopping violations to federalism's boundaries. Their imperfection is a necessary first step for constitutional change: it opens up the window for policy experimentation. Their diversity, their differences, means that what one safeguard tolerates, another may not—each may offer its own distinctive interpretation of federalism's boundaries. Their disagreements—for example when the Court reviews legislation passed through Congress (and therefore not stopped by the structural safeguards)—creates public dialogue. This dialogue engages the public, becoming a sort of open process of deliberation, from which it is possible that a new consensus might emerge.

Through the interpretive lenses of the various political actors the public gets multiple interpretations of the meaning of the constitution. Sometimes these interpretations reinforce public expectations and sometimes they challenge them. Changes in expressed preference can come from new information. It is this dependence upon the public that serves to shape constitutional dynamics.

13.3 Incremental Change and Continuity

While the last section suggested a mechanism for the introduction of constitutional adjustments, any theory of constitutional change must also contain a theory of continuity. Constitutions are sustained by public perceptions of their legitimacy and the extent to which they unify a community. If the constitution's interpretation is too erratic in meaning or effect, it quickly loses legitimacy. Therefore, in order to understand *robust* constitutional change—change that improves a constitution's effectiveness rather than ruptures it—one must also be able to explain how change is constrained to be incremental.

The theory of continuity is an extension of the theory developed in the first section. Constitutional change is driven by diverse, self-interested agents tempted to push boundaries. If the safeguards—judicial, structural, political, and popular—were perfect mechanisms, then they would prevent these transgressions. Instead, these safeguards each have characteristics that cause them to tolerate transgressions or otherwise be unable to prevent them. It is this imperfection of the safeguards that creates the possibility of constitutional change through policy experimentation.

Policies are not simply “constitutional” or “unconstitutional”; very rarely is their constitutional status so crisply definable. Instead, constitutional clauses are subject to interpretation, and policies are complex and multidimensional, and so they can be more or less in line with constitutionality. Each safeguard—the court, the political parties, the various branches of government, aggregated—has its own sense of the appropriate interpretation of the constitution, and more importantly, its own threshold of what policies it will tolerate; that is, each safeguard has its own point at which it determines that policy (whether enacted or, in the case of structural safeguards, considered) is beyond constitutional limits. Safeguards do not immediately arrest policy that they determine to be in excess of the constitution. To reduce the negative effects of costly errors, each tolerates some small deviances from what it considers to be constitutional practice.

While safeguards are inaccurate, prone to error, particularly for subtle discrepancies from constitutional practice, they grow increasingly accurate at recognizing and deterring transgressions as the transgressions grow more blatant.

An important source of the system's accuracy for grosser violations is safeguard complementarity. Where one safeguard might miss an opportunity to catch a transgression, another, chronologically later to interact with the policy, can redirect it. For example, the No Child Left Behind Act (2001) represents a new degree of federal government involvement in setting

education policy, a domain traditionally left to the states and local governments. This policy was President George W. Bush's signature domestic advance, and at the time of passage enjoyed overwhelming bipartisan support. Two safeguards that could have derailed the bill would appear to have missed the chance to respond: the political safeguards that emerge from the party system (given that the Republicans championed it, despite criticism from Republicans in state governments) and the structural safeguards, as the legislation passed both houses of Congress.

However, this reading of the bill's history is not entirely correct. The original bill was far more centralizing. With resistance from the state Republicans, coupled with state involvement in reshaping the bill in Congress, the bill emerged looking far different from what President Bush and his team at the Department of Education envisaged.³ Rather than introducing a coherent set of national educational attainment standards, accountability measures, and a single timeline toward the goal of every child's educational success, much control of the program was turned over to the states. NCLB enabled each state to set its own standards, decide how it would assess achievement, and set its own calendar of adequate progress. With such flexibility, states were able to slow down the process. Therefore the act was not as centralizing as the public believed, and when public support of the bill soured, voters blamed the federal government, not the states, for the policy's ineffectiveness.⁴ The federal government's new claim to authority in setting education policy is incomplete, and the federal government has pulled back from asserting it since 2001. Enforcement of NCLB has become more accommodating toward the states, and new initiatives are based more on positive incentives and voluntary participation than the strict penalties set up under NCLB.

Constitutional reinterpretation ultimately involves the public, with changing public perception. When constitutional reinterpretation reaches the point of a broad consensus—such as the recognition of the federal government's role in establishing racial equality and civil rights—then institutional safeguards (due to their own extrinsic motivations to please their constituents) will fall into line and uphold this new constitutional state.

The emergence of a public constitutional consensus is one of the more beautiful and vexing mysteries of constitutionalism. It is quite possible that the small debates that occur within and between safeguards as they consider

³ Author's conversation with Susan Neuman, President Bush's Assistant Secretary for Elementary and Secondary Education (2001–03), October 2003.

⁴ While an analysis of the relationship between incomplete authority migration and credit assignment is beyond the scope of this paper, it is intriguing to consider how governmental actors, in this case the states, may use the safeguards strategically not to block authority migration outright, but instead to cede just enough so that the other level of government appears responsible for poor outcomes.

the permissibility of policy help the public to form an opinion. Moreover the fact that incremental change occurs certainly builds experience with constitutional shifts. The public learn faster in practice than through theoretical premise-making. When complementary institutions constrain constitutional dynamics to incremental change, the public can gain experience and accept it long before it would have the chance to become codified.

When mitigated through the filters of the various safeguards, change is constrained to incremental alterations in interpretation. Change that moves too quickly—that varies too much from public conception of the federal balance—is nipped in the bud. Because of the safeguards' increasing ability to recognize and deter more major deviations from current constitutional custom, constitutional dynamics in the robust federation, one in possession of a system of complementary safeguards, is not a series of punctuated equilibria. Instead, it is a staccato flow of small progressions, much like the stuttering second hand of a Swiss railway clock, pausing momentarily and then leaping ahead to catch up to the minute hand's advance.

With incremental change, not all change leads to immediate improvements. Recall the analogy of the policy innovator as a mountain climber who is dissatisfied with the present view. In the language of complex systems, the mountain-scape may be changing over time, just as the nature of the problems that policies are designed to address changes. In some cases, when the policy landscape has changed, policy innovation—the alteration to the federal boundaries—may bring immediate benefits to all. But in other cases, the innovation is a step down the allegorical mountain; although the policy shift may bring immediate benefits to the policymaker, it may cause harm to other members of the federation. However, from the new vantage point, other policy changes may be available that weren't upon first review.

Even if transitions often require temporary downturns, it is important that the system does not decline too much. For that we have selection mechanisms, guided by measures of the system's performance. In biology, the organism has a level of fitness; in finance, a corporation has a stock value. The performance of a nation-state may be measured in a number of ways, from its annual economic growth, to its infant mortality and expected lifespan statistics, to the duration of peace. In democratic systems, these indicators influence (but do not determine) the public's satisfaction with its government. Ultimately, in democratic federations, the selection mechanism is the public.

With localized small changes, where change approximates continuity, there is less chance that the change is irreversible. Experimentation gone awry can be corrected through reversion; there is less likelihood that path dependence creates disjunctures that cannot be undone. Rather than locking the union into permanent adjustments to the balance of authority as some of the literature on path dependence implies (David 1985; Arthur 1994), through

reinterpretation of the past, or in our case, of constitutional clauses, paths are reversible (Bednar, Page, and Toole 2012). When complete change requires public re-conception of the meaning of the constitution, it is easier to revert to similar meanings than to radically retool them.

The system of safeguards, when sufficiently complementary, enables incremental change. Safeguards respond to the federal or state government's attempts to push against the boundaries of federalism, but their imperfection creates a small window for policy experimentation. Unlike the standard models of compliance–maintenance mechanisms, these safeguards do not necessarily force the system back into its initial state. Instead, they are flexible enough to allow the federation to slide into a new constitutional state; that is, the complementary safeguards of the robust federation are not equilibrium-reinforcing, but instead enable dynamic constitutional reinterpretation.

13.4 Domain Links

Up to this point I have described constitutional change as a permutation to the interpretation of a single clause, but constitutional change is not always confined to single policy domains. At times the change seems to diffuse throughout the text, affecting many clauses either simultaneously or sequentially, until the very nature of the federation has evolved. It is common to find references in the federalism literature, and to histories of federations, that describe centralizing and peripheralizing eras. While the time boundaries of these periods may be subject to discussion, country specialists often agree with the broad characterization of changes in the distribution of power between the federal and state governments during these periods.

Neat periodization implies radical, exogenous constitutional reconstructions, but it is quite likely that constitutional change is mostly endogenous. Given the importance of public re-conception, and that re-conception often requires experience, radical shifts based on an inversion in ideas is unlikely. An alternative theory rejects periodization, arguing that shifts in the federal balance of authority result from an underlying and multidimensional process of continuous change.⁵ Theories of continuous change are promising. As they develop, care must be taken to avoid describing change as a linear process with unchanging momentum. Complex systems theory would encourage us to think about a middle path: constitutional change is an ongoing process but subject to tips, moments of rapid acceleration. If the weight of authority alternately favors the federal government and then the states, the movement

⁵ See Broschek (2010) for an overview of two historical-institutionalist models of continuous change with applications to the Canadian and German federations.

resembles a pendulum, swinging back and forth between the two extremes of centralization and decentralization. The pendulum slows, pauses, and reverses course at the extremes; its fastest speed comes during intermediate positions. These tips lend credence to the periodization tendency because eras do become recognizably distinct from those prior or subsequent, and yet do not rely on exogenous and sudden transformation.

Sometimes constitutional redirection begins with a single court case or piece of legislation. For example, many mark the New Deal legislation as the beginning of a period of centralization in the American federal system, and the Rehnquist Court (and particularly the *United States v. Lopez*⁶) decision as its end, and the start of a new “age of federalism” in the United States, where state influence is resurgent. The theory that I developed in sections 13.2 and 13.3 can help us to understand changes to single clauses—in this case, changes to the interpretation of the commerce clause. We now need a theory of how one change spreads into a full set, sufficient to lead to a new era in federal-state relations.

A common explanation for trends in peripheralization or centralization is that it results from a shift in the safeguards that preserve the federal boundaries, or changes in their influence relative to other safeguards (for example, Riker 1964; Iaryczower, Saiegh, and Tommasi 2001; Gibson and Falleti 2004; Bednar 2009). Scandals or personnel changes cause courts to lose legitimacy, or new parties take control, implementing new visions of the federal union, or the constitution is amended, changing one of the institutional safeguards directly. As an example of the latter instance, some argue that the Seventeenth Amendment to the US Constitution, creating the direct election of US Senators, permanently centralized the US federation by removing the key structural safeguard of state authority (for example, Rossum 2001). On the other hand, Riker (1955) argues that the US Senate should have kept the American federation fairly peripheralized, but the senators never behaved as if they were beholden to the state legislatures, because the state legislatures failed to enforce their instructions. The Seventeenth Amendment only made permanent and formal what had long been true in practice: the Senate was an unreliable safeguard for the states.

Each of these institutional safeguards ultimately depends upon public support for legitimacy and authority. If these institutions—say, the national executive—reinterpret the Constitution and redirect the nature of the federal union by promoting a set of programs that collects authority to the center, the public must support the change or it will not endure. Painstaking research by legal scholars reveals that even the judiciary cannot stray far from the public’s

⁶ *United States v. Alfonso Lopez, Jr.*, 514 U.S. 549 (1995).

views for long; a change as significant as a transformation of the nature of the union requires public acceptance (Dahl 1957; Funston 1975; Kramer 2004; Friedman 2009).

A change in the nature of the federal union, whether the states or the national government become more empowered relative to the other, is literally a system tip (Lamberson and Page 2012); in physical terms, the system transitions from one state to another. Complex systems can be highly interconnected, and during a transition, actions reverberate across the system broadly, and generate feedback, quickening and deepening the change in each area. System tips can produce large events. Examples of these sorts of phenomena include market crashes, mass extinctions, and power grid failures.

These large events arise because of system connectivity. The parts of the system are integrated and interdependent. To carry the analysis over to our realm of interest—constitutional change in federations—it must be the case that legal and policy domains are not independent, but instead entwined. Constitutional eras imply trends across multiple policy domains. Change in one domain is not isolated but instead triggers a change in another domain. In contrast with the hypothesis that constitutional shifts are created by institutional changes, here the source of the spread of constitutional reinterpretation is not solely a product of institutional change, but instead it is the change in one domain that serves as a catalyst for change in another domain. The theory of constitutional change needs to be able to explain how these distinct, apparently separable domains are related.

In a formal sense, constitutional domains are modular because they derive from independent clauses. Criminal law is not related to education law, for example. In practice, the policies in one domain may influence the development of policies in another, by introducing new perspectives or models of thought. The connection is often not found in ties between constitutional clauses, but in a paradigm shift in public perspective that leads to changes.

One example can be drawn from the civil rights era in the United States. In the 1950s and 1960s, racial equality gained public acceptance, spreading slowly from military desegregation, to the end of separate schools,⁷ to employment and public accommodations (Civil Rights Act of 1964), to changes to electoral laws (Voting Rights Act of 1965), and a transition in marriage law with the banning of antimiscegenation laws (the *Loving* case).⁸ Each of these policy transitions altered the federal–state relationship: either the Court overturned state legislation or, in the case of electoral law, the federal government stepped in to regulate policies constitutionally and traditionally left to the

⁷ *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954).

⁸ *Loving v. Virginia*, 388 U.S. 1 (1967).

states. The nature of the federal union was altered during this era, expanding the federal government's reach in order to achieve social goals.

It is interesting to consider whether a single legal opinion or constitutional amendment could create a large event, a new constitutional era. One ready example comes from American constitutional history: the *Dred Scott* decision.⁹ In *Dred Scott*, the US Supreme Court overturned an Act of Congress for only the second time in its history, and declared that people of African descent cannot be citizens, despite the fact that in some northern states, Blacks could vote and hold public office. The decision rent the country in two, inflaming abolitionist sentiments in the north. While the *Dred Scott* decision was not the unique factor that doomed the states to civil war, it is symbolic of the country's phase transition by fomenting a movement that had been growing slowly prior to the Court's decision. With national nerves frayed by an accumulation of inter-state and intergovernmental suspicion, the decision precipitated the nation from peace to war as the southern states resisted the northern domination and federal aggregation of power. It marked a turning point in American history.

When independent policies can be identified within an ideological or philosophical frame, they become connected in the public's eye. When a new policy alters the balance of power within the federation, perhaps by empowering the federal government, the public becomes more likely to accept policy centralization in policies connected within the ideological frame. Trends are created when the public views states' rights or federal intervention as a useful tool to further public goals. The public may even come to expect centralization of related policies despite adequate state policy alternatives.

At the microfoundational level, the spread of public expectations is explained by the theory of behavioral spillovers between games. These spillovers are created by citizens applying what they know, and they are more likely to apply existing behaviors if they view the problems as being similar.

A simple metaphor of a toolbox provides an intuition about how behavioral spillovers connect legal domains. Each citizen has a box filled with tools that she views as potential remedies for different policy problems. When a citizen encounters a problem to be solved, she can purchase a new tool, but she is more likely to root around in her toolbox to see if one that she already has might do the job. If she begins to see two problems as similar, and used a particular tool to solve one of the problems successfully, then she'll be more

⁹ *Dred Scott v. Sanford*, 60 U.S. 393 (1857).

likely pick up that tool first to solve the second problem. Applying the metaphor to policy problems, one might think of two “tools” to respond to policy problems; let the state legislature work it out or let the federal government handle it. As the citizen’s confidence in the federal government grows, for each new policy domain, she becomes more likely to approve of the federal government’s intervention.

This behavioral process has been well established in laboratory settings applied to abstract problems (Bednar et al. 2012). When subjects play two simple games simultaneously, they behave differently in each game than a control group of subjects who play each game in isolation. Behavior is context dependent. Although agents are free to treat each game independently of the other, agents’ decisions are affected by the presence of another game. Agents tend to play similar strategies in each game, although they receive no additional rewards for doing so.

The model of multiple game-play is predictive, and simulation and experimental results confirm predictions. Response to institutions produces a measurable degree of variation, or entropy. In games that are easy to solve—that have a dominant strategy, or that otherwise require no coordination with others—agents quickly adopt the optimal strategy. In games that are more difficult to solve, particularly those that require coordination with an opponent (such as the repeated Prisoner’s Dilemma), or where two actions produce similar payoffs (as in the Battle of the Sexes), agents take much longer to arrive at an optimal policy, and try many different strategies as they grope around for their best choice. Easy games, therefore, have low entropy, while more difficult games have higher entropy.

Using these measures of entropy for the games, a clear behavioral pattern emerges. When agents play multiple games simultaneously, they tend to solve the easier game first and then apply the same heuristic developed for the easy game to solve the more difficult game. While cognitive load is certainly a factor, the direction of behavioral spillovers runs from easier problems to harder problems: heuristics applied to solve the easier problem are far more likely to be used to solve the harder problem when agents play games simultaneously than when they play the harder game exclusively. When two problems are both difficult, if agents view them similarly, they tend to adopt similar strategies (Bednar et al. 2012).

These predictive models may be informative to scholars of constitutional evolution. In some constitutional domains we may expect a small range of behavioral responses (diversity of policy) while in others, a broader range is likely. We would expect little variation in areas of broadly settled law, or where there is little or no public disagreement over which level of government ought to control policy. When policy is controversial or the problem is new, we would expect more public disagreement about which “tool” to apply: whether

to grant the federal or state government authority. And to explain links, we would expect that the public would be most likely to accept the assignment of authority to either the federal or state government in a “difficult” policy domain if that same level of government had successfully solved a similar but less difficult problem.

Policy links are built around classifications of problem difficulty. Given the tendency first to solve easy problems (those that generate little political controversy), periods of centralization should begin with the federal government implementing policy in uncontested or uncontroversial domains, and then spread to other domains as the public comes to expect the federal government’s involvement. Another source of expanding authority comes as policy issues are reframed, tying them to existing federal authorities, as was the case with race linking together marriage law, education, and elections law. Once the federal government—and, perhaps more to the point, *not* the state governments—was accepted as the appropriate tool for ending racial discrimination in one domain, it became much easier to accept its involvement in other policies that could be tied to racial bias.

In domains with low entropy, change remains possible: the consensus could be based upon the lack of controversy over the means and common agreement on the ends; if the policy environment changes, an innovation may be immediately recognized as a dominant solution and adopted broadly. Therefore it is possible that low-entropy policy domains may be those with the fastest change, because adaptation is more quickly accepted by the public.

In sum, the theory of behavioral spillovers offers a possible roadmap for understanding the onset of centralizing or decentralizing eras. These complex systems results suggest that policy domains may be connected through the behaviors and expectations of the public. As policy becomes accepted practice in one domain, it becomes more likely that a similar intervention will be accepted in another domain. One can make some predictions about the kinds of policies that could start these tipping points: those where there is strong convergence of opinion or high demand for action are the conditions where we might expect the first experiments with a shift in power. If those initial experiments are successful, then further empowerment grows in probability in problem areas where there is high demand for a solution but no consensus over the method (that is, in domains where the public lacks consensus about the appropriate level of government to intervene). While spillovers are likely to move from high-consensus domains to ones where the politics are more ambiguous, high-consensus domains are not likely to be affected themselves. Therefore, if a transition in the federal system begins, the shift in eras is likely to manifest itself last in domains that are considered unproblematic and settled.

13.5 Discussion

This view of chaos in government is not one of despair. The system of American government flaunts virtually all tenets of legislative responsibility and administrative effectiveness. It appears always to be wasteful of manpower and money. At times it threatens the very democracy it is established to maintain. But it works, it works—and sometimes with beauty. (Grodzins 1966: 7)

Grodzins referred to the messy—in his eyes, chaotic—nature of the American federal system. On the surface, it does appear to be at least complex, if not chaotic. Federalism is a complex adaptive system, composed of systems of governance and rule enforcement, nested within layers. It operates on multiple spatial scales and its performance is influenced by the cultural and social system that guides the beliefs and behaviors of its residents. Effective change emerges from distributed, bottom-up experimentation; it is far less likely to originate through centralized engineering. Legal and policy domains are linked through public perception, so that incremental change in one domain may spread.

It is the very complexity of the federal system that enables us to generate a theory of incremental constitutional change—of change to the constitution that does not involve amendment but instead is a reinterpretation of clauses so that the nature of federalism changes even as the words that create it remain the same. In the introduction, I laid out three questions that an adequate theory of incremental constitutional change must address: (1) what is the source of innovation, (2) how is change constrained to be incremental, rather than punctuated, and (3) how does change spread across legal and policy domains to become a full transition in the nature of the federal union, an era of centralization or decentralization?

A model of federalism, of the authority boundaries between federal and state governments, should engage how it is managed with a system of distinct, diverse agents. To understand federalism, we need a theory of how it is maintained as a system with distinct agents. As the chapter argues, an equilibrium model can explain constitutional change primarily through exogenous forces. In this chapter, I leverage results from complex systems theory to generate a preliminary theory of incremental, informal, constitutional change to the boundaries of federalism.

In order to understand the development of any particular federation, or to theorize generally about federalism, one must adopt a systems-theory perspective. In doing so, one pays attention to systems characteristics such as openness, diversity, resilience, adaptability, and robustness. Grodzins, as systems theorist, had precisely the same intuition. With a view of federalism as a

dynamic system, the distribution of authority is subject to continual renegotiation. This movement does not imply imbalance, and it certainly does not spell the end of the federation. On the contrary, it may be the best sign that the federal union is capable of beneficial adaptation.

To explain the source of constitutional innovation, the theory relies on the diversity of states and multiple institutions. With state diversity, diverse preferences lead to pushing against the existing boundaries of federalism in original ways. With several diverse institutions safeguarding that boundary, and each being imperfect and incomplete, some safeguards will permit policy experimentation, whether intentionally, because it accepts the constitutionality of the policy, or unintentionally, through institutional error. Disagreements between safeguards (such as when legislation is approved by Congress but challenged by state governors, or its constitutionality is challenged in court) helps to inform the public. Some safeguards engage the public only passively, as observers (court), while with others—elected officials, parties more broadly—the public is asked for its support. The public also forms an opinion about authority shifts as it gains experience with policy.

Informal constitutional change is constrained to be incremental when safeguards are complementary. While each safeguard is itself incomplete and imperfect, if they respond to different types of experimentation, from different sources, and have flaws that are independent (say, in the type of evidence that they consider), then safeguards grow increasingly likely to deter policy experimentation that pushes the boundaries of federalism too far, straining legal continuity. And, finally, complex systems can provide intuition about the spread of authority migration, so that authority accumulates, to the point where the nature of the federation has shifted to become either more centralized or decentralized. Policies are linked as citizens relate one to another through new ideological frames. These spillovers are most likely to flow from policy domains of high consensus to those that are more contentious or ambiguous.

I have written this preface to a theory of constitutional change within the context of federal systems. While the essential elements of the thesis can be transposed to unitary systems to explain informal, incremental constitutional change, the diversity of agents and the multiplicity of interpretive possibilities make federalism particularly well suited to change in constitutional meaning without change to the constitutional text.

References

Arthur, Brian (1994), *Increasing Returns and Path Dependence in the Economy* (Ann Arbor: University of Michigan Press).

Constitutional Change in Federations: The Role of Complementary Institutions

- Balkin, Jack M. (2011), *Constitutional Redemption: Political Faith in an Unjust World* (Cambridge, MA: Harvard University Press).
- Bednar, Jenna (2006), "Is full compliance possible? Conditions for shirking with imperfect monitoring and continuous action spaces," *Journal of Theoretical Politics* 18 (3), 345–73.
- (2009), *The Robust Federation: Principles of Design* (Cambridge: Cambridge University Press).
- Bednar, Jenna, Chen, Yan, Xiao Liu, Tracy, and Page, Scott E. (2012), "Behavioral spillovers and cognitive load in multiple games: An experimental study," *Games and Economic Behavior* 74 (1), 12–31.
- Bednar, Jenna, Page, Scott E., and Toole, Jameson (2012), "Revised-path dependence," *Political Analysis* 2 (20), 146–56.
- Broschek, Jörg (2010), "Federalism and political change: Canada and Germany in historical-institutionalist perspective," *Canadian Journal of Political Science* 43 (1), 1–24.
- Dahl, Robert A. (1957), "Decision-making in a democracy: The Supreme Court as a national policy-maker," *Journal of Public Law* 6, 279–95.
- David, Paul (1985), "Clio and the Economics of QWERTY," *American Economic Review* 75 (2), 332–7 (Papers and Proceedings of the Ninety-Seventh Annual Meeting of the American Economic Association).
- Esckridge, William N., Jr., and Ferejohn, John (2010), *A Republic of Statutes: The New American Constitution* (New Haven, CT: Yale University Press).
- Fisher, R. A. (1930), *The Genetical Theory of Natural Selection* (Oxford: Clarendon Press).
- Friedman, Barry (2003), "Mediated popular constitutionalism," *Michigan Law Review* 101 (8), 2596–636.
- (2009), *The Will of the People: How Public Opinion Has Influenced the Supreme Court and Shaped the Meaning of the Constitution* (New York: Farrar, Straus and Giroux).
- Funston, Richard (1975), "The Supreme Court and critical elections," *American Political Science Review* 69 (3), 795–811.
- Gibson, Edward L. and Falletti, Tulia G. (2004), "Unity by the stick," in Edward L. Gibson (ed.), *Federalism and Democracy in Latin America* (Baltimore: Johns Hopkins University Press), 226–54.
- Grodzins, Morton (1966), *The American System: A New View of Government in the United States* (Chicago: Rand McNally & Company).
- Iaryczower, Matías, Saiegh, Sebastián, and Tommasi, Mariano (2001), "Coming together: The industrial organization of federalism," New York University manuscript.
- Koppelman, Andrew (2012), "Respect and contempt in constitutional law, or, Is Jack Balkin heartbreaking?" *Maryland Law Review* 71, 1126–43.
- Kramer, Larry D. (2004), *The People Themselves: Popular Constitutionalism and Judicial Review* (New York: Oxford University Press).
- Lamberson, P. J. and Page, Scott E. (2012), "Tipping points," *Quarterly Journal of Political Science* 7 (2), 175–208.
- Michelman, Frank I. (2003), "Ida's way: Constructing the respect-worthy governmental system," *Fordham Law Review* 72 (2), 345–65.

Actors, Institutions, and Internal Dynamics

- Page, Scott E. (2007), *The Difference: How the Power of Diversity Creates Better Groups, Firms, Schools, and Societies* (Princeton, NJ: Princeton University Press).
- (2010), *Diversity and Complexity* (Princeton, NJ: Princeton University Press).
- Riker, William H. (1955), "The Senate and American federalism," *American Political Science Review* 49 (2), 452–69.
- (1964), *Federalism: Origin, Operation, Significance* (Boston: Little, Brown).
- Rossum, Ralph A. (2001), *Federalism, the Supreme Court, and the Seventeenth Amendment: The Irony of Constitutional Democracy* (New York: Lexington Books).
- Thayer, James B. (1893), "The origin and scope of the American doctrine of constitutional law," *Harvard Law Review* 7 (3), 129–56.
- Tsebelis, George (2002), *Veto Players: How Political Institutions Work* (Princeton, NJ: Princeton University Press).
- Whittington, Keith E. (1999), *Constitutional Construction: Divided Powers and Constitutional Meaning* (Cambridge, MA: Harvard University Press).

14

Constitutional reform and federal dynamics: Causes and effects

*Bettina Petersohn**

14.1 Introduction

Federalism and constitutionalism overlap when changes in the vertical or horizontal organization of power and resources require, as they often do, reforms of the constitution. Researchers on federalism and constitutional reforms agree that federal and constitutional reforms take place more often than expected. Studies in both fields ask similar questions concerning the origins and triggers of change, explanations of results, or the conditions of success of constitutional or federal reforms. A variety of sources of change have been identified so far, including institutional malfunctions, administrative inefficiencies, societal changes, or group demands for minority protection and special rights (Banting and Simeon 1985: 223; Benz and Colino 2011). Despite the variety of sources and the frequency of federal change, comparative studies have long neglected the processes in which these changes are negotiated. Equally under-researched are the interactions between the organization of constitutional reform processes and reform results or federal dynamics.

As a mechanism of federal change, constitutional reform processes transform demands for change into outcomes. It is assumed that alterations in the way these reforms are organized and negotiated also change the results of federal constitutional reforms. When analyzing constitutional reform processes, a first distinction has to be made between formal procedures of the

* The ideas for this chapter were developed while working in the research project on “Patterns of Constitutional Reforms” (2008–11) funded by the German Research Foundation (DFG)—BE 1667/9-1. I would like to thank the editors for their helpful comments that have significantly improved this chapter.

reform basically defined in the amendment rules of the constitution, and the actual reform processes as organizational framework of consultation, negotiation, and ratification of specific reform initiatives. While amendment rules define basically the threshold of consent and therefore the actors and institutions required for ratifying a negotiation result, they do not entirely determine the organization of the reform process (Kemmerzell and Petersohn 2012). In order to examine the relation between constitutional reforms and federal dynamics, a broader approach to the processes seems necessary, one that takes into account not only veto players but also institutionalized practices, negotiations in parliamentary committees, special commissions or conventions, as well as spontaneous deviations from the traditional framework in which negotiation and ratification take place.

Two factors influencing the organization of constitutional reform processes can be derived from theoretical reflections. First, differences in the type of conflict triggering the reform (for example, efficiency- versus group-related conflicts) are assumed to require different kinds of reform processes for reasons of legitimacy (see Banting and Simeon 1985). Second, proponents of institutionalist federal theory have argued that the institutional structure of the political system shapes the power relations between negotiating actors, providing some with more and others with less influence on the outcome. Thus, a reform within a unitary context can be expected to be carried out differently than reforms to a federal constitution, which involve not only conflicts between parties but also between different levels of government (Elazar 1987; Burgess 2006).

By analyzing consecutive constitutional reforms in different states that aim to redistribute power between different levels of government, the chapter sheds light on the effects of process characteristics on federal changes. Based on the distinctions between efficiency and integration related reforms and unitary and federal systems, the questions are whether the reform processes are organized differently, and how change or continuity in process organization affects federal developments. The selected cases vary in terms of type of conflict as sources of constitutional reforms (efficiency- or group-related) and institutional contexts in which they take place (unitary, decentralized, or federal). The comparison shows that, first, different sources of federal change do not necessarily correspond with particular types of reform procedures as assumed by theory, whereas procedures and processes display more variations in different institutional contexts. Second, comparing procedures and processes over time, a greater stability of the former can be observed while actual reform processes display a greater variety but mostly within established patterns. Third, even after the territorial division of power has been changed substantively, process organization remains largely unaffected. Consequently, frictions between the federal structure and reform processes occur in unitary

states that have successfully decentralized power. These frictions can have destabilizing effects and increase centrifugal tendencies in states with predominantly group related constitutional conflicts.

14.2 Variations in Procedures and Processes of Federal Constitutional Reform

The division of power between levels of government is usually specified in the constitution or in functional equivalents like statutory laws. Generally, constitutions cannot be amended easily due to their higher thresholds of consent.¹ Studies of federalism and constitutional change suggest two factors of particular relevance for the organization of constitutional reform processes aimed at changing the territorial division of power. First, the underlying constitutional conflict is supposed to make a difference with regard to openness and opportunities for participation. Second, it is assumed that the actual distribution of power among actors and levels of government is reflected in amendment rules, thus granting veto power to some actors while marginalizing or even excluding others from the ratification process. In defining institutional and partisan veto players with regard to ratification, amendment hurdles have indirect influence, like an anticipatory effect on the way the negotiations of constitutional reforms are conducted. For example, including those actors in the negotiations, which will have to agree to a reform proposal in the end, will facilitate the ratification of the negotiation result. But apart from that, the organizational framework of reform negotiations does not depend entirely on ratification hurdles, but can differ even in cases with similar amendment rules.

14.2.1 *Triggers of Federal Change and Reform Processes*

Since constitutions define the rules of government along with basic rights and values, as well as the institutional framework and the relations between the state and its citizens, constitutional change can be triggered by shifts in societal values and territorial cleavages as well as by institutional malfunctioning. With regard to changes concerning the federal structure, two major sources of change based on the underlying constitutional conflict have been distinguished: group-related conflicts call for reforms “aimed at reshaping the

¹ The United Kingdom represents a particular case with its constitutional law not being limited to one document and no particular rule of amendment. Nevertheless, even in this case a broader consent than simple majority is regarded as appropriate and usually sought after (MacCormick 1999; Johnson 2004).

fundamental relations among contending groups,” and efficiency-related conflicts are “aimed primarily at tidying up political and administrative processes in order to facilitate policy-making and co-ordination” (Banting and Simeon 1985: 6). According to Keith Banting and Richard Simeon, these two types of constitutional conflicts also affect the organization of the process of constitutional reform. Since the first type includes recognizing new interests or minority groups, these processes are supposed to be triggered within society and to enter the political sphere in a bottom-up fashion, whereas those processes aimed at modernizing the administration and enhancing efficiency of decision-making processes are executed in a top-down fashion. It is furthermore assumed that efficiency-oriented reforms are embedded in the framework of every-day politics, whereas inclusion-oriented or group-related reforms are more decoupled due to a higher conflict potential and involvement of societal groups (Banting and Simeon 1985: 8f and 15; Schultze 2000). The rationale behind these differences rests on the legitimacy of the reform results. In order to be regarded as legitimate, they have to be based on broader consensus, which can make it imperative to recognize certain groups or grant them special rights. On the other hand, an increase in policymaking efficiency is regarded to be in the general interest and thus entails a lower degree of conflict.

Based on these reflections, actors’ constellations as well as process organization are supposed to differ depending first of all on the issues at stake; that is, either the recognition or accommodation of internal groups or the disentanglement of competences, often in combination with a reallocation of fiscal resources. Legitimacy-based arguments for a more open process in case of group-related reforms are supported by studies of conflict resolution in multinational or ethnically divided societies. National communities within a state challenge the constitution with demands for special protection or decentralization of certain policies but also for recognition of their distinctiveness (Taylor 1992; Kymlicka 1995: 71). Finding a compromise and eventually agreeing on federal arrangements is considered to be more difficult in divided societies because of the diversity and sometimes exclusive visions about the terms of accommodation itself (Elazar 1995: 7). Inclusiveness, participation, and access to the process are therefore deemed necessary for a reform result to be regarded as legitimate. Protecting minorities from majority decisions and accommodating their needs includes not only granting autonomy or special rights but also specific provisions regarding the processes in which these changes are negotiated (Tully 1995).

14.2.2 *Relation between Institutional Structure and Reform Processes*

A second argument about the organization of processes aimed at federal constitutional change can be derived from institutionalist federal theory. In

this perspective, reform processes are supposed to reflect the institutional structure and territorial distribution of power within the respective political system. Federal systems compared to unitary ones are characterized by the existence of sub-state entities endowed with autonomy in their constitutionally prescribed fields of jurisdiction. If a constitutional reform aims at changes in their jurisdiction, sub-state entities are supposed to participate or even have a veto in the decision-making process. Thus, a higher number of veto players is rather typical for reforms of federal constitutions compared to unitary ones (Burgess 2006: 157f; Watts 2008: 101ff). Amendment rules in federal states are therefore expected to give sub-state entities a larger role in constitutional reform processes whereas reforms in unitary states are supposed to be concentrated on the central level, involving the party or parties in government. Opposition parties might be included in case the threshold necessary for ratification surpasses the governing majority.

Table 14.1 summarizes different constitutional reform patterns in unitary and federal states. In order to discuss the theoretical propositions about determinants of constitutional reform processes and variations in negotiation frameworks, different cases of federal constitutional reform are examined along two main questions. First, what effects do different triggers of change (group-related or efficiency-related conflicts) and the territorial division of power have on processes of constitutional reform processes? Second, what happens to constitutional reform processes if either the type of conflict changes within the same context, or if the distribution of power is substantively

Table 14.1. Patterns of constitutional reform processes

		Type of constitutional conflict	
		Efficiency-related	Group-related
Unitary state	Confined to political elites of the central level; constitutional conflicts dominated by everyday politics and partisan interests; low involvement of societal actors; negotiations closed to the public		Strong position of political elites at the central level but bottom-up demands for more autonomy, veto positions and involvement by respective groups; increasing legitimacy by means of enlarged public participation
Federal state	Confined to political elites of both levels of government; low involvement of societal actors; negotiations closed to the public		Negotiations between groups and political elites of both levels of government Bottom-up demands for increased autonomy and veto positions by respective groups; increasing legitimacy by means of enlarged public participation

changed due to processes of federalization of former unitary states? How permeable are the four fields of the matrix or are processes of constitutional reform always organized along the same pattern? This question is directed at the relation or (a)synchrony of federal changes and procedural changes as a dynamic element within federal or regionalized systems. Following the assumptions, processes are, on the one hand, supposed to be open for societal involvement and the public at large when group-related conflicts become more prominent on the reform agenda. Tensions might then arise between elites negotiating behind closed doors, and interest groups or civil society organizations challenging the established patterns of reform processes. On the other hand, with significant shifts in the territorial distribution of power toward the sub-state level, the number of veto players in subsequent reform processes will tend to increase with representatives from newly created sub-state entities. Tensions within regionalized or federalized states might occur if negotiations continue to be dominated by actors from the central level who deny regional actors access to the process and thus the capacity to influence the results.

14.3 Empirical Patterns of Reform Processes and Federal Change

Cases for comparison are selected according to the existence of reform attempts at changing the allocation of power among different levels of government, variations in the type of conflict and territorial structure. Constitutional reforms with the main purpose of enhancing efficiency can be found in France, Germany, and Switzerland whereas group-related reforms have been dominant in Belgium, Canada, and the devolution processes in Great Britain (particularly with regard to Scotland and Wales). Although reforms in Belgium, Canada, and in Wales included aspects of enhancing policy-making or administrative efficiency, the reforms nevertheless followed the overall purpose of accommodating group demands. Comparing the institutional context of these countries, Canada, Germany, and Switzerland are traditional federal systems, while Belgium was a unitary state that has only recently transformed into a highly decentralized federal system. Similarly, devolution in Great Britain has caused major shifts in the distribution of power and resources toward the sub-state level although the system is not characterized as federal. Decentralization in France in comparison has led to an accumulation of minor changes in the territorial distribution of power but without leading to a substantial increase in regional autonomy or a coherent scheme of dividing power among different levels of government.

14.3.1 *Different Triggers, Territorial Structure, and Reform Processes*

14.3.1.1 EFFICIENCY-RELATED CONFLICTS AS A SOURCE OF CHANGE

According to the argument of Keith Banting and Richard Simeon, reforms that are initiated to reduce inefficiencies or inefficacy of policy-making are supposed to proceed in similar fashion to decision-making in ordinary legislative processes, and in a rather elitist, top-down fashion with little opportunities for public participation. Upon comparison, reform processes with primarily efficiency-oriented purposes in centralized, unitary France, and in the two federal countries, Germany and Switzerland, reveal a number of similarities to processes of ordinary legislation processes. However, with regard to public participation and openness of the processes, cases vary more amongst each other than expected.

Reform Processes in Unitary States

In France, both chambers of parliament adopt a constitutional law on exactly the same terms and final ratification is subject to approval in a popular referendum. Two provisions limit, however, a broad, popular involvement. First, statutory laws introducing new territorial units, which can consequently alter the vertical division of power, are exempted from the referendum (Article 72 *Constitution de la République*). Second, the obligatory referendum for constitutional amendments can be bypassed by the President of the Republic by convening both chambers of parliament in Congress, which can only pass the bill with a three-fifths majority. Formal procedures do not contain further provisions regarding participation or inclusion of political or societal actors. Constitutional change in France is therefore predominantly negotiated at the central level, involving the executive and both parliamentary chambers. However, the strong position of the Senate and its particular composition, together with the possibility of mandate accumulation, gives local elites significantly more power in constitutional reforms through the Senate than expected in a centralized political system (Le Lidec 2012). Furthermore, in the last decentralization reform, the Ministry of the Interior initiated a consultation process on the implementation laws at the local level, gathering mostly elected politicians and organized interests. While the constitutional amendment was already discussed in parliament, these consultations were intended to prepare the implementation laws necessary to complete the decentralization reform. Despite the intention, their impact on the reform results remained low (Marzelier 2004; Zimmermann-Steinhart 2005).

Reform Processes in Federal States

In Germany, formal procedures include a two-thirds majority in both chambers of the legislature, but no further opportunities for participation or public

involvement is prescribed. As a general pattern in constitutional reform processes, the negotiations are organized in joint parliamentary committees of both chambers, thereby acknowledging the respective party strength as well as equal representation of members of the federal parliament (*Bundestag*) and the Federal Council (*Bundesrat*). Similar to those federal laws subject to the consent of the *Bundesrat*, representatives of the States' or *Länder* executives participate in the process and joint decision-making is reproduced in constitutional negotiations (Benz 2011). In order to secure the two-thirds majority in the later parliamentary vote, it has also become an established pattern to adopt a proposal with a two-thirds majority within the commission. Reflecting the power balance between the levels and the parties, negotiations are institutionally and personally connected to everyday politics (Benz 2008).

In German federalism, the dominance of executives of both levels is reflected in formal procedures and constitutional reform processes leaving the *Länder* parliaments struggling for a more substantial role within the federal system as well as constitutional reforms. In the failed attempt at federal reform in Germany in 2004, *Länder* parliaments had organized a separate convent composed of parliamentary party leaders and speakers of the *Länder* parliaments in order to coordinate their positions vis-à-vis the federal level. But their influence in the negotiations remained limited (Thaysen 2004). Recent reforms were conducted similarly with only minor changes such as the participation of parliamentarians from the *Länder* and representatives of the municipalities in the joint commissions of *Bundestag* and *Bundesrat*. Their rights were, however, limited to speaking and filing a motion but did not include voting rights. Participation of individuals or interest groups was also not provided for, and when financial topics were discussed the commissions sat in closed sessions (Benz 2005). Regarding opportunities for participation and open deliberation, reform processes are confined to a limited number of actors and public participation is not provided for in constitutional reforms.²

Constitutional reforms in Switzerland, in comparison, are institutionally more decoupled from ordinary legislation and party competition by extending the time frame of reforms considerably and by dividing the reform into different sequences varying in terms of participation and agenda topics.

² The agenda of the constitutional reform following reunification included more group related aspects than before, like recognizing minority rights, enshrining environmental protection or provisions for direct democracy in order to strengthen the integration of both parts of Germany. Nevertheless, the reform agenda comprised the goal of disentangling both levels of government and other more efficiency-related topics. The reform processes followed the established pattern of a joint parliamentary commission and no opportunities for increased participation were offered. A popular referendum as final stage of ratifying the reformed constitution was discussed but not agreed upon. Despite the relevance of different interest groups and civil society in bringing about the peaceful transformation in Eastern Germany and their demands for opening the negotiations, no alterations in organizing the reform process took place in order to reflect these changes (Batt 1996).

The process leading to the latest reform of the equalization scheme in 2004 forms a textbook example of separating the agreement on broader principles of the reform from elaborating the details and redistributive mechanisms. By sequencing the process in this way, negotiations on principles were led without knowing exactly the costs and benefits of the new equalization scheme, which facilitated problem-solving instead of bargaining (Braun 2009). The total revision of the constitution in 1999, in comparison, made extensive use of a longer time frame, stemming from as early as the 1960s and 1970s where two expert commissions had already analyzed the state of the constitution and suggested possible solutions. The later renewed reform initiative could make use of the preliminary endeavors although the negotiations were not directly connected with each other (Freiburghaus 2005).

Formal procedures of constitutional reforms include the *Vernehmlassung*, a phase of open consultation of stakeholders, interest groups as well as cantons (Article 147 of the Swiss Federal Constitution, or *Bundesverfassung*), giving them the opportunity to react to a reform initiative of the federal government before the proposal is presented to parliament. The culture of direct and consensus democracy in Switzerland is not only an important feature of ordinary legislation, but also dominates processes of constitutional reforms. Reforms are ratified with a simple majority in both houses, but require the approval of the population in an obligatory referendum where a special quota ensures a majority of the population and the cantons (Articles 140, 142 *Bundesverfassung*). The Federal Assembly (*Bundesversammlung*), as the general place of negotiations of constitutional reforms, is composed of members of the National Council (*Nationalrat*) and the Council of States (*Ständerat*), but members of the latter are mostly directly elected in the cantons and increasingly represent party and not territorial interests. Contrary to Germany, the formal procedures do not provide for participation of the executives of the cantons in the negotiations. Distinguishing between cantonal parliaments and executives, the former are especially underrepresented in negotiations on constitutional reforms in both cases, but representatives of cantonal executives and parliaments have access to the negotiation process through the *Vernehmlassung* (Vatter 2006). Therefore, the cantons gain a much stronger role in federal constitutional reforms due to mechanisms of the consensus democracy than by means of the federal constitution. Looking at the most recent reform of the fiscal equalization scheme, the conference of the cantonal finance ministers was responsible for the initiative of the reform and worked closely together with the federal finance department in drafting the proposal prior to the phase of open consultation. Tracing the role of representatives of the cantons in the different phases of the reform process, their involvement is guaranteed not only by the provisions of open consultation but also by an understanding of all actors involved that their consent is necessary for a

constitutional reform to pass (Braun 2009: 323; Freiburghaus 2012). While there is a way for the cantonal executives but also parliamentarians to circumvent their formally weak position, representatives of *Länder* parliaments in Germany face many more difficulties in becoming involved and have their positions taken into account.

When comparing the reform processes in France, Switzerland, and Germany regarding opportunities for participation and open deliberation, processes vary greatly, although all fall into the category of efficiency-oriented reforms. Reform processes in Switzerland clearly stand out with regard to opportunities for participation and involvement. The procedure of *Vernehmlassung* opens the process for cantons, parties, interest groups, and public associations. Involvement of societal actors is therefore guaranteed in the Swiss case due to political culture and tradition. Nevertheless, the vast opportunities for organizations or the public to get involved do not prevent political and administrative elites from playing an important role in specifying details together with experts in project groups and negotiating the final reform bill (Freiburghaus 2002; Braun, Himmelsbach, and Uhlmann 2008). In comparison, political elites dominate the processes in France and Germany and no provisions for broader participation exist as expected for this type of efficiency-related conflicts.

Looking at the influence of power distribution, reform processes reflect to a greater extent what has been assumed by institutionalist federal theory. If not always reflected in procedures, the federal tradition is part of institutionalized practices of constitutional reforms in Germany and Switzerland, while processes of decentralization in France involved the local level only in order to ease implementation. In Switzerland, consensus democracy trumps federalism in formal procedures, but it is also by this mechanism that cantonal entities gain in terms of access and participation along with societal or business interests. Being considered the most successful in comparison to other recent federal reforms (see Behnke et al. 2011), the reform of fiscal equalization in Switzerland demonstrates that not only group-related constitutional conflicts benefit from open processes with broad participation, but also that agreements on re-distributional conflicts are similarly regarded as more legitimate if opportunities for participation exist and are widely used.

14.3.1.2 GROUP-RELATED CONFLICTS AS A SOURCE OF CHANGE

In comparison with efficiency reforms, group-related reforms are expected to be more open to deliberation and participation because of the conflicting views on the right means of accommodating the demands of societal groups or national minorities. However, comparing the selected cases of group-related reforms in Canada, Belgium, and Great Britain, openness or participation rights are not included as standard features of constitutional procedures

but were granted only after failed attempts at closed door elite accommodation. With regard to the institutional structure, reform procedures in traditionally federal Canada differ from the processes of decentralization in Great Britain and Belgium.

Reform Processes in Unitary States

Formal procedures in Belgium have followed a complex formula since the founding of the state, ensuring a consensus between the two dominant parties in parliament, Catholics and Liberals. In order to alter the constitution, a declaration has to be agreed upon in parliament enumerating from the outset the articles that are subject to change. This declaration is followed by the dissolution of parliament and new elections. In order to pass, reforms need the approval of two-thirds in each chamber of parliament while at least two-thirds of all parliamentarians need to be present (Article 195 Belgian Constitution). Consequently, negotiations on constitutional reform tend to be part of coalition formation after the new elections and follow a consociational pattern where the elites or leaders of the governing parties at the federal level agree on a consensus prior to the parliamentary vote (Deschouwer 2006). Opposition parties are included in case their votes are required to pass the two-thirds threshold, as for example in the case of the former *Volksunie* in the state reform of 2000/01 (see De Winter 2006). Interest groups, however, have little influence on constitutional reforms and only insofar as they are connected to the political parties. But the system of “pillarization” has become weaker over time (Deschouwer 2009).

Heightened conflict between the two large linguistic groups after World War II as well as the reduced relevance of religious and ideological cleavages made the community conflict the top priority in constitutional reforms. Since consociational patterns of conflict resolution had been used repeatedly to accommodate the religious cleavage or ideological conflicts between the Conservatives, Liberals, and Socialists (Deschouwer 2002), they were then converted in order to accommodate demands of the two major linguistic groups. With the first constitutional revision in 1970, the central Parliament was not only divided along the linguistic frontier, but it was also agreed that further constitutional reforms as well as special majority laws would require the consent of a majority in each linguistic group in addition to the two-thirds majority, providing the Dutch- and French-speaking community with a mutual veto over federal constitutional reforms thereafter. According to theoretical assumptions, the two conflicting groups were provided with a special status, ensuring that no decision on the future allocation of power could be made against their interests.

Demands of territorially concentrated groups for decentralizing power in Great Britain have also been successfully translated into devolution laws. Due

to the tradition of parliamentary sovereignty, the ratification of devolution laws in Great Britain would have been possible by simple majority in Parliament. The lack of an amendment formula leaves room for variations in the way constitutional laws are ratified, but parliamentary debates and votes have always been part of the process in the period of Labour government (see Bogdanor 2009). For the attempts to decentralize power to Scotland and Wales in 1978 as well as for the devolution in 1998, a facultative referendum was held in both regions in order to increase the legitimacy of the final accord by means of popular approval (Jeffery and Palmer 2000). Negotiations on the devolution laws were mostly held within the governing Labour Party, though with the inclusion of the Liberal Democrats in the Scottish case (Bradbury 2010; Mitchell 2012).

Although no formal provision for broad participation exists, turning toward the organization of particular reform processes, differences between negotiating devolution for Scotland and Wales and deviations from simple majority votes can be identified. Especially in the Scottish case, a phase of open consultation preceded closed negotiations, whereas in Wales the process was kept entirely a matter of political elites, especially of the Labour Party. The “Campaign for a Scottish Assembly” pressed for installing a convention in order to discuss and prepare home rule for Scotland. The Scottish Constitutional Convention had been organized at the regional level as early as 1989 and gathered members of Scottish civil society, representatives of unions and Scottish parties, except the Scottish Conservatives and the Scottish National Party (SNP), which chose not to participate. The final report of 1992 became the basis of the devolution laws of the Labour Party, thus finding its way into the negotiations in an informal way (Brown, McCrone, and Paterson 1998; Mitchell 2012). This indirect participation and influence of societal actors during the Scottish Convention, however, forms a quite different and less powerful tool compared to sitting at the negotiation table and even having a veto over agreements. Nevertheless, the indirect link between Scottish society and the devolution laws facilitated the passing of the referendum on devolution in the end.

Reform Processes in Federal States

In Canada, given the lack of an amendment formula in the British North America Act 1867, constitutional reform processes displayed a greater flexibility from the beginning with unilaterally ratified amendments at the federal level or with additional provincial consent. Decisions on changes to the allocation of power between the federal level and the provinces were usually taken with unanimous approval by the provinces before being sent to the British Parliament (Brady 1958: 59f). Assembling members of the executives of the federal level and the provinces, “First Ministers Conferences” became the established pattern of constitutional negotiations as early as the beginning of

the twentieth century (Stein 1993). When discussions about a new amendment formula eventually led to the “Patriation” of the constitution in 1982, it still remained the case that different amendment requirements applied for various issues or policy areas. Reforming federal institutions, for example, require only the consent of both Houses of Parliament; reforms affecting only one or a few provinces can be negotiated and passed by means of bilateral agreements, like the inclusion of the bilingual character of the province of New Brunswick into the constitution. To amend the constitution with regard to the division of powers or the representation of the provinces in federal institutions, however, a consent of the majority or all provincial legislative assemblies is required. Although constitutional reforms in Canada were for a long time dominated by the conflict with Quebec and the accommodation of the French-speaking minority, the new amending formula included no veto for Quebec and no provisions for extended participation for societal interests. Instead, the federal character of Canada was recognized and the position of provincial legislatures strengthened without making reference to the special character of the province of Quebec (Adam 2007; Gagnon and Iacovino 2007).

During the negotiation of the Constitution Act 1982, actors’ constellations were changed to include representatives from Aboriginal organizations and municipalities as well as members of the opposition at the federal and provincial level. Representatives from the Territories were invited as part of the federal delegation. Therefore, the number of the involved actors in reform processes was gradually expanded, although these new actors had no equal rights in negotiations and were not allowed to vote on proposals (Canadian Intergovernmental Conference Secretariat 2004: 65, 71–3). Interest groups were still excluded from these negotiations, but could appear in the hearings of the Joint Committee on the Charter of Rights of the House of Commons and the Senate in late 1980 and the beginning of 1981 (Stein 1993: 105). After agreeing on a new amending formula, constitutional reforms continued to be organized in various ways, especially with regard to opportunities for broader participation. Based on the idea of constitutional conventions and in order to defend their rights enshrined in the Charter of Rights and Freedoms, societal groups demanded access to the reform process in the following debates on constitutional reform. Closed-door meetings that had dominated the negotiations on the Meech Lake Accord in 1987 were no longer acceptable especially for Aboriginal peoples and women’s organizations. After failing to gain the required consent of all provincial legislatures, negotiations on constitutional reform continued, but the process was materially changed in order to include public hearings across the country and input from numerous interest groups and organizations of civil society by means of open televised conferences prior to negotiations leading to the Charlottetown Accord in August 1992 (Milne 1992; Stein 1997; Russell 2004). This phase of extended consultation was

followed by negotiations along the traditional pattern of non-public First Ministers meetings. Since many provisions agreed upon during the open phase of consultation were withdrawn in these meetings, the result was widely considered illegitimate, especially among those who were involved the most. The reform was voted down in the facultative referendum held in October 1992, which also brought discussion on far-reaching constitutional reform in Canada to a standstill.

Overall and contrary to theoretical assumptions, elite accommodation and negotiations in closed meetings also prevail in constitutional reforms directed at the accommodation of societal interests or minorities, giving governing parties and members of the executives a dominant position in reform processes. Although triggers of change are society-based and directed at accommodating diversity in the three cases under scrutiny, formal procedures do not include special precautions for openness or opportunities for participation. But patterns of constitutional reform processes are contested and a consensual style of negotiation can be identified in a majority of reform debates. Thus, the type of conflict, efficiency- or group-oriented, seems to play only a limited role with regard to the organization of the reform process. Negotiations themselves tend to take place in closed sessions, dominated by executives or governing parties, and resemble more often processes of ordinary legislation and decision-making processes for both types with only few additional provisions to ensure that the generally higher threshold of consent is met. Openness or involvement of societal actors is then dependent on their status in ordinary legislation, as the case of Switzerland demonstrates, or on previous experiences with failed reforms as in Canada. The distinction of the type of conflict as sources of federal change, therefore, certainly plays a role in defining the tasks and negotiated interests, but contrary to theoretical assumptions the type of conflict does not significantly affect procedures and processes of constitutional reforms. The legitimacy of the results of these closed-door negotiations has only occasionally been questioned.

The institutional structure of a state, in comparison, seems to play a more important role in defining the actors involved in constitutional reforms and their power in negotiations. Constitutional reforms in federal states reflect the federal character either in formal procedures or institutionalized patterns of negotiations, privileging the executives of both levels in all cases. Parliamentarians of sub-state entities have gained more relevance only in Canada after being formally included in the amendment formula as ratifying institutions.

14.3.2 *Federalization, but Continuity of Process Organization*

Comparing the selected cases of reforms, Great Britain and Belgium have experienced far-reaching changes in the territorial distribution of power

while changes in France and Germany have been limited. Recent reforms in Switzerland have successfully altered fields of jurisdiction of the federal and the cantonal level, but shifts have taken place in both directions. In sum, no level has been empowered in comparison to the other, but the disentangling of competences led to more leeway of action for both levels of government. In order to answer the question raised at the beginning—how processes of constitutional reform are organized after material changes in the territorial power distribution have taken place—it is instructive to look especially at Great Britain after devolution and Belgium after federalization. Remarkably in both cases, continuity with regard to process organization prevails despite new institutions and actors at the sub-state level. This continuity in terms of processes has important consequences for the representation and involvement of newly created sub-state entities and their institutions, but can also affect the direction of federal change.

The devolution laws in Great Britain establishing new legislative assemblies and executives at the sub-state level were largely negotiated within the governing Labour Party at the central level and the Parliament at Westminster. The asymmetric distribution of power, with the Scottish Parliament gaining autonomous jurisdiction for several policies while the Welsh Legislative Assembly received only secondary legislative competences in 1998, reflected the antecedent forms of territorial management which had a long tradition in the United Kingdom (for an overview, see Keating 2004). Despite these significant changes in the division of powers and shifts from a unitary state to a regionalized one, procedures and processes for further decentralization have not been altered. The second legislative act on devolution in Wales in 2006 established the Welsh government as a separate body responsible to the Welsh Assembly. Negotiations were entirely dominated by the Westminster Parliament and the governing Labour Party. Although a previously established Welsh reform commission had worked on proposals for a reform, their report and ideas were completely ignored. Ratification of this legislation also did not include a regional referendum as had been done for the creation of sub-state entities (Trench 2008). In 2010, it was agreed that further competences were to be decentralized to Wales. This time, a referendum was held in February 2011 on decentralizing more legislative power to the Welsh Assembly (Mitchell 2012: 223). Reforms of power relations and institutions at the regional level, therefore, continue to be organized along established patterns of constitutional change, always involving the Westminster Parliament and occasionally including a popular referendum.

Changes in the distribution of power in Belgium go even further given that a full transformation from a unitary to a federal state took place between 1970 and 1993. Parties at the central level dominated the processes leading to federalization. Linking consociational practices with federal changes prior to

federalization gave the two large linguistic communities a strong position in negotiations and a mutual veto whenever federal reforms were to be ratified. The split in the party system that took place between 1968 and 1978 corresponds to these decision-making patterns so that the bipolar character of the conflict is reinforced by actors' constellations and decision-making requirements (Petersohn 2011). The bipolarity of the dominant conflict between the Dutch- and French-speaking communities prevailed in the definition of the new amendment formula with consequences for the direction of federal change and the representation of newly created sub-state entities. First, the direction of downsizing the federal level and increasing the autonomy of the sub-state entities, regions and communities dominated constitutional reforms from the beginning until today so that few competences are left for redistribution and the demands of the Flemish are now directed toward splitting the system of social security. Consequently, the process of federalization provided regions and communities with significant competences and fiscal resources while leaving the federal level with a skeleton of competences and tightened budgets (for details on reform results, see Hooghe 2004; Swenden, Brans, and De Winter 2006). The quite frequent compromises between the groups during the transformation have been superseded by repeated political deadlocks affecting federal policy-making. Second, finding a compromise on Brussels' institutions and financial resources turned out to be extremely difficult within this framework and had to be postponed several times. In the end, the institutional framework of the region of Brussels-Capital has been repeatedly negotiated in a separate process leading to special majority laws for Brussels and distinct processes of reforming them. At the same time, power is divided as symmetrically as possible amongst the three regions (Deschouwer 2009: 61). Third, giving prevalence to the conflicting groups over the envisaged federal structure at the beginning of the transformation without changing formal procedures afterwards is now reducing the participation and influence of sub-state parliaments and governments on reform negotiations. In order to meet these defects, a special inter-parliamentary and intergovernmental conference had been established in the latest state reform of 2000/01 in Belgium comprising representatives from sub-state parliaments and governments in order to discuss and prepare reform drafts. Nevertheless, the equal representation of the two linguistic groups was maintained and party affiliation dominated the negotiations (Delwit and Hellings 2002; Bourgaux 2003). Moreover, negotiations on the reform were withdrawn from this conference and again held in closed-door meetings between the leaders of the parties in government at the federal level (Jacques and Boromé 2001). These small process alterations, therefore, could not make a difference with regard to the exclusion of sub-state representatives from negotiating federal changes. Consequently, frictions between the arrangement of power distribution and the processes

for reforming it are increasingly generating political stalemate at the federal level while the bipolarity of the conflict has been enshrined in the federal structure and in processes of constitutional reform, accelerating centrifugal tendencies even more. While the conflict between Dutch- and French-speaking communities continues to drive discussions about federal constitutional changes, the deadlock at the federal level leaves many important tasks, like debt reduction or reforming the pension system, unresolved.

The illustration of the different processes of constitutional reform shows that formal procedures display a high degree of continuity with only small alterations. Even in cases of significant changes to the vertical separation of powers or of territorial restructuring, constitutional reform processes are organized along established patterns of negotiation and decision-making. Consequently, the processes of reform continue on their established trajectory, while the individual powers can be materially altered. The relation between structure and processes as formulated by institutionalist federal theory can be confirmed in the examined cases of classic federal states. But regionalized or newly federalized systems entail a much greater variety of relations and more incongruence between structure and processes, carrying forward inherited patterns of organizing constitutional reforms from their former unitary period. While Great Britain manages these internal frictions by organizing separate processes of federal changes for different territorial units and occasionally adding a regional referendum, Belgium faces a severe stability crisis and an increased danger of separation.

14.3.3 *Alterations of Processes or Formal Procedures and their Effects on Federal Change*

As demonstrated, several cases display a great deal of federal change without equal changes in the organization of reform processes. But we also find alterations in process organization or formal procedures in traditional federal states. Therefore, we can ask the question as to what kind of effect these alterations have on reform results and federal change. With regard to process alterations, Canada stands out as a laboratory of experimentation, but differences in specific processes can also be found in Germany.

It has already been mentioned that reform processes in Germany reflect and repeat the entangled division of power by setting up a joint commission of the two chambers of parliament, privileging representatives of the *Länder* executives over *Länder* parliamentarians. The recent inclusion of representatives of *Länder* parliaments and the municipalities in Germany has changed the composition of reform commissions. Their influence, however, remained limited, not least because they were denied voting rights. Interests of the *Länder* will therefore continue to be represented via their executives despite the attempts

of sub-state parliaments to improve their position in reform processes. Looking at the results of the negotiation, disentangling the two levels of government and increasing legislative autonomy of the *Länder* have been only partially successful. While some authors regard the federal reform of 2006 as the beginning of a new phase of German federalism with more diversity in legislation and possible asymmetrical developments (Sturm 2008), others see only minor deviations from the intra-state model and doubt that any significant disentanglement or more autonomy for the *Länder* has been achieved at all (Benz 2008; Scharpf 2009). Thus, retaining established patterns of negotiation on constitutional reforms with only minor changes in actors' constellations but without any leverage in negotiations will neither lead to innovation with regard to solving the underlying constitutional problem of inefficiency, nor produce far-reaching federal changes.

Changes in the organization of reform processes, as has been argued so far, have had consequences on the results on the reform especially in those cases where consultations have been broadened and negotiation results were object of a popular referendum. By opening constitutional reform processes for public involvement, societal interests gain more prominence, like non-discrimination rights or the recognition of self-government for Aboriginal peoples in the Canadian case. While the link between the constitution and the people can be strengthened by these measures, effects on federal change remain diffuse as individual or collective rights tend to bind both levels of government. Nevertheless for the Canadian case, there is general agreement that the opening of the constitutional debates to a wider public contributed to finding a compromise between the federal level and the provinces. Parts of that compromise found their way into intergovernmental agreements, thus being implemented by non-constitutional means (Lazar 1998). Opening the process for broader participation and including representatives of national communities or societal groups seems to have greater impact on reform results when group-related conflicts are negotiated.

Changes in the amending formula took place, emphasizing the federal character over the recognition of the duality of the founding nations. The special status or veto that had been demanded by Quebec was not granted, leading the province to reject the Constitution Act 1982 itself (Banting and Simeon 1983; Laforest 1991). Instead, the ratification requires a regional balance of consent from smaller and larger provinces equally. But instead of facilitating constitutional reforms, provincial assent can no longer be guaranteed by negotiations among the First Ministers. In comparison to Belgium's deadlock at the federal level, Canada also faces a certain stalemate, however, not with regard to federal government formation or policy-making but rather to constitutional amendments affecting the federal structure. The flexibility of the federal system allows for federal changes on a non-constitutional basis,

but reforming the Senate, for example, can still be realized only by means of formal constitutional reform. The consequences of empowering the provincial parliaments in the new amendment formula took political elites by surprise when two provinces allowed the three-year period of ratification to elapse, eventually leading to the failure of the Meech Lake Accord in 1990. Providing sub-state entities with more power in ratification had negative impacts on subsequent reforms in which negotiation partners could still agree on a consensus, but ratification was no longer guaranteed. Consequently, federal changes could take place only by means of non-constitutional change, which bypasses the high threshold of consent and allows for more flexible arrangements. Bilateral agreements between the federal level and single provinces have become a repeated pattern of rearranging jurisdiction and allow for more *de facto* asymmetries in policy-making than envisaged in the failed rounds of formal constitutional reform (Smith 2002). As expected, the demands of Quebec for protection from majority decisions were not accommodated fully without being granted a veto. From a short-term perspective, the only marginally lost referendum on sovereignty in 1995 gives ample proof of increased tensions between the conflicting groups. But from a long-term perspective, different mechanisms of non-constitutional change, like the bilateral agreement on immigration policy or the recognition of Quebec as a distinct nation within Canada, could successfully reduce the conflict and accommodate Quebec's demands at least partially (Rocher 2009). Thus, changing procedures that reflect the federal character had more significant consequences for constitutional politics than for the opportunities and directions of federal changes.

14.4 Conclusions

This chapter started out with an inquiry into the relationship between constitutional reform processes and federal change. Two factors influencing how federal constitutional reforms are organized and carried out could be derived from previous studies and theoretical reflection: the type of constitutional conflict and the territorial structure and division of powers within a state. The comparison demonstrated, first, that apart from the formal hurdles to constitutional reform, actual processes display a greater variety, although experimentations stay within a certain pathway of established patterns in most cases. These alterations in organizing reform processes have had more effects in cases with group conflicts. Changes in processes have even gone so far as to add a facultative referendum to the respective threshold of consent, risking the success of ratification. But they were also helpful in increasing the opportunities for societal interests and groups to become involved in the process

when formal procedures would not have provided for their participation. Second, while the type of conflict as source of change had only limited effect on procedures of constitutional reforms, it surely affected the mobilization of groups and the topics that were negotiated. Contrary to theoretical assumptions, no direct relation could be confirmed between group-related conflicts and either questions of inclusiveness and public participation in negotiations or ratification, but demands for opening the process were at least present in Canada and prior to devolution in Scotland. Third, a certain congruence of federal structure and reform processes could be identified in classical federal systems. In Canada, the federal character has even been strengthened with the new amendment formula. However, changes in the distribution of power do not necessarily result in changes in reform processes. Instead, reform procedures and processes remain rather stable or change within established patterns of decision-making. When comparing traditionally federal systems with newly federalized ones, this means that they can be highly similar in terms of structure but differ to a large extent in terms of processes. Although not regarded as truly federal, reform processes changing the division of power in Great Britain after devolution followed the traditional pattern of negotiations at the central level with a strong position of the Westminster Parliament. Final control over further federal change has thus been retained at the central level and centrifugal tendencies have not been accelerated, despite the repeated threat of secession and electoral gains of nationalist parties. Frictions between the federal structure and reform processes are even higher in Belgium. Although constitutional reforms have been highly successful in terms of ratifying amendments and of achieving major shifts in the distribution of power, problem-solving capacities warrant misgivings in light of ongoing reform discussions and repeated government crisis. The comparison with Canada showed that a plurality of veto positions could be a way of counterbalancing demands for more autonomy and slow down centrifugal tendencies. Amending the constitution has been made largely impossible by these new rules, but the flexibility of Canadian federalism and non-constitutional approaches to achieving federal change were helpful factors in dealing with internal tensions without destabilizing effects. Centrifugal tendencies are, however, enforced if a mutual veto is granted only to the conflicting groups without the opportunity of territorial or societal interests to balance the conflict in constitutional debates. Political elites in Belgium, therefore, continue the debate about more decentralization prior to and after each federal election, hollowing out the former center with every reform and repeatedly blocking governing at the federal level.

References

- Adam, Marc-Antoine (2007), "The Constitution Act, 1982 and the dilemma of Canadian duality since 1760," *Supreme Court Law Review* 37, 261–84.
- Banting, Keith G. and Simeon, Richard (1983), "Federalism, democracy and the constitution," in Keith G. Banting and Richard Simeon (eds.), *And No One Cheered: Federalism, Democracy and the Constitution Act* (Toronto: Methuen), 2–26.
- (1985), "Introduction: The Politics of Constitutional Change," in Keith G. Banting and Richard Simeon (eds.), *The Politics of Constitutional Change in Industrial Nations. Redesigning the State* (London, Basingstoke: Macmillan Press), 1–29.
- Batt, Helge-Lothar (1996), *Die Grundgesetzreform nach der Deutschen Einheit* (Opladen: Leske + Budrich).
- Behnke, Nathalie, Petersohn, Bettina, Fischer, Andrea, and Heinz, Dominic (2011), "Measuring success and failure of constitutional reforms," *Regional & Federal Studies* 21, 443–73.
- Benz, Arthur (2005), "Kein Ausweg aus der Politikverflechtung? Warum die Bundestaatskommission scheiterte, aber nicht scheitern musste," *Politische Vierteljahresschrift* 46, 204–14.
- (2008), "From joint-decision traps to over-regulated federalism—Adverse effects of a successful constitutional reform," *German Politics* 17, 440–56.
- (2011), "Escaping joint-decision traps: National and supranational experiences Compared," in Gerda Falkner (ed.), *The EU's Decision Traps: Comparing Policies* (Oxford: Oxford University Press), 199–216.
- Benz, Arthur and Colino, César (2011), "Constitutional change in federations: A framework for analysis," *Regional & Federal Studies: Special issue; Federalism and Constitutional Change: Theoretical and Comparative Perspectives*, Special Issue: 21, 381–406.
- Bogdanor, Vernon (2009), *The New British Constitution* (Portland: Hart Publishing).
- Bourgau, Anne-Emmanuelle (2003), "L'évolution des modes de négociation institutionnelle, ou La machine à explorer le temps institutionnel belge," in ULB Centre de droit public (ed.), *Les accords du Lambert et du Lombard* (Bruxelles: Bruylant), 22–60.
- Bradbury, Jonathan (2010), "Country profile: UK—Wales" (unpublished report). (Darmstadt: Technische Universität Darmstadt).
- Brady, Alexander (1958), *Democracy in the Dominions. A Comparative Study in Institutions*. 3rd edition (Toronto: University of Toronto Press).
- Braun, Dietmar (2009), "Constitutional change in Switzerland," *Publius* 39, 314–40.
- Braun, Dietmar, Himmelsbach, Raffael, and Uhlmann, Björn (2008), "Towards a systematic account of constitutional success and failure—Constitutional change in Switzerland," in ECPR Joint Sessions of Workshops (Université de Rennes—II).
- Brown, Alice, McCrone, David, and Paterson, Lindsay (1998), *Politics and Society in Scotland* (London: Macmillan).
- Burgess, Michael (2006), *Comparative Federalism: Theory and Practice* (London, New York: Routledge).
- Canadian Intergovernmental Conference Secretariat (2004), *First Ministers' Conferences 1906–2004* (Ottawa: CICS).

- De Winter, Lieven (2006), "In memoriam the Volksunie 1954–2001: Death by overdose of success," in Lieven De Winter, Margarita Gómez-Reino, and Peter Lynch (eds.), *Autonomist Parties in Europe: Identity Politics and the Revival of the Territorial Cleavage* (Barcelona: Institut de Ciències Polítiques i Socials), 13–45.
- Delwit, Pascal and Hellings, Benoit (2002), "La nouvelle réforme de L'état. Processus, contenu, méthode," *Administration publique* 26, 99–106.
- Deschouwer, Kris (2002), "Falling apart together: The changing nature of Belgian Consociationalism, 1961–2001," *Acta Politica* 37, 68–85.
- (2006), "And the peace goes on? Consociational democracy and Belgian politics in the twenty-first century," *West European Politics* 29, 895–911.
- (2009), *The Politics of Belgium: Governing a Divided Society* (Basingstoke: Palgrave Macmillan).
- Elazar, Daniel J. (1987), *Exploring Federalism* (Tuscaloosa: The University of Alabama Press).
- (1995), "From statism to federalism: A paradigm shift," *Publius* 25, 5–18.
- Freiburghaus, Dieter (2002), "Neuer Finanzausgleich und Föderalismusreform in der Schweiz," in Europäisches Zentrum für Föderalismus-Forschung Tübingen (ed.), *Jahrbuch des Föderalismus 2002* (Baden-Baden: Nomos Verlagsgesellschaft), 374–87.
- (2005), "Bedingungen für eine gelingende Föderalismusreform: Die Neugestaltung des Finanzausgleichs und der Aufgabenverteilung zwischen Bund und Kantonen in der Schweiz," in Europäisches Zentrum für Föderalismus-Forschung Tübingen (ed.), *Jahrbuch des Föderalismus* (Baden-Baden: Nomos Verlagsgesellschaft), 506–15.
- (2012), "Swiss federalism, fiscal equalisation reform and the reallocation of tasks," in Arthur Benz and Felix Knüpling (eds.), *Federal Constitutional Reform* (Opladen: Barbara Budrich), 53–79.
- Gagnon, Alain-G. and Iacovino, Raffaele (2007), *Federalism, Citizenship, and Quebec: Debating Multinationalism* (Toronto: University of Toronto Press).
- Hooghe, Liesbet (2004), "Belgium: Hollowing the center," in Ugo M. Amoretti and Nancy Bermeo (eds.), *Federalism and Territorial Cleavage* (Baltimore: John Hopkins University Press), 55–92.
- Jacques, Charles-Xavier and Boromé, Charles (2001), "La conférence intergouvernementale et interparlementaire du nouveau institutionnel," *Courrier hebdomadaire*, no. 1707–8 (Bruxelles: CRISP).
- Jeffery, Charlie and Palmer, Rosanne (2000), "Das Vereinigte Königreich—Devolution und Verfassungsreform," in Europäisches Zentrum für Föderalismus-Forschung Tübingen (ed.), *Jahrbuch des Föderalismus 2000* (Baden-Baden: Nomos Verlagsgesellschaft), 321–39.
- Johnson, Nevil (2004), *Reshaping the British Constitution: Essays in Political Interpretation* (Basingstoke: Palgrave Macmillan).
- Keating, Michael (2004), "The United Kingdom: Political institutions and territorial cleavages," in Ugo M. Amoretti and Nancy Bermeo (eds.), *Federalism and Territorial Cleavages* (Baltimore: John Hopkins University Press), 155–79.
- Kemmerzell, Jörg and Petersohn, Bettina (2012), "Regional actors' participation in constitutional reform: Opportunities, limits and risks," in Arthur Benz and Felix

- Knüpling (eds.), *Changing Federal Constitutions* (Opladen, New York: Barbara Budrich), 311–29.
- Kymlicka, Will (1995), *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford: Oxford University Press).
- Laforest, Guy (1991), “L’esprit de 1982,” in Louis Balthazar, Guy Laforest and Vincent Lemieux (eds.), *Le Québec et la restructuration du Canada 1980–1992. Enjeux et perspectives* (Saint-Laurent, QC: Les éditions du Septentrion), 147–63.
- Lazar, Harvey (1998), “Non-constitutional-renewal: Toward a new equilibrium in the federation,” in Harvey Lazar (ed.), *Canada: The State of the Federation 1997. Non-Constitutional Renewal* (Kingston: Institute of Inter-governmental Relations, Queen’s University), 3–35.
- Le Lidec, Patrick (2012), “Decentralisation and territorial reforms in France: How constitutional constraints impact strategies for reform,” in Arthur Benz and Felix Knüpling (eds.), *Changing Federal Constitutions* (Opladen: Barbara Budrich), 249–67.
- MacCormick, Neil (1999), *Questioning Sovereignty: Law, State, and Nation in the European Commonwealth* (Oxford: Oxford University Press).
- Marzelier, Christiane (2004), *Décentralisation Acte II: Chronique des assises des libertés locales* (Paris: Éditions L’Harmattan).
- Milne, David (1992), “Innovative constitutional processes: Renewal of Canada conferences, January–March 1992,” in Douglas M. Brown and Robert Young (eds.), *Canada: The State of the Federation 1992* (Kingston, ON: Institute of Inter-governmental Relations, Queen’s University), 27–51.
- Mitchell, James (2012), “Britain’s constitutional moment,” in Arthur Benz and Felix Knüpling (eds.), *Changing Federal Constitutions* (Opladen: Barbara Budrich), 213–28.
- Petersohn, Bettina (2011), “Konfliktakkomodierung bis zur Selbstaufgabe? Stabilität und Dynamik der Verfassungsentwicklung in Belgien,” *Politische Vierteljahresschrift* 52, 195–219.
- Rocher, François (2009), “The Quebec–Canada dynamic or the negotiation of the ideal of federalism,” in Alain-G. Gagnon (ed.), *Contemporary Canadian Federalism. Foundations, Traditions, Institutions* (Toronto: University of Toronto Press), 81–131.
- Russell, Peter H. (2004), *Constitutional Odyssey. Can Canadians Become a Sovereign People?* 3rd edition (Toronto: University of Toronto Press).
- Scharpf, Fritz W. (2009), *Föderalismusreform. Kein Ausweg aus der Politikverflechtungsfalle?* (Frankfurt a.M.: Campus Verlag).
- Schultze, Rainer-Olaf (2000), “Constitutional reform as process,” in Rainer-Olaf Schultze and Roland Sturm (eds.), *The Politics of Constitutional Reform in North America. Coping with New Challenges* (Opladen: Leske + Budrich), 11–32.
- Smith, Jennifer (2002), “Informal constitutional development: Change by other means,” in Herman Bakvis and Grace Skogstad (eds.), *Canadian Federalism. Performance, Effectiveness, and Legitimacy* (Toronto: Oxford University Press), 40–58.
- Stein, Michael B. (1993), “Tensions in the Canadian constitutional process: Elite negotiations, referendums and interest group consultations, 1980–1992,” in Ronald L. Watts and Douglas M. Brown (eds.), *Canada: The State of the Federation 1993* (Kingston: Institute of Inter-governmental Relations, Queen’s University), 87–116.

- Stein, Michael B. (1997), "Improving the process of constitutional reform in Canada: Lessons from Meech Lake and Charlottetown constitutional rounds," *Canadian Journal of Political Science* 30, 307–39.
- Sturm, Roland (2008), "Von der Symmetrie zur Asymmetrie—Deutschlands neuer Föderalismus," in Europäisches Zentrum für Föderalismus-Forschung Tübingen (ed.), *Jahrbuch des Föderalismus 2007* (Baden-Baden: Nomos Verlagsgesellschaft), 27–41.
- Swenden, Wilfried, Brans, Marleen, and De Winter, Lieven (2006), "The politics of Belgium: Institutions and policy under bipolar and centrifugal federalism," *West European Politics* 29, 863–73.
- Taylor, Charles (1992), *Multiculturalism and The "Politics of Recognition"* (Princeton: Princeton University Press).
- Thaysen, Uwe (2004), "Die Konventsbewegung zur Föderalismusreform in Deutschland: Ein letztes Hurra der Landesparlamente zu Beginn des 21. Jahrhunderts," *Zeitschrift für Parlamentsfragen* 35, 513–39.
- Trench, Alan (2008), "Finding a voice for Wales: Assessing three phases of constitutional development in Wales," ECPR Joint Sessions of Workshops (Université de Rennes—II).
- Tully, James (1995), *Strange Multiplicity: Constitutionalism in an Age of Diversity* (Cambridge: Cambridge University Press).
- Vatter, Adrian (2006), "Die Kantone als mächtige Vetospieler im Bundesstaat? Der Wandel föderativer Institutionen in der Schweiz," in Europäisches Zentrum für Föderalismus-Forschung Tübingen (ed.), *Jahrbuch des Föderalismus 2006* (Baden-Baden: Nomos Verlagsgesellschaft), 420–9.
- Watts, Ronald L. (2008), *Comparing Federal Systems* (Montréal & Kingston: McGill-Queen's University Press).
- Zimmermann-Steinhart, Petra (2005), "Frankreich im Jahr 2004: Auf dem Weg zu mehr Dezentralisierung?," in Europäisches Zentrum für Föderalismus-Forschung Tübingen (ed.), *Jahrbuch des Föderalismus 2005* (Baden-Baden: Nomos Verlagsgesellschaft), 363–73.

15

Paradoxes of self-coordination in federal systems

Nicole Bolleyer

15.1 Challenges of Self-Coordination and the Change of intergovernmental Institutions

Self-coordination is non-hierarchical and in federal systems primarily occurs in areas of competence in which lower-level governments have the guaranteed right to decide autonomously. By definition, their engagement in such coordination cannot be centrally or otherwise imposed. Given the absence of formal hierarchy, self-coordination is highly dependent on the political will of each government involved. This will, as detailed later, is shaped by a government's internal political dynamics much more than functional considerations about how collective problems can be solved best, a perspective that allows us to specify paradoxes inherent in self-coordination, once we start thinking about how governments engage in these processes across distinct federal systems (see, for a similar perspective, Feiock and Scholz 2010). In terms of the analytical framework laid out earlier, rather than analyzing the *results of change* in federal systems, this chapter concentrates on the *nature of these processes* and on how the systematic assessment of intra-governmental dynamics can help us to understand why in some federal systems the reform of the intergovernmental machinery is more difficult and potentially less effective than in others. This perspective brings with it a focus on the *mechanisms* rather than the substantive *sources* of change.

Coordination demands arise in any system, also in unitary ones (Peters 1998). In federal systems, however, where competences are dispersed to various independent yet interdependent units, collective problem-solving via self- or non-hierarchical coordination is particularly crucial to maintain

the functioning of a polity. Not only are coordination demands more pronounced, but relatively more autonomy is granted to each individual government unit. Since in federal systems competences are constitutionally protected and cannot be unilaterally withdrawn (Watts 1999), governments have to operate outside a formal shadow of the hierarchy more often than those in non-federal ones (Hooghe and Marks 2003). Consequently, self-coordination is one core mechanism to assure collective problem-solving. While there is no reason to assume that the challenges of self-coordination affect federal systems only, the following questions arise with particular urgency: what is the *range of mechanisms through which self-coordination occurs and which factors drive their usage?* Why are highly developed intergovernmental institutions supporting self-coordination set up in some federal systems and not in others and how are these voluntarily created institutions able to affect coordination? What does the underlying rationale of institutional choice and the effects of these choices tell us about intergovernmental reform and its likely consequences?

These questions lead us to the three core aspects discussed in this chapter: the choice of intergovernmental institutions and of modes of coordination, intergovernmental institutions' effect on self-coordination processes, and the implications for the effectiveness of intergovernmental reform. Each of these aspects reveals a paradox that "exhibits contradictory aspects."¹ These paradoxes reflect structural discrepancies between "functional needs" for coordination arising in a particular setting, and the politically driven "responses" of governments to address these needs; or to be more precise, between the willingness of governments to apply certain mechanisms of coordination and their capacity to implement them, and between the intended and actual effect of collective decisions. To mention but two implications: where coordination is most difficult, governments might be least likely to create an institutional environment able to support them in handling coordination demands. Further, governments most willing to use a wide range of coordination mechanisms might have less capacity to implement them than those governments that are unwilling to use certain mechanisms right from the start. These contradictory configurations are manifestations of what Benz (Chapter 4, p. 73, this volume) calls "contradictory institutionalization" typical for federal systems; systems are entrenched constitutional compromises between a range of actors to which authority is allocated. These compromises, "more often than not, . . . establish conflicting mechanisms of collective action."

Clearly, different exogenous pressures can push federal systems characterized by similar internal (institutional and political) dynamics in different

¹ *The American Heritage Dictionary of the English Language*, 4th edition, 2006.

directions in the long term, and in some instances might help to overcome contradictory pressures within them. However, an understanding of how federal systems as “polities” cope with those *exogenous pressures* on the macro level presupposes an understanding of how *endogenous constraints* shape the will and capacity of constituent governments (that operate in these composite systems) to engage in intergovernmental coordination or the reform of the intergovernmental machinery in the first place—processes that take place on the micro- and meso-level.

To further specify the empirical nature of the change looked at in this chapter, reforms of the intergovernmental machinery—that is, the working relations between governments that inevitably develop within a federal constitutional framework—do not require formal-legal or constitutional changes. More often than not they occur informally as a result of voluntary negotiations between governments, which on the one hand recognize the need to increase their capacity to solve problems collectively but on the other do not like to see their autonomy affected by formal-legal or even constitutional constraints. Consequently, this sphere is particularly suitable to examine challenges of self-coordination.

15.2 Self-Coordination in Federal Systems

Self-coordination denotes a non-hierarchical process of (one-sided or mutual) adjustment of activities in one jurisdiction to activities in another jurisdiction which cannot be imposed by one government on the other. While cooperation presupposes the direct, mutual interaction of governments and presupposes coordination, the latter can also result from unilateral adaptation and emulation. In a similar vein, these adjustments are not necessarily directed toward avoiding adverse consequences; that is, avoid or compensate for negative externalities (Scharpf 1994: 27–8). The motives underlying actors’ decisions to adjust can vary from the attempt to solve shared problems cooperatively to attempts to obstruct activities in other jurisdictions (Bednar 2008). This conception allows us to map out the full range of coordination activities in federal systems, be they problem-oriented or opportunistic, and to explore the political rationales underlying their application.

Given their non-hierarchical character, these processes of self-coordination are dependent on the individual wills of the governments involved, wills that might be driven by short-term-oriented, political motives, but cannot be overruled unilaterally. Accordingly, coordination is not necessarily directed toward or leads to (vertical or horizontal) cross-jurisdictional policy harmonization (Benz 2009: 3–4). Harmonization attempts might fail. Alternatively, lower-level governments might coordinate to form a common front against

federal plans, while refusing any constraints on their individual policy-making power, even when coordinating policy horizontally and accepting such constraints might strengthen the “lower level” collectively.² More often than not governments’ attitudes are ambivalent, aspiring coordination with others when it clearly increases one’s weight in intergovernmental negotiations, while trying to compromise one’s autonomy as little as possible, two aspirations that easily conflict. This is often overlooked since the intergovernmental relations (IGR) literature overall assesses the interaction between *levels*. Yet the lower “level” faces the challenge to coordinate internally first in order to form a unit of action and the capacity of lower-level governments to do so varies widely across different federal systems. While federal governments might have to overcome their internal fragmentation as well, this challenge is comparatively minor.

15.2.1 *Intergovernmental Institutions*

Collective-action problems confronting lower-level governments manifest themselves also on the level of institutional choice, since intergovernmental institutions set up by governments to facilitate coordination, if they aim to stabilize IGR, tend to constrain individual government choices. In principle, self-coordination can be completely free-standing without any mediating structures between governments in place. This, however, is unusual. In face of spill-over effects across jurisdictions or attempts of the federal government to intrude in lower-level jurisdiction—problems all lower-level governments have to cope with—more often than not some kind of intergovernmental institution is voluntarily set up within a federal constitutional framework to support coordination across jurisdictions.

Following Greif’s definition of institution encompassing norms *and* the organizational infrastructure in which these norms become manifest and through which—in this case, governments—acquire various capacities (Greif 2006: 17), the following discussion focuses on the latter component, hence, the structural dimension of IGR. Intergovernmental institutions are a product of self-coordination themselves, yet are expected to affect coordination processes later on, a tension we return to later.

Intergovernmental institutions differ considerably across federal systems, especially their level of institutionalization. Institutionalization remains weak when exchanges are directly organized by intergovernmental departments or units. Medium and strong institutionalization requires a staffed intergovernmental secretariat. Stable personnel provides for continuity and the

² Especially economically powerful lower-level governments might find it at times more advantageous to fend for themselves.

acquisition of expertise important to moderate conflicts between government representatives who might have dealt with intergovernmental issues only for a short period (for example, because the party in government has changed). A crucial sign of strong institutionalization (as compared to a medium level) is a formal decision-making rule which deviates from unanimity. The capacity to commit lower-level units to collective positions or agreements to which they did not agree indicates that the collective is thought to be more than the mere sum of its parts.

In the sphere of non-hierarchical coordination, in most cases none of the outvoted (or supportive) participants can be forced to comply later on. This is particularly the case for non-binding, purely political agreements that are most common. To enter a binding intergovernmental agreement instead requires parliamentary ratification. This means that each participant has an additional veto through or might be overruled by its parliament that needs to ratify the decision before enactment. Does that mean that majority rule in voluntary institutions has no effect? The tentative answer is no, since depending on the dominant dynamics in a federal system, governments would never be willing to accept the introduction of majority rule in intergovernmental institutions in the first place (irrespective of the nature of the agreements negotiated within them). They might even reject the introduction of a formal decision-making rule altogether. To introduce majority voting to facilitate decision-making, if the later compliance with collective decisions is out of the question anyway, makes little sense from the perspective of the individual government, especially since the set-up of institutions and the negotiation of a decision-making rule other than consensus requires the investment of scarce resources. We therefore can assume that the nature of these institutions, to some extent, reflects the willingness of governments to engage in coordination processes and to find common solutions in case they are collectively beneficial (while governments might still opt-out in cases where they see vital individual interests compromised).

15.2.2 *Modes of Self-Coordination in Federal Systems*

Coordination in federal systems usually finds expression in a wide variety of intergovernmental agreements. Formally binding agreements are both legally binding and enforceable agreements and constitute “inter-state law” usually presupposing parliamentary approval by each participating government. Once approval is given, violations (for example, through conflicting legislation in individual jurisdictions) can be answered through litigation. Enforcement is “externalized” and no longer dependent solely on governments’ political will as it is in the case of non-binding agreements (for example, executive and administrative agreements and memoranda of understanding).

They constitute instances of self-coordination since it was the participants' choice to agree to being constrained at the enforcement stage. Non-binding agreements include coordination "by contract" and "by soft law," constellations in which each participating government always retains the explicit option to legislate terms which are contradictory to it later on (Poirier 2001: 16), and thereby exit the agreement.

Next to these forms of negotiated agreements, the literature has identified further coordination mechanisms: policy-diffusion (Grossback, Nicholson-Crotty, and Peterson 2004), intergovernmental competition (Breton 1996; John, Ward and Dowding 2004), and benchmarking or yardstick competition (Benz 2009; 2010). Unlike intergovernmental agreements, diffusion does not involve explicit negotiations but denotes a voluntary adoption of innovative legislation already adopted in other jurisdictions. Institutional competition between lower-level governments, as a core mechanism in the fiscal federalism literature, denotes attempts of lower-level governments to attract mobile tax payers, through introducing different levels of taxation and public goods (Breton 1996; John, Ward, and Dowding 2004). In benchmarking or yardstick competition, the performance of each government is subject to comparative evaluations published in rankings. These rankings are assumed to influence voting behavior, the major incentive for governments' attempts to reach certain standards (or benchmarks) embraced by all participants beforehand (Benz 2010). Finally, policies can also be explicitly designed on one level of government to offset the impact of a policy on the other level, as observed in Canadian federalism (McRoberts 1993: 158). While such behavior is usually not considered as "coordination mode," it constitutes a form of adjustment to activities in another jurisdiction, and thereby falls into the category of coordination modes, and is important since it highlights that federal systems open possibilities for opportunistic behavior we need to consider to gain a more complete picture.

As Table 15.1 indicates, we end up with three modes that are based on mutual adjustment and three that require explicit negotiations. All are non-

Table 15.1. Modes of self-coordination in federal systems

Decision-making Stage			Enforcement Stage
No coordination	Adjustment	Negotiation	
Self-contained individual decisions	- Emulation/diffusion - Institutional competition (tax, economic policy) - Off-setting behavior	- Non-binding agreements - Yardstick competition/benchmarking	<i>Voluntary implementation</i>
		- Formally binding agreements	<i>Formal enforcement</i>

hierarchical both in the decision and enforcement stage except for formally binding agreements. While all of these modes (again except for formally binding agreements) are in principle available in any federal system, governments do not necessarily apply the full range or do so with similar frequency.

15.3 An Actor-centered Perspective on Self-Coordination in Federal Systems

Unlike many theory-guided approaches to multilevel governance (for example, Hooghe and Marks 2003), this approach does not consider levels of government as the main units of analysis but individual governments, deliberately shifting attention to the horizontal axis of federal systems. Since the choices of lower-level governments are essential to understand self-coordination, an actor-centered perspective on federalism is chosen as main starting-point (Scharpf 1997; Benz 2004: 133).

If coordination processes in federal systems were functionally driven, the set-up of coordination structures to support intergovernmental negotiations should depend on contextual needs. The choice of the coordination mechanism should depend on the problem at stake. This, however, can be doubted for two reasons. First, governments might in principle refuse to accept certain structures or to apply certain mechanisms if the perceived political costs are too high. And, second, governments might be in principle willing to use a mechanism but its application might prove difficult for them.

Lower level governments can generally be assumed to fight for their autonomy as they can be assumed to have a basic interest in effective policy delivery or the survival of their federal system. Yet the relative intensity to prioritize autonomy protection over problem solving varies with the incentives governments are exposed to in their home arenas. One important distinction to capture such incentives is the one between power-concentrating and power-sharing governments which refers to the number of partisan or institutional actors whose approval is necessary to make a decision within a government unit (see Lijphart 1999). Accordingly, one-party-majority governments in parliamentary, unicameral settings are considered power-concentrating, while presidential separation of power structures or multi-party coalitions qualify as power-sharing. We can further distinguish compulsory power-sharing structures (for example, the institutional separation of power between branches of government) that are constitutionally entrenched—and can be considered as exogenous to the strategic choices of the actors which are embedded in them—from voluntary power-sharing structures (for example, coalition governments, corporatism). The latter are deliberately established

by the actors; they are endogenous to actor behavior and maintained only when they are sufficiently effective (see Kaiser 1997).

Two claims can be derived from these distinctions. Power-concentrating, one-party governments suffer more from autonomy losses when entering formally binding agreements than governments which already share power internally (for example, through coalition governments or separation of power structures). Simultaneously, the former operate in concentrated party systems, where competitive pressure is high. Two-party systems in particular constitute “zero-sum dynamics” where electoral losses most easily translate into loss of government. In coalition systems, in contrast, the link between electoral outcomes and government entry is comparatively weak (see Mattila and Raunio 2004). Maintaining autonomy, and with it flexibility, is thus more important for power-concentrating governments to be able to respond to changes in public opinion and to thereby—potentially—avoid electoral losses.

Accordingly, power-concentrating governments are likely to be less willing to create highly institutionalized intergovernmental institutions to facilitate self-coordination or enter highly constraining intergovernmental agreements than power-sharing governments. One might object that such governments face particularly strong incentives to bind future (potentially rival) governments via constraining agreements if party alternation is very likely, which would lead to the withdrawal from an earlier agreement. This argument, however, presupposes that governments are long-term-oriented, predominantly policy- not office-seeking, and are for this reason willing to constrain themselves in the first place, presently and potentially in the future (as they would bind future rival governments). A dominant policy orientation is a possibility but unlikely in the circumstance described above, especially since in most majoritarian political systems being in office is a necessary precondition to shape policy.

While these expectations refer to the *willingness* of governments to accept the constraints implied by coordination, it tells little about their *capacity* to coordinate, which might undermine government intentions. The level of internal fragmentation is one factor that is expected to weaken government's capacity to apply certain coordination modes, both in the decision-making and the enforcement stages. Everything else being equal, power-concentrating governments are less fragmented than power-sharing governments. Among power-sharing governments, those, in which power-sharing is institutionally entrenched (that is, imposed on actors), are likely to find coordination more difficult than in those where power-sharing is voluntary (see for details Bolleyer 2009).

15.4 Three Paradoxes of Self-Coordination in Federal Systems

The following sections discuss three paradoxes rooted in the political nature of governments' engagement in self-coordination processes.

15.4.1 *The Paradox of Intergovernmental Choice*

The paradox of intergovernmental choice refers to the choice of intergovernmental institutions as well as the choice of coordination mechanisms. Since both are driven by intra-governmental dynamics in lower-level governments and therefore closely connected.

Empirical research has shown that intergovernmental institutions in majoritarian systems tend to be weakly institutionalized. Both IGR in Canada and Spain are telling examples (for example, Lazar and McIntosh 1998; Börzel 2002; Simeon 2005). Majoritarian dynamics imply high competitive pressure inducing governments to be short-term orientated (that is, to focus strongly on the next election) and to shift blame to other governments in the system. Regular turnover further leads to little continuity in terms of personnel and a high likelihood of distinct parties being in office with little shared, ideological ground, factors further underpinning governments' high sensitivity against autonomy losses. Highly institutionalized intergovernmental structures seem more useful in such a context than in one in which power-sharing governments operate, which are less threatened by the next election, for which autonomy losses are less pronounced and for which, as a consequence, long-term oriented coordination efforts are less costly. Since institution-building in IGR is a form of self-coordination itself, however, the latter context is more favourable toward it. The creation of intergovernmental institutions thus reveals a discrepancy between "functional needs" for coordination arising in a particular setting and the politically driven responses of governments.

By driving institutional choices, intra-governmental incentives also affects the usage of modes of self-coordination. Despite the link between structure and process, the disposition of different types of governments toward using certain modes of policy coordination generates contradictions of its own, which relate to distinct demands governments are confronted with in the decision-making and enforcement stage. These contradictions relate to the tension between governments' willingness to use certain coordination mechanisms, their capacity to negotiate agreements efficiently, and their capacity to reliably implement them "at home."

To illustrate these tensions, the following section focuses particularly on the use of formal and informal agreements as well as yardstick competition. These modes are particularly telling with regard to the contradictions that become

visible when comparing their usage *across different types of government*. In contrast, diffusion as coordination mode seems politically unproblematic in so far it leaves the initiative and enforcement completely to the individual government.³

Differences between power-concentrating and power-sharing governments can be mainly expected in the enforcement stage, in which more cohesive power-concentrating governments—facing fewer internal veto players—can be expected to be more efficient in introducing innovative policies once it decided to adopt a policy. Whether a power-concentrating government is more likely to adopt innovative policies than a power-sharing one is likely to depend on whether the policy is electorally salient. If this is the case and a change of policy is likely to be electorally rewarded, a government faces strong incentives to go for it, while in case of doubt about the public's reaction power-concentrating governments might be too risk-averse to introduce it.

In a similar vein, we would expect a stronger tendency toward intergovernmental competition as well as offsetting behavior in majoritarian contexts since government orientations are assumed to be characterized by (structurally rooted) distrust which is conducive to these modes. Still, we would also expect the degree of intergovernmental competition or the willingness to carry the costs of retaliation in the case of obstructive behavior to be strongly affected by policy-specific factors. This is not to say that policy differences are unimportant when it comes to the three modes discussed in the following. Yet the interplay of differences across government types and across different stages of the decision-making process—and the emerging contradictions between will and capacity of governments—display themselves more clearly.

Starting out from governments' *willingness to accept autonomy losses* and their *level of fragmentation*, the more cohesive power-concentrating governments should be superior to power-sharing governments in applying even demanding modes in terms of carrying the cost of the negotiation processes and enforcement. However, they are less likely to do so due to political constraints. Capacity and willingness are likely to diverge. In federal systems, in which power-concentrating governments operate, a low level of institutionalization of intergovernmental structures assures maximal flexibility reflecting the tendency of governments toward soft, non-binding mechanisms of coordination including unilateral adjustment and diffusion. In federal systems composed of power-sharing mechanisms, institutionalization is stronger and governments should be more inclined to use the full range of (also constraining) mechanisms of coordination including binding

³ The factors driving it diffusion debated. Relevant factors are territorial closeness, various policy-specific factors and the ideological position of previous adopters (for example, Grossback, Nicholson-Crotty, and Peterson 2004).

mechanisms as far as they are formally available (Bolleyer and Börzel 2010). At the same time, however, it is more challenging for the latter to implement whatever agreement they negotiated at home than it would be for power-concentrating governments. In general, power-concentrating governments—usually represented in intergovernmental negotiations (when it comes to “high politics”) by a powerful premier—can be expected to be more efficient in negotiating deals as far as their relative autonomy from other institutional or partisan actors at home is concerned, which also means they have an easier time to implement agreements later on (Benz 2010: 9). Being more easily held electorally accountable, however, they are more likely to engage in strategic manoeuvring. Similarly, non-compliance after having reached an informal agreement is likely whenever circumstances make such actions profitable.

In Benz’s (2010) analysis of yardstick competition as a coordination mechanism, these contradictions become clearly visible once he assesses its application by different types of governments. In yardstick competition, governments agree on a common benchmark along which their performance will be measured. Each government’s performance is published in rankings which are assumed to influence voting behavior as the mechanism driving these coordination processes; that is, governments’ efforts to meet certain targets (Benz 2010: 3). The agreement on a common standard of evaluation, the provision of information on how each government performed and the final publication of a ranking seem easier to implement, that is, more acceptable, in power-sharing democracies, since competitive pressure is lower. However, if governments do not fear electoral sanctions much, the incentive to make an active effort to reach a target is weakened, if not undermined. This suggests that yardstick competition—a mechanism that depends on governments’ fear of vote losses—is less effective in power-sharing democracies where competitive pressure and the transparency of who is responsible (for example, which party in a coalition) are lower. The mechanism’s limited effectiveness is what makes the publication of poor performance more acceptable (Benz 2010: 12–3). In majoritarian democracies, where governments might be vulnerable to such rankings (that is, the context in which the mechanisms would be effective) governments are likely to reject its usage *ex ante*. A similar problem occurs regarding the policy fields in which processes take place: in those areas which are highly relevant electorally, yardstick competition can be only maintained by publishing best practices (that is, reward excellence) and refraining from identifying failure, which, again, reduces the incentives for governments to learn (Benz 2010: 13).

Comparing yardstick competition—that relies on an agreement on commonly accepted evaluation standards—to informal agreements used to coordinate policies across jurisdictions, the same problem reveals itself, yet at a different stage: in yardstick competition, power-concentrating governments

are unlikely to agree to a common standard in highly competitive areas along which their performance could be measured. While power-concentrating governments might be willing to enter informal agreement to coordinate policies across jurisdictional boundaries in a wide range of areas, they will tend to keep these sufficiently vague to maintain their flexibility and, if electorally beneficial, ignore them later on. Studies of Canadian federalism, for instance, highlight this problem (Skogstad 2000; Cameron and Simeon 2002; Meekison, Telford, and Lazar 2004; Simeon 2005).

While the main factor undermining coordination between power-concentrating governments seems to be the willingness to be constrained, power-sharing governments rather suffer when capacity is concerned. This brings us to the impact of *intra-governmental fragmentation*. While power-sharing governments are more open toward binding agreements, internal fragmentation can be a major hurdle to use coordination mechanisms, especially those that require legislative ratification at home.

US federalism is a particularly telling example of the discrepancy between will and capacity. In the US, the intergovernmental arena is heavily fragmented as a consequence of compulsory power-sharing between and within the branches of government in the states and the lack of integrating party linkages between them (Bolleyer 2011). The pervasiveness of power-sharing becomes most visible in the co-existence of strongly resourced intergovernmental institutions such as the National Governors' Association and the National Conference of State Legislatures, which represent the interests of the two government branches separately (Haider 1974; Arnold and Plant 1994).⁴ As a consequence, these institutions lobby the federal government regarding their members' professional interests rather than functioning as mediators for collective "state action" in the sense of generating political commitment between states to coordinate policy.

Although we find active attempts to promote formal inter-state compacts by the Center for Inter-state Compacts, the various actors in American IGR emphasize that compacts merely fill a vacuum and are rarely used in practice. Despite the Center's active efforts and the pronounced willingness of state actors to, in principle, use binding mechanisms if it is an appropriate tool to handle a problem, in 2005, the average time to set up a compact from the first idea to the final enactment was eighteen to twenty-four months. And despite extensive negotiations, legislative approval often proves difficult (Zimmerman 1990: 145; 2002). Due to the separation of the branches of government and the weakness of party links, state legislatures forcefully defend their

⁴ The same process of institutional dissociation along constitutional lines occurred on the level of regional intergovernmental institutions.

institutional interests which they perceive as clearly distinct from the interests of their executives. The executives feel less responsible for protecting legislative autonomy than executives in non-presidential federal systems such as Canada, where executives are institutionally and/or organizationally tied to their parliaments. Instead, governors are interested in obtaining as much leeway as possible in the implementation phase in order “to get things done,” thus to provide services efficiently. The drafting of inter-state compacts brings this divide to the fore by out-ruling contradictory state law once the compact is ratified. It does not help that the terms of these compacts are usually negotiated by executive actors with little legislative involvement and that regulatory commissions (which are often created on the basis of these compacts) are usually run by administrators, thus, by “the executive branch.” Even if a compact is considered as the most suitable solution to a problem, the divergence of interests between the branches rooted in compulsory power-sharing often undermines its use. Accordingly, informal administrative agreements (depending on the problem at stake, a comparatively weak mechanism) are more often used than formal intergovernmental agreements whose negotiation requires prior legislative authorization (Zimmerman 2002: 213). In short, the fragmentation of the American states affects their capacity of self-coordination negatively both in the negotiation and enforcement stage. This is the case although a range of highly developed intergovernmental bodies have been set up to support coordination in various ways that reflect the states’ willingness to engage in coordination.

15.4.2 *The Paradox of Institutional Weakness*

If intergovernmental institutions are strongly shaped by intra-governmental dynamics, this raises the more fundamental question whether and, if yes, how voluntary institutions, themselves a product of government self-coordination and constantly dependent on the voluntary compliance of member governments, can affect government behavior at all—a question at the very heart of institutional theory. Isn’t any “effect” they can have inevitably an expression of governmental self-restraint? The section on how to measure institutionalization assumed that institutions can affect interaction processes, a claim that is supported here. Paradoxically, however, the group of actors that allows voluntary institutions to have an effect—intergovernmental staff—simultaneously assures that intra-governmental constraints remain constantly present in intergovernmental decision-making.

Once intergovernmental infrastructures are sufficiently institutionalized (that is, on a medium to high level), intergovernmental staff, a group of actors, enters the picture that actively supports coordination as one of their main

responsibilities.⁵ Looking at the impact of institutionalization on intra-institutional processes, the staff in medium institutionalized IGAs (intergovernmental agencies) in Canada are not supposed to take any form of initiative. Their role is limited to bureaucratic support once government officials ask for it. In contrast, in the US the staff of highly institutionalized IGAs could support the identification of pre-existing common ground, thus, they are involved in agenda-setting. Similarly, in the highly institutionalized Swiss context staff generate common ground and help to bridge conflict. Institutionalization adds to the capacity of “neutral” IGA staff to steer interaction between the member governments actively and support the drafting of more precise and substantial agreements.

At the same time, intergovernmental staff have a strong interest to demonstrate the success of “their” institution to justify governments’ investments of resources necessary to maintain support for the institution in the future. One way of doing so is maintaining the goodwill of member governments. Staff pursue what they perceive as their “institutional self-interest” and thus try to strengthen their institution’s position in the intergovernmental arena to secure their jobs. This self-interest does not necessarily contradict the purpose of an institution as initially defined by its creators. Still, in the long run the two can diverge; reflecting the distinction between the triggers for initial institutional choices and sustainable levels of institutionalization in a particular system, personnel of intergovernmental institutions are less oriented toward the purpose which triggered the creation of an institution. They consider the institution’s role within the given context in the longer run and try to bring it in line with the dominant political rationale driving member governments’ actions in the short run in order to avoid conflict with them.

To maintain the support of member governments (that is, to protect the institution at which they are employed), intergovernmental staff will very carefully avoid any behavior that might be perceived as unacceptable interference into government activities. Even if intergovernmental staff are convinced that successful collective action in specific policy areas would benefit all participants in the long run, they are likely to avoid any initiative that might clash with individual governments’ short-term priorities. This constitutes the core of the paradox. The considerations of government priorities on behalf of intergovernmental staff and the corresponding adjustment of their behavior leads to a direct feedback of intra-governmental constraints into the

⁵ Intergovernmental staff also play an important role in weakly institutionalized settings. Yet since they belong to one of the interacting governments, their capacity to represent a neutral third party in the interaction process is more limited

intergovernmental process exactly by those actors who have been put in place to counter-balance and moderate these constraints in the first place.

To give just one example: although the National Governors' Conference (NGA) in the US was clearly set up to pursue governors' collective interests in the political arena, over time the institution developed a very strong service component (for example, offering professional training to members). Different from other federal systems, in the US one can observe a structural and functional convergence of intergovernmental institutions with private interest groups, a convergence triggered by the competition for influence on the federal government between a multitude of intergovernmental actors and institutions. As mentioned already, compulsory power-sharing in the states prevented an individual body from "monopolising" the representation of "state governments" as coherent political units, not to speak of the state level as a whole. Under such conditions, the emphasis of services tailored to their members in their particular professional roles was a rational response to compensate for this weakness. Being founded for the same purpose as the NGA (that is, to defend cantonal interests) but operating in a very different context, the Conference of Cantonal Executives (KdK) took over the role of "the" representative for cantonal interests and its staff worked toward building up the body's linchpin position in the Swiss intergovernmental arena. Since in the Swiss cantons party cooperation bridges internal institutional divides, the system did not experience the foundation of multiple intergovernmental institutions as in the US. Facing no competition in terms of cross-sectoral intergovernmental representation from the much older policy-specific ministerial conferences, KdK staff established strong institutional linkages with the older policy-specific bodies in order to secure and stabilise the institution's position as an overall coordinator of policy-specific bodies and the voice of the cantons toward the federal government.

Defending the intergovernmental institution's self-interest, intergovernmental staff face incentives to "internalize" the political constraints to which their member governments are subject. This is why, as far as voluntary institutions are concerned, these function as reinforcement mechanisms rather than altering behavior substantively: in a context in which governments are ready to actively coordinate, they facilitate coordination processes further but they are unlikely to fully "even out" systemic dynamics unfavourable to coordination. Thus the paradox of institutional weakness does not intend to highlight the obvious, namely that voluntary institutions are weak compared to institutions capable of hierarchical steering. Instead, it mirrors the logic of intergovernmental institution-building on the level of intra-institutional processes and implies that if voluntary institutions reinforce rather than counterbalance behavior, they make more of a difference where the systematic context already favours coordination, thus, where they are less

necessary (reinforcing that strong institutions are unlikely to be set up in an unfavourable context in the first place). Underlining this point, a comparative analysis of non-binding intergovernmental agreements in Canada, Switzerland, and the US could show that agreements drafted in highly institutionalized setting were more precise and substantive than those drafted in medium and weakly institutionalized settings. Once comparing medium institutionalized bodies in Canada and Switzerland (that is, keeping the level of institutionalization constant), however, it also showed that support structure made more of a difference in the latter context, where intra-governmental incentives were favorable.⁶

15.4.3 *The Paradox of Intergovernmental Reform*

The last repercussion of the *paradox of institutional weakness* (that embeds the response of intergovernmental staff to intra-governmental dynamics) leads to a *paradox of intergovernmental reform* once we move to the macro-level of a federal system. Evidently it would be inadequate to assume that politicians under any circumstances will prioritize their short-term interests over the need to reform their system to improve its problem-solving capacity. However, if the staff of intergovernmental institutions do indeed not work “neutrally” toward the strengthening of the problem-solving capacity between their member governments but simultaneously reproduce the political constraints imposed on government coordination in their activities, the introduction of more strongly institutionalized structures or an increase of intergovernmental staff and resources, will not fundamentally alter the dynamics complicating self-coordination in a system.

As Peters puts it “mere structural manipulations cannot produce changes in behavior, especially if existing behavior is reinforced by other factors of government” (1998: 47). On the macro-level, the transformative impact of reform is likely to remain limited since federal dynamics remain fully subject to the constraints generated in lower-level governments as certainly not the only but an important “factor of government.” If institutionalization matters the most when intragovernmental incentives are favourable toward strong IGAs as the paradox of institutional weakness implies, intergovernmental reform—as the reformed institutions themselves—is likely to have a *reinforcing* yet hardly a *transformative* impact on the character of interaction.

This leads us back to the distinction between the *trigger* to set up an institution and the *level* of institutional development which can be sustained in a particular setting. Clearly, it is important to consider critical events which initiate the reform or the creation of an intergovernmental body such as of the

⁶ See for details Bolleyer (2009: Chapter 7).

Canadian Council of the Federation in 2003 or the Swiss KdK in 1993. Strong fiscal pressure in the former and the lack of influence of cantonal governments in international negotiations in the latter have been an important trigger to reform IGR. At the same time, however, the potential of these two bodies to carve out a linchpin position in the intergovernmental arena varied considerably.

Particular events might trigger intergovernmental actors' initial choices which contradict the incentives predominant "at home." We might observe deliberate efforts toward stronger institutionalization in a majoritarian context that is per se unfavourable to such a development. Reform measures might consciously be chosen to counter "typical" intergovernmental dynamics perceived as destructive for the handling of cross-jurisdictional problems. The developmental potential of such an institution, once set up, still remains subject to system-specific pressures and is therefore restricted. As a consequence, long-term pressures inside governments—shaping the overall level of institutional development in a system—are more decisive for the final role an institution will be able to play in a federal system than the body's initial characteristics. This reflects a discrepancy between the functions initially assigned by the creators of an institution and its actual evolution that, as a product of systemic pressures, might be widely unintended.⁷

The paradox of intergovernmental reform highlights that even if political actors step "outside the process," recognize the negative side-effects of their short-term oriented actions, and in fact, overcome that behavior and create institutions to moderate the short-term oriented behavior of political actors in the future, these institutions—as long as they are voluntary institutions without a formal base—will reproduce the political constraints they were created to overcome. This paradox inherent in intergovernmental reform naturally does not affect or out-rule constitutional reform that might introduce the possibility for hierarchical, central intervention if horizontal self-coordination fails in spaces of lower-level autonomy—that is, might create a "shadow of the hierarchy" (Scharpf 1994). Yet if constitutional reform is unsuccessful, intergovernmental reform is unlikely to be an adequate functional equivalent to compensate for failed constitutional reform.

⁷ At first glance, the approach as presented here seems to boil down to what is captured by the concept of path dependence developed in historical institutionalism (Thelen 1999). While it might be similar in stressing the continuity in institutional choices in a particular setting, the argument does not refer to mechanisms such as increasing returns after initial institutional investments and lock-in effects leading to incrementalism in the longer term, which are clearly important mechanisms. The approach stresses systemic constraints generated by intra-governmental incentive structures to which actors are expected to respond similarly as long as these incentives are in place. As a consequence, they (re)produce and maintain a certain type of institutional infrastructure as a result of choices that are beneficial in the short-term but might be suboptimal in the long term.

In such a constellation where horizontal coordination fails in the long term, the federal government has strong arguments to justify its interference in lower-level jurisdictions. Again US federalism is telling, where high levels of intra-governmental fragmentation regularly undermine inter-state coordination—be it when trying to harmonize policy or to form a common front against federal intrusion (Cigler 1995). In federal systems composed of power-concentrating governments such as Canada, the collective problem-solving capacity is likely to be limited as well—but for different reasons: here governments refuse restrictions on their autonomy, whether they come from a neighbouring or the federal government. In a majoritarian setting, however, lower-level governments should at least be able to agree on their collective refusal of federal intrusion, countering pressures for centralization more effectively than internally fragmented governments. Compared to these two extremes, the Swiss constellation characterized by the interplay of oversized coalition governments seems more advantageous. While (unlike the Canadian provinces) cantonal governments are willing to use the full range of coordination mechanisms, they suffer—thanks to the integrative force of party linkages bridging inter-branch divides—less from internal fragmentation than the US states (Bolleyer and Börzel 2010).⁸

15.5 Conclusions: Institutional Incentives, Intergovernmental Change, and the Study of Federal Dynamics

Self-coordination is important for problem-solving in federal systems in which authority is divided among multiple actors. Yet analyses of IGR regularly observe that self-coordination processes are less problem-oriented than politically driven. Following this observation, this paper discussed the different rationales which drive power-concentrating and power-sharing lower-level governments when engaging in these coordination processes. Their rationales are shaped by intra-governmental incentive structures that not only shape the willingness of lower-level governments to accept constraint by intergovernmental institutions and their outcomes but also their

⁸ The NFA (*Neuer Finanzausgleich*), the most recent federalism reform in Switzerland, passed in 2004, is a telling example. This reform established “new instruments of cantonal cooperation” applicable in nine areas of cantonal jurisdiction which are both legally binding and legally enforceable. Their core is an enforcement mechanism that can impose an inter-cantonal agreement favored by a majority of cantons on the opposing minority. More specifically, a supermajority of cantons can ask the national parliament—which plays the role of a neutral arbiter—to make an inter-cantonal agreement obligatory for an opposing cantonal minority in these areas of cantonal authority. Formerly, some concordats remained practically defunct when individual cantons refused to enter them for opportunistic reasons, which should be prevented by this new mechanism. This step clearly highlights the costliness of self-coordination through formally binding intergovernmental agreements as already highlighted with regard to the US case.

capacity to apply and implement various coordination modes in both the decision-making and enforcement stage.

Discussing self-coordination in federal systems composed of power-concentrating and power-sharing democracies respectively highlights the discrepancies between coordination demands arising in particular settings and the politically driven responses of governments to address these demands; between the willingness of governments to apply certain mechanisms of coordination and their capacity to implement them and between the intended and actual long-term effects of collective decisions. The *paradox of intergovernmental choice* indicates that since intergovernmental institution-building is a product of self-coordination itself, strong intergovernmental institutions able to support coordination actively are more likely to be created in those contexts (that is, in power-sharing democracies) that are anyway favorable toward coordination, contexts where these institutions are needed less. Reflecting a similar divergence in the choice of coordination modes, power-sharing governments (compared to power-concentrating governments) are more willing to use a wide range of (also constraining) coordination mechanisms, yet have a lower capacity to apply them effectively. The *paradox of institutional weakness* starts out from the observation that higher levels of institutionalization of these voluntary intergovernmental institutions help to facilitate coordination through the involvement of “neutral” intergovernmental staff that are not affiliated with one of the negotiating governments (visible, for instance, in a more proactive role of staff in agenda-setting or in more precise intergovernmental agreements). Yet this is only part of the picture. Simultaneously, the same staff are well aware of the political dynamics that drive member governments and, in order to maintain support for their institution (that lacks any formal base and continuously depends on governmental good-will), adjust their behavior to these political dynamics. This, in turn, points to a direct feedback of intra-governmental constraints into the intergovernmental process channeled by exactly those actors who have been put in place to counter-balance and moderate these constraints. This leads us to the *paradox of institutional reform*. We might observe deliberate efforts toward stronger institutionalization in a majoritarian context that is per se unfavorable to such a development. Reform measures might consciously be chosen to counter “typical” intergovernmental dynamics perceived as destructive for the handling of cross-jurisdictional problems. Still, the developmental potential of such an institution, once set up, still remains subject to system-specific pressures and is therefore restricted. As a consequence, the incentive structures within governments—shaping the overall developmental level of intergovernmental structures in a system—are more decisive for the final role an institution will be able to play in a federal system than the body’s initial characteristics. This reflects a discrepancy

between the functions initially assigned by an institution's creators and its actual evolution that, as a product of systemic pressures, might be widely unintended.

Despite (or maybe due to) its rather abstract character the discussion helped to highlight three aspects which require more attention by comparative research than they received so far. First, horizontal relations between lower-level governments have received astonishingly little attention in the literatures on comparative federalism and multilevel governance (on this, see Benz 2004). Studies on centralization and decentralization quite naturally concentrate on the vertical dimension of federal-state interaction, a tendency particularly visible in the literature on IGR in US federalism. The power relations between federal government and lower-level governments are indeed crucial to understand the overall dynamics of a federal polity. However, horizontal relations are equally relevant since centralization is facilitated by, if not sometimes rooted in, the incapacity of lower-level governments to unify, oppose federal plans and to coordinate policy without central intervention.

Second, the discussion points to the need to take a close look inside lower-level governments and the constraints they are subject to following Peters' claim that "coordination . . . may be achievable without special mechanisms if there is will to coordinate, but no mechanism is sufficient if there is an absence of will" (Peters 1998: 52). The distinction between the will of governments to coordinate (for example, considering the variety of their motivations and the time horizon that structures their actions) and their capacity is crucial here. While Peters implies that the will is necessarily paramount, the implications of this chapter point to a more balanced perspective, whereby both are necessary for governments to engage in coordination successfully—whether this coordination is directed toward problem-solving or is opportunistically driven.

And finally, while there is a considerable amount of predominantly policy-oriented literature that looks at the administrative level of IGR rather than "high politics" only, the staff of intergovernmental institutions are hardly looked at systematically in the comparative federalism literature. The way they behave facing distinct political or systemic constraint is likely to be telling with regard to the role of voluntarily created intergovernmental institutions are likely to play in IGR and how far intergovernmental reform is likely to help governments overcoming political dynamics that they themselves perceive as destructive.

References

- Arnold, David S. and Plant, Jeremy (1994), *Public Official Associations and State and Local Government* (Fairfax: George Mason University Press).

- Bednar, Jenna (2008), *The Robust Federation: Principles of Design* (Cambridge: Cambridge University Press).
- Benz, Arthur (2004), "Multilevel governance: Governance in Mehrebenensystemen," in Arthur Benz (ed.), *Governance. Regieren in komplexen Regelsystemen* (Wiesbaden: VS Verlag für Sozialwissenschaften), 125–46.
- (2009), "Types of multilevel governance: A framework for comparative research," paper presented at the ECPR General Conference in Potsdam.
- (2010), "Yardstick competition and policy learning—Lessons from German experiences," paper prepared for the Seminar Policy Learning and Policy Transfer in Multi-level Systems, Royal Societies of Edinburgh, January 22–3.
- Bolleyer, Nicole (2009), *Inter-governmental Cooperation: Rational Choices in Federal Systems and Beyond* (Oxford: Oxford University Press).
- (2011), "The influence of political parties on policy coordination," *Governance* 24 (3), 467–92.
- Bolleyer, Nicole and Börzel, Tanja A. (2010), "Non-hierarchical policy coordination in multi-level systems," *European Political Science Review* 2 (2), 157–85.
- Börzel, Tanja A. (2002), *States and Regions in the European Union: Institutional Adaptation in Germany and Spain* (Cambridge: Cambridge University Press).
- Breton, Albert (1996), *Competitive Governments: An Economic Theory of Politics and Public Finance* (Cambridge: Cambridge University Press).
- Cameron, David R. and Simeon, Richard (2002), "Inter-governmental relations in Canada: The emergence of collaborative federalism," *Publius: The Journal of Federalism* 32 (2), 49–71.
- Cigler, Beverly A. (1995), "Not just another special interest," in Allan J. Cigler and Burdett A. Loomis (eds.), *Interest Group Politics* (Washington, DC: Congressional Quarterly Inc.), 131–51.
- Feiock, Richard C. and Scholz, John T. (eds.) (2010), *Self-Organizing Federalism: Collaborative Mechanisms to Mitigate Institutional Collective Action Dilemmas* (Cambridge: Cambridge University Press).
- Greif, Avner (2006), *Institutions and the Path to the Modern Economy: Lessons from Medieval Trade*. (Cambridge: Cambridge University Press).
- Grossback, Lawrence J., Nicholson-Crotty, Sean, and Peterson, David A. M. (2004), "Ideology and learning in policy diffusion," *American Political Science Review* 32 (5), 521–45.
- Haider, Donald H. (1974), *When Governments Go to Washington: Governors, Mayors and Inter-governmental Lobbying* (New York: The Free Press).
- Hooghe, Liesbet and Marks, Gary (2003), "Unraveling the central state, but how?," *American Political Science Review* 97 (2), 233–43.
- John, Peter, Ward, Hugh, and Dowding, Keith (2004), "The bidding game: Competitive funding regimes and the political targeting of urban programme schemes," *British Journal of Political Science* 34 (3), 405–28.
- Kaiser, Andre (1997), "Types of democracy: From classical to new institutionalism," *Journal of Theoretical Politics* 9, 419–44.

- Lazar, Harvey and McIntosh, Tom (1998), *Federalism, Democracy and Social Policy. Towards a Sectoral Analysis of the Social Union: Project Methodology for Governance Aspects of the Social Union* (Kingston: Institute of Inter-governmental Relations).
- Lijphart, Arend (1999), *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries* (New Haven, London: Yale University Press).
- Mattila, Mikko and Raunio, Tapio (2004), "Does winning pay? Electoral success and government formation in 15 West European countries," *European Journal of Political Research* 43, 263–85.
- McRoberts, Kenneth (1993), "Federal Structures and the Policy Process," in Michael M. Atkinson (ed.), *Governing Canada: Institutions and Public Policy* (Toronto: Harcourt Brace), 149–78.
- Meekison, Peter J., Telford, Hamish, and Lazar, Harvey (2004), "The institutions of executive federalism, myths and realities," in Peter. J. Meekison, Hamish Telford and Harvey Lazar (eds.), *Canada: The State of the Federation, 2002: Reconsidering the Institutions of Canadian Federalism* (Kingston: Institute for Inter-governmental Relations), 3–34.
- Peters, B. Guy (1998), *Managing Horizontal Government: The Politics of Coordination* (Ottawa: Canadian Center for Management Development).
- Poirier, Johanne (2001), *The Functions of Inter-governmental Agreements: Post-devolution Concordats in Comparative Perspective* (London: The Constitution Unit).
- Scharpf, Fritz W. (1994), "Games real actors could play: Positive and negative coordination in embedded negotiations," *Journal of Theoretical Politics* 6 (1), 27–53.
- (1997), *Games Real Actors Play: Actor-centered Institutionalism in Policy Research* (Oxford: Oxford University Press).
- Simeon, Richard (2005), "Plus ça change: Inter-governmental relations then and now," *Policy Options* 26 (3), 84–7.
- Skogstad, Grace (2000), "Canada: Dual and executive federalism. Ineffective problem-solving," in Dietmar Braun (ed.), *Public Policy and Federalism* (Aldershot: Atheneum Press).
- The American Heritage Dictionary of the English Language* (2006), 4th edition (Boston: Houghton Mifflin Company).
- Thelen, Kathleen (1999), "Historical institutionalism in comparative politics," *Annual Review of Political Science* 2, 369–404.
- Watts, Ronald L. (1999), *Comparing Federal Systems* (Montreal: McGill-Queen's University Press).
- Zimmerman, Joseph F. (1990), "Regulating inter-governmental relations in the 1990s," in John Kincaid (ed.), *American Federalism The Third Century* (Newbury Park: Sage Publications), 48–59.
- (2002), *Inter-state Cooperation: Compacts and Administrative Agreements* (Westport: Praeger Publishers).

16

Economic crisis and federal dynamics

Dietmar Braun and Philipp Trein

16.1 Introduction

The global financial crisis that started in 2007 has been perceived as one of the most threatening crises since the 1920s. Although its impact differed in various regions, the majority of countries experienced a sharp decline in economic growth and consumer demand in 2008 and 2009, coupled with significantly increased unemployment rates and, in turn, decreased tax revenues and soaring national debts. For one, the imminent collapse of the banking system had already required large sums of public money to bail out failing and at-risk banks and bank accounts. In addition, the ensuing economic recession argued for even more substantial policy measures and stimulus spending in order to counteract the drops in demand and production. In many countries both challenges led to a comeback of Keynesian economic thinking (Greenblatt 2009; Armingeon 2012): fiscal stimulation measures—either by granting tax credits or by increased state expenditures—were taken, although with negative consequences with regard to debt control and budget stability.

When facing such crises, federal countries, as a subgroup of democratic countries, are presumably confronted with particular problems. The main challenge stems from the basic federal principle of separate levels of political authority, which often each have their own powers to raise and expend public funds. The respective central government often has the financial means to intervene while individual states are responsible for large parts of expenditures. Vertical fiscal imbalances often pose an impediment to getting states to take on larger deficit spending programs. In short, while in unitary systems central government can—parliamentary support provided—decide relatively quickly on fiscal measures, central governments in federal countries may be

confronted with state veto-powers or lack control over state governments' decisions on revenues and spending.

Given the urgency of matters in 2007 and 2008, it is not surprising that central governments, being mainly responsible for the economic welfare, would look for quick solutions. Coordination requirements formed an obvious obstacle in implementing such solutions. Given developments during the Great Depression in the 1920s (Bordo, Markiewicz, and Jonung 2011), many observers feared that the national level would attempt to gain control of the situation by sidestepping state governments and by centralizing competences and financial responsibility, which could result in long-term shifts in the federal balance of power. In this chapter, we intend to investigate whether the economic recession has indeed led to fundamental shifts in power or whether federal countries exhibited enough resilience to maintain the power balance.

Power relations and federal fiscal arrangements differ, of course, between federal countries. Thus, our quest goes further: we also want to know whether there were significant differences in fiscal policy-making *between* federal countries, given their balance of power and their "fiscal regimes," and whether these differences have resulted in a change in actor relationships. In order to find an answer to this question, we will compare eleven federal countries: Argentina, Australia, Austria, Belgium, Canada, Germany, India, South Africa, Spain, Switzerland, and the US.

In the following, we will present different types of federations according to their historically developed structure of federal relations and their internal dynamics in power distribution. We expect that the economic crisis affects these types in different ways in terms of stability and instability. Section 16.3 discusses the particularities of fiscal policy-making in federal states when confronted with an economic crisis. Section 16.4 gives an overview of crisis measures in federal states, while section 16.5 attempts to understand the impact of the crisis on the stability and instability of federal countries.

16.2 Actor Constellations and Balance of Power in Federations

In order to explain the effects of "external causes" or "sources of change",¹ like an economic or financial crisis on the stability or instability of federal states, we need to understand the quality of structural arrangements of power distribution concerning the "right to act" and the "right to decide" (Braun 2000) as well as the internal dynamics of actor relationships. A federal arrangement is

¹ For a more comprehensive overview, see the editors' introduction to this volume, Chapter 1.

considered stable as long as no relevant actor (governments or parties, for instance) has an interest in or makes an effort toward changing the status quo of power distribution; that is, the federal system on the whole is stable. If one or more actors have a profound interest in changing the existing arrangements, the equilibrium can become unstable and shift until a new equilibrium is found. It is also possible that some actors try, but fail, to change the status quo in their favor. This leads to instability without any change to the equilibrium, a constellation we call “oscillation around the status quo.” No attempts to change the status quo (stability), successful attempts to change the status quo (instability resulting in a new equilibrium), and unsuccessful attempts to change the status quo (oscillation) constitute therefore a threefold category of possible dynamics inside federations.

Building upon that, we have attempted to classify the selected federal countries in terms of their “vulnerability” prior to the onset of the economic crisis. Vulnerability signifies the degree to which one can expect that certain external events may have an effect on the balance of power in federal systems. Accordingly, we can distinguish between three groups of federal countries:

- (1) *Federal countries with system-threatening instability* (South Africa, Belgium, Canada) in which the economic crisis may lead to an intensified confrontation between centralizing and decentralizing forces.

In all three countries, the status quo is challenged in a profound way. We find intense conflicts and the need for conflict management: In South Africa the existence of the “provinces” themselves is continually questioned by the dominant governing party, the ANC, threatening to abolish the federal system altogether (Khumalo and Mokate 2007). Therefore, one can infer that the economic crisis in 2008–09 and the coinciding pressure for demand-management policies could support claims by national authorities to abandon the federal construction and diminish the position of sub-central governments. Thus, further centralization is to be expected on the whole. In Belgium the deep divide between Wallonia and the Flemish region has raised continuous debate on separation (Dandoy, Matagne, and Van Wynsberghe 2009). Decentralizing pressures have prevailed for quite some time, but the interests of the two language groups with regard to the role of the central government differ considerably: the Flemish region is pressing for more independence and decentralization, while the Wallonia region is lobbying for maintaining the federal government as the main authority for redistributive policy. The crisis may provide the Wallonia region with arguments for maintaining or even expanding the existing powers of the national level and discredit claims by the Flemish region for further decentralization. On the other hand, the opposite could just as well be the case, with conflicts only exacerbated because the

economic crisis will lead to increased expenditure needs in Wallonia while there is a commitment of the Flemish region to contribute substantially to equalization payments. This, in turn, could heighten resentments, which may intensify demands by Flanders for further decentralization. In Canada, Quebecer nationalism has contributed to a strong trend toward decentralization since the 1960s (Boadway and Shah 2007). A new balance has been found in which the federal government has surrendered a large part of its powers to the provinces. Largely due to Quebec, but also because of growing demands for more power from the oil-rich Western provinces, Canadian federalism remains in a delicate balance; indeed, tendencies to decentralize further are still strong. Under these circumstances, the economic crisis presumably returns some legitimacy to Ottawa, but without any formal changes to federal–provincial power relations. Symbolically, however, the central government could find its position strengthened in the end.

- (2) *Federal countries where the balance of power is still in flux* although the trend is toward decentralization (Spain, India, Argentina). In these countries the economic crisis can give momentum to centralizing forces and tip the balance to the national level.

These “holding-together federations” (Stepan 1999) look for a new equilibrium after a process of decentralization has set in. They have either emerged out of former colonies (Argentina, India) or out of a former unitary state (Spain). Both Argentina and India are older federations than the *de facto* federalism of Spain after devolution, but the process of decentralization has only started recently, since the end of the 1970s in Argentina (Falleti 2010) and since the 1990s in India (Singh 2007). This means that the process of strengthening state governments is still taking place. The situation poses less of a threat to the system as a whole than in countries in the first category, although Spain has been coping with separatist threats from the Basque region and considerable demands for more autonomy from Catalonia (Lopez-Laborda, Martinez-Vazquez, and Monasterio 2007). All three countries are still searching for equilibrium between a strong central government and the willingness of all political forces to transfer a substantial number of competences to the sub-national governments. The situation between national and sub-national levels fluctuates, and the tendencies depend on conjunctures and external events as well. In light of this, the economic crisis with ensuing demand management strategies can give a temporary advantage to central government and perhaps lead to attempts to reincorporate some of the devolved powers into the central level (Tommasi, Saiegh, and Sanguinetti 2001; Rao 2007).

- (3) *Federal countries with a stable equilibrium* (Australia, Austria, Germany, Switzerland, the US) and sufficient resilience to maintain the existing balance of powers.

Four countries are “coming-together federations” in Stepan’s terminology (1999)—Australia, Germany, Switzerland, the US. Austria, as the only case of a holding-together federation with a stable equilibrium, is atypical compared to India, Spain, and Argentina, as it has installed an equilibrium favoring strong centralization. There are no strong push-and-pull forces to shift the balance in favor of the states or *Bundesländer* (Braun 2011). The economic crisis should fit into the overall pattern of a strong central government that will take the lead and will confirm its dominant position without a push for further centralization (Fuentes, Wurzel, and Wörgötter 2006).

In Switzerland and the US, the cantons and the states, much like Canadian provinces, have had relatively strong positions throughout their federal history. Nonetheless, they do not demonstrate any movements toward challenging the status quo to a destabilizing extent. The equilibrium in the respective federations, however, differs from one another. The national level in Switzerland, for instance, has significant authority, yet it is highly constrained by the cantons’ powers, while the federal government in the US can act by and large without major constraints by the states. As recently as 2006, Switzerland amended the distribution of competences and fiscal powers, which had before shifted gradually in the direction of a stronger involvement of the federal level in cantonal affairs. The new equilibrium reaffirms the strong formal powers of the cantons vis-à-vis the federation, the *Bund* (Braun 2009; Behnke 2010). In the US, the States are in a position to defy the central government in a number of areas and have strong self-governing rights; on the other hand, they depend heavily on federal funding, which provides the federal government with a lever to intervene in state affairs (Fox 2007). This creates a fluctuating equilibrium depending on national initiatives and compliance by the states. By contrast, in Switzerland (again akin to Canada), the federal government may not be capable of acting alone and depends on cantonal action or approval, which necessitates voluntary cooperation. Thus, shifting balances are unlikely in these cases.

In the last two remaining federations, Germany and Australia, the central governments hold a strong position in the federal system, especially in fiscal policies. The federal arrangement, however, varies between the two countries. Germany exhibits a very stable status quo, maintained not least by veto-powers granted the states or *Länder* on the federal level, which severely limits the scope for unilateral action by the German federal government. National fiscal measures to combat the economic crisis are to a large extent subject to *Länder* approval. It is unlikely that this can lead to major shifts in the balance

of power (Feld and Hagen 2007). In the case of Australia, the dominance of the national level in fiscal matters is common knowledge, where the main instruments are, like in the US, conditional grants. Therefore, we find a similar constellation of a federal arrangement that is characterized by fiscal intervention and regulation (directly, or indirectly via conditional grants) by the national level and compliance or defiance by the state governments (Morris 2007). Consequently, major shifts in the balance of powers are not likely in the Australian and German cases either.

The above analysis, of course, only represents a series of inferences and “educated guesses.” The question then is whether these expectations are justified, which thus requires verification. Certainly the economic crisis meets different “grounds” in federal countries and will have different effects on the stability and instability of the respective federal arrangements.

16.3 Fiscal Policies and Federal Relations

The 2008 financial crisis and the subsequent economic recession affected most countries across the world, with many experiencing decreasing economic growth, declining consumer spending, and falling tax revenues. At the same time, governments needed to maintain services and social benefits while deciding, for instance, on whether to carry out additional spending or grant tax credits in order to revive the economy. For federal countries, this represented a particular challenge.

In federal countries, governments at different levels have the authority to decide on spending and—in most cases—on taxation. This can pose an obstacle to the “coordinated action” needed in order to respond effectively to economic problems. If the central government decides to increase spending, but lacks the power to enforce such spending by the state governments, then it either depends on the “good will” of those governments to comply (or more precisely, to “cooperate”) or it must offer the states grants they can use for spending. In the latter case, a problem of “moral hazard” arises: states may take the money but do not spend it, or spend it for other purposes than intended. This sort of coordination problem can only be avoided if the national level has significant expenditure authority and if it can spend more money at its discretion during the crisis. Moreover, fiscal redistribution arrangements often constrain crisis management. In tax-sharing systems, the federal level may need to allocate most of its resources to the states, leaving little room to spend its “own” money. If these financial transfers to the states are for mainly redistributive purposes, the central government is then left with few possibilities to change existing arrangements during the crisis. All in all, the “fiscal regime,” that is the overall distribution of authority in revenue,

spending, and borrowing matters, determines the central government's discretion on expenditures.

In federal systems, each level usually has some revenue income under its own ambit. Therefore granting tax credits to stimulate the economy may be rendered ineffective due to contradictory tax policies of the different governments. When there are institutionalized "concurrent taxes" in a federal country, that is, taxes both levels can decide upon at the same time (see Braun 2003), the central government's decisions on tax credits may create room that the state governments can fill by increasing their respective regional taxes.

Hence federations are confronted with coordination problems when implementing Keynesian demand management strategies. In sum, this can translate into particular barriers to responding effectively to the economic crisis. To what extent such problems occur depends ultimately on the particular "fiscal regime" of that federal system. As this chapter is primarily interested in relations between crisis management and the balance of power in federations, that is, on the stability or instability of the federal system, we explore in the following how fiscal relations and the use of different fiscal instruments influence authority relations in federations and to what extent this is the case. From a conceptual point of view, three ways to contest the existing balance of power by manipulating the fiscal regime can be distinguished:

First, *temporary reduction of discretion* may result from measures taken on the other territorial level. The central government is able to reduce the discretion of the states in order to achieve its Keynesian demand-management objectives. One example is unilateral decisions to grant tax credits, which can also reduce tax income at the lower or sub-national levels. More deliberately, the central government can use conditional grants to steer state governments toward certain policies or measures during the crisis. The central government can also take a "divide et impera" strategy of selective support to individual state governments during the crisis, fostering disunity among the states and indirectly strengthening its own position. However, such fiscal measures will most likely be terminated once the economic crisis has subsided. For a period of time, they alter the existing balance of power but have no lasting effects.

Second, we can observe *symbolic acts of defiance* with regard to the authority of the other territorial level. For example, if state governments do not use the money allocated to them by the central government as agreed upon or if they implement pro-cyclical measures while the central government pursues demand-stimulating measures, the balance of powers is not necessarily altered, but it constitutes a demonstrable or "symbolic" act of defiance against the national level's authority. On the other hand, a central government can disregard the states' authority, circumventing their government to offer direct support to local governments. Again, this would not represent an act of authority migration, but rather an act of defiance which can, in the long

run, contribute to a shifting balance of power within the federal actor constellation.

Third, *authority migration* indicates that measures taken during the economic crisis have lasting effects on the balance of power. They change authority relations, either by institutionalizing some of the temporary measures taken by the central government during the crisis (authority migration “*by stealth*”) or by adopting new laws which directly reduce individual state discretion; for example, by transferring tax authority to the federal level.

16.4 Crisis Reactions

The fiscal policies taken by the federations included in our study during the crisis did not differ in comparison with non-federal states. All federations pursued stimulus policies, although with different intensity.² In all cases, central government took the lead and initiated most of the policies. Usually it had more revenue sources and easier access to borrowing. Yet in all cases, state governments were involved to some extent, either because they were responsible for spending money allocated by the national level or they contributed with their own fiscal stimulus programs. Usually, central government responses entailed bail-out programs for troubled financial institutions, investments in infrastructure and education, labor market measures, and tax rebates for both consumers and enterprises. Most federal countries introduced a mix of these measures (OECD 2009). Often central governments could adopt a large number of these measures of its own accord due to their competence for taxation, social security, or for stimulating general consumption (like the American Recovery and Reinvestment Act of 2009 to support the states fiscally). Infrastructure expenditures could only be implemented partially by central governments themselves. Especially in these cases, action on the part of the states was required. In order to make states comply, grants with varying degrees and forms of conditionality were transferred.

² Among OECD countries, the Anglophone countries passed the most intensive measures, above all the United States (5.6 percent of GDP), but also Australia (5.4 percent) and Canada (4.1 percent) which had much better starting conditions in terms of debt rates, economic growth and unemployment (Armingeon 2012). Spain, with a particularly unfavorable economic and financial position, reacted also with strong counter-cyclical policies (3.9 percent of GDP), as did Argentina with stimulus packages of 4.7 percent of GDP in 2009 (IMF 2010). Germany and South Africa still took moderately counter-cyclical steps with 3.2 percent of GDP (IMF 2010; Armingeon 2012) and 3 percent (IMF 2010) of GDP. The remaining four federations Austria (1.2 percent), India (0.5 percent in 2009; IMF 2010), Belgium (2 percent), and Switzerland (0.5 percent) established only slight counter-cyclical measures. Both India and Switzerland profited from favorable economic and financial conditions. Belgium already had persistently high debt rates, but had managed to reduce them considerably since the 1990s.

Table 16.1. Effect of fiscal crisis policies on federal balance

Country	Temporary discretion reduction		Acts of defiance	Authority migration
	Tax Relief	Conditional Grants		
Argentina	-	✓	✓ ⁴	-
Australia	-	✓	✓	-
Austria	✓	✓	-	✓
Belgium	✓	-	-	✓
Canada	✓	✓	-	-
Germany	✓	✓	-	✓
India	✓	✓	-	-
South Africa	✓	✓	-	-
Spain	✓	✓	✓	✓
Switzerland	-	✓	-	-
US	-	✓	✓	-

Sources: These are also the base for the discussion in the following sub-chapters: Argentina: Bermúdez 2009; Latin American Herald 03/2009; Asensio 2010; 2009; Merco Press/2009; Merco Press 05/14/2010. Australia: Steketee 2009; Anderson and Fenna 2010; OECD 2010; Warren 2010. Austria: Breuss, Kaniovski and Schratzenstaller 2009; OECD 2009; ÖNB 2009; ÖNB 2010; OECD 2011. Belgium: OECD 2009; dpa 10/18/2010; NZZ 06/12/2010; Zeit Online 04/27/2010; Zeit Online 06/14/2010; NZZ 10/08/2011; OECD 2011; Spiegel-Online 10/11/2011. Canada: Dubuc 2009; Dubuc 2010; OECD 2010. Germany: FAZ 06/12/2009; Horn 2009; Färber 2010; OECD 2010; Rensch 2010; India: Gosh 2009; Aziz and Khan 2010. South Africa: OECD 2010; Powell and Steytler 2010. Spain: Amaral 2009; OECD 2010; Viver 2010. Switzerland: NZZ 08/10/2008; Council 2009; Curtis 2009; OECD 2009; NZZ 03/23/2009; NZZ 01/20/2010; the US: Kincaid 2010; OECD 2010; Tarr 2010.

Note: The check marks are in brackets, because acts of defiance need to be interpreted carefully, as we explain later in the chapter.

The following table (Table 16.1) summarizes the effects of fiscal policy measures taken in the eleven federal countries on the federal balance of powers.

16.4.1 Temporary Reduction of Discretion

According to our findings, *tax relief measures*, which were used in countries with tax-sharing arrangements, did not disturb federal balances, although they temporarily reduced state government discretion due to decreasing tax revenue. State governments did not overtly resist. If they had a “voice” in federal decision-making, as for example in Spain and Germany, compromises were easily achieved, usually confirming the central government’s intentions.

Conditional grants have been universally used in federations.³ They are expected to motivate state governments to stimulate the economy by

³ For Belgium, we lack clear information about the use of conditional grants. Conditional transfers are, strictly considered, unconstitutional but they are used on rare occasions (Boadway and Shah 2007). It is therefore likely that during the recent crisis the use of conditional grants was avoided.

expenditures but usually restrict their discretion by rules—for example, by defining the sector or actors that should profit from the money. Federal governments can also use such grants to implement certain policies, as the Obama Administration did when insisting on spending in alternative energies. For the state governments, the constraints incurred due to the spending rules are compensated by the influx of additional money they usually need to combat the crisis. This raises the question of whether conditional grants provide central governments with a lever for reshuffling federal relations of power.

Based on our findings, we can distinguish three types of reactions by state governments to the provision of conditional grants of the federal governments:

(1) In Austria, Germany, Spain, Argentina, and South Africa conditional grants were usually conceived as additional income for the regional or provincial levels, though of less importance than revenues gained from tax-sharing arrangements. During the economic crisis, conditional grants were provided for a limited term. They found general acceptance, and state governments did not reject them in parliaments or coordinative bodies. In general, they participated in implementing the grants.

(2) In the case of Canada and Switzerland, we discovered processes of coordination and cooperation in using such grants. In both countries, the federal and cantonal/provincial governments negotiated informal agreements. Moreover, there was a general consensus that governments at both levels should make budgetary policies in a counter-cyclical fashion. This led not only to a large number of initiatives by provinces and cantons based on their own revenues, but also to the implementation of infrastructure programs initiated and co-financed by the federal government. The latter did not try to trespass competences or provoke authority migration. Certainly, the favorable economic and financial circumstances in these two countries helped to facilitate a consensus.

(3) Finally, in three countries, Australia, India, and the US, the intensified use of conditional grants during the crisis caused tensions between federal and state governments in the course of implementation. In Australia and the US, conditional grants are just about the only means of the central government to influence policies that fall under state authority. In both countries, states are primarily responsible for a wide array of policy areas, administering the respective expenditures, and investing in infrastructure.

In Australia, the number of conditional grants increased during the crisis and triggered two kinds of tensions. As a rule, states tend to argue for unconditional instead of conditional grants, while the Commonwealth or federal government of course prefers the opposite. While states participated in the formulation of the stimulus package, the crisis only intensified this conflict on grant design. The second issue was the apparent inefficiencies involved when

states implemented the programs, despite new procedures. The “red tape” in state governments was blamed for a suboptimal expenditure and usage of Commonwealth resources on the regional level (Warren 2010). Interestingly, similar discussions emerged in South Africa, where the central government rebuked provinces for wasting public money (Powell and Steytler 2010).

In India, states obtained a large variety of conditional grants from different federal ministries already before the crisis. This practice was intensified during the crisis and contributed to a general sentiment of “hollowing out” of the states’ fiscal authority. This sentiment was induced by other measures the central Government introduced at the beginning of the 2000s to reduce the discretion of the states. For instance, a “Fiscal Responsibility and Budget Maintenance Law” significantly curtailed the possibilities of states to take on new debts; a new value-added tax (VAT) system limited the states’ powers to extend their tax base, and to increase own tax rates. The central government capped state stamp tax rates, which until then had contributed up to 5 percent of their revenue. With these decisions, the central government aimed to gradually reduce the states’ tax shares. The increase in conditional grants thus fits into the picture of a central government trying to regain some of the authority it had previously lost in the process of decentralization. The crisis was therefore an opportunity to go further in this direction (Aziz and Khan 2010).

In the US, conditional grants were quite common in federal–state relations. They were also the main instrument of the Obama Administration to influence state spending behavior. The central government decided on these grants without participation of the states. A process of coordination did not take place either. In contrast to the countries discussed before, the general acceptance of these grants by the states was weak. Only about one-third of the money the central government offered was effectively spent. High administrative costs and various conditions attached to the grants (for example, environmental policy objectives) explain the reluctance exhibited by a number of the states (Kincaid 2010; Tarr 2010).

In sum, the use of conditional grants did not bring about major shifts in federal authority relations even when central governments defined the purposes of such grants. In the first group of countries, such measures—which remained limited regarding the amount of money invested—did not raise major discussions or resistance. Cantons in Switzerland and provinces in Canada demonstrated their cooperative attitude in co-financing the few conditional grants provided by central government. Only in the federations forming the last group were conditional grants contested to some extent, which resulted in implementation problems in the US and in discussions about loss of discretion in Australia. In India, conditional grants corresponded with a more general strategy by the central government to restore its previously lost authority in fiscal relations.

16.4.2 Acts of Defiance

The second challenge for the stability of the federal balance of power result from acts of defiance against fiscal authority. They can occur by policies taken by the states or the central governments. In state governments, the most obvious case would be pro-cyclical increases of tax rates in times when the central government attempts to stimulate demand. Such reactions are, of course, only possible in those fiscal regimes which grant states significant tax autonomy (Argentina, Switzerland, Canada, Australia, India, and the US) or where, as in the case of Belgium and Spain, state governments have some rights to manipulate the rates of those taxes they receive through revenue sharing.

As mentioned above, cantons in Switzerland and provinces in Canada demonstrated their support of counter-cyclical measures and acted accordingly during the crisis. They did not act with defiance. However, in other federal countries, state governments raised taxes during the crisis and thus pursued a pro-cyclical policy. This was the case in Argentina, in New South Wales in Australia, and in a large number of US states. However, one should be very cautious in interpreting these tax increases as real acts of defiance. By and large, the reasons for pro-cyclical behavior were more complex.

In all federations, fiscal policy in the recent crisis was confronted by the conflict between “*deficit spending*” and achieving “*balanced budgets*.” In contrast to previous recessions, the severe indebtedness of numerous states required a consolidation of the budget, sometimes even reductions to deficits, or at least a decline in the annual growth of deficits. Many state governments are in a particularly difficult fiscal position as they often face important structural “fiscal gaps” that are not covered by their own revenues and central government transfers. In a number of states, for example, in the US and in Switzerland, the political pressure made such austerity measures practically inevitable. This was especially the case when states had adopted debt limits or other constraints on their budget. Under such conditions, the best option for state governments with high debts was to accept funds from the federal level for extra spending (for example, in the form of conditional grants) on the one hand, and to generate more tax revenue by raising their own tax rates on the other. This allowed them to balance the budget with additional spending at the same time.

In many American states, the financial situation undoubtedly necessitated—and still requires—such balancing measures. However, most states either avoided tax increases or only raised the rates of minor taxes. Similarly, in Australia, states saw negative effects of more spending because they risked having their credit rating “downgraded” on the financial market. Some of the Argentine provinces had similar reasons to act pro-cyclically.

In sum, insofar as state governments raised tax rates pro-cyclically but nonetheless implemented stimulus programs from the central government, their behavior should not be considered an act of defiance. However, a number of instances can be deemed acts of defiance, for example when state governments did not cooperate with the central government or complied with programs but only paid attention to their financial balances, as in the case of a number of American states. Acts of defiance by the central governments were very rare. One case occurred in Spain, where the central government offered stimulus programs directly to local governments without approval of regional authorities, which are responsible for local governments.

16.4.3 Authority Migration

Authority migration, that is, the transfer of legislative powers to another territorial level, was not an outcome of the economic crisis 2008/2009. If so, it was caused only in an indirect way by attempts to balance budgets which reduced state government discretion.⁴ In brief, this finding can be explained as follows.

In Austria, Belgium, Germany, and Spain, the conflict between deficit-spending and balancing the budget played a particularly important role. All four countries are members of the Eurozone, which obliged them to comply with the Maastricht criteria (especially the rule concerning annual deficits limited to 3 percent of GDP and overall debt limited to 60 percent of GDP). Although these rules were not always respected in the past, pressure to do so rose during the crisis. As a result, intense political discussions and conflicts arose due to the apparently opposing demands of balancing the budget and stimulating the economy. In these countries, we find clear indications of “discretion reduction,” though the pressure for balancing budgets really increased after the economic crisis of 2008/09 and became the primary concern in crisis management in the Eurozone. The economic crisis contributed to this development because of the negative effects on the budgets of both the national and state governments.

In Germany, a constitutional reform of federalism in 2006 led to debates about the need to establish a debt limit or “debt brake.” The economic crisis impelled the introduction of new debt rules by constitutional amendment in 2009. It stipulated that *Länder* are no longer allowed to accumulate debts as of 2020. Although this deadline is several years ahead, a number of *Länder* governments, although not all of them, immediately started to introduce their own debt limits with consequences for their spending capabilities.

⁴ One exception was Belgium, where fiscal authority was transferred to the regional governments in 2011. But this decision was not linked to the economic crisis.

Nonetheless, the new constitutional law clearly affects the budget autonomy at *Länder* level.

Spain pursued a policy of demand stimulation and austerity throughout the crisis. Autonomous Communities were obliged to reduce their deficits according to pre-defined rates (as of 2011, deficits of the regions should not exceed 2.4 percent of GDP), if they wanted to receive any loans from the central government. These rules were initially introduced by a unilateral act of the central government, but later found approval by the regions (Viver 2010).

In Austria, a stability pact existed already before the crisis. Concerns about the deterioration of the budget and the international financial crisis contributed to stricter regulations, which limited the leeway of the *Bundesländer* to borrow and to spend. Today, the introduction of a “debt brake” similar to the German rule is under discussion.

In Belgium, the debt level considerably increased during the crisis and now exceeds 100 percent of GDP. However, this situation did not lead to tighter constraints on regional financial autonomy, mainly because the regional governments themselves only paid a minor share of these debts (around 20 percent of public debt). After a federal system had been established in 1993, Belgium previously having been a unitary state, the federal government maintained the principle responsibility for debt management. Nevertheless, Belgium saw a shift of authority from the federal to regional governments. The continuous struggle between Wallonia and the Flemish region as well as disputes on fiscal federalism and social-security decentralization have resulted in an enduring government crisis. Finally, agreement could be reached, the so-called “*Vlinderakkoord*” (see De Standaard, October 13, 2011), which did not change social security spending, leaving this responsibility at the central level. Still, there are tensions in Belgium’s federal balance of power. However, they have not been caused by the economic crisis or the debt crisis, but resulted from the long-standing conflict between the two regions.

In the case of Austria, Germany, and Spain, the fiscal authority of state governments was clearly curtailed by constitutional rules. However, one should be careful to interpret this as a shift in the federal balance of powers. In fact, both the national and the regional governments were forced to balance their budgets due to the countries’ membership in the Eurozone. Thus the introduction of debt limits transfers authority, not within the federal system from state to central governments, but rather to the “monetary union” with the European Commission enforcing the contracts member states have accepted. Therefore the federal arrangement is in fact a multi-level one, with the monetary union as the “principal,” central governments as the “agents” who are responsible for fulfilling the contract, while regional governments play a role in implementing the contract. As a result of the economic and financial crisis, central governments have received stronger

powers to constrain borrowing by state governments. The latter have clearly lost an important part of their autonomy in financial affairs.

16.5 Fiscal Policies in Economic Crisis and the Stability of Federal Balance of Power

As it turned out, the economic crisis of 2008/09 was not comparable to the Great Depression in the 1920s when federal fiscal relations were centralized to a considerable extent (Bordo, Markiewicz, and Jonung 2011). Yet despite its temporary character, the recent crisis had implications for federal relations. Our initial expectation was to find attempts by central governments to centralize fiscal competences and strengthen their position in the federal balance of powers. Moreover, we assumed that such attempts would have a different impact depending on the conditions of federalism in different countries; that is whether a federal system is threatened by instability (South Africa, Belgium, Canada), whether there is an oscillating balance of power (Spain, India, Argentina), or whether stable relationships prevail (Austria, Germany, Australia, Switzerland, the US).

Our findings demonstrate few far-reaching changes in fiscal competences that could count as *authority migration*. The exception is the introduction of debt limits within federal countries of the Eurozone, occurring partly during the economic crisis and partly later. These rules have important and lasting consequences for fiscal policies of regions in Spain as well as *Länder* governments in Austria and Germany (Belgium being an exception because of the high concentration of responsibilities for borrowing at the central level). The economic recession contributed to this kind of authority migration by widening the gap between revenues and debts. The introduction of debt limits has certainly reduced the discretion of state governments but authority was transferred not so much to the national, but rather the European level of the monetary union, with a multi-level federal arrangement replacing the former dual relationships in domestic federalism. Central governments, however, were strengthened within domestic intergovernmental relations, as they are responsible for guaranteeing the contract establishing the Eurozone.

Temporary reduction of discretion of state governments was the rule. We did not find major intergovernmental conflicts when tax rebates or conditional grants were applied as fiscal instruments to stimulate demand. States could be cooperative, as were cantons and provinces in Switzerland and Canada respectively, while some bargained for some compromises, as in Spain and Germany. But in general, they complied when the central governments determined the necessary steps and measures to be taken. This can certainly be explained by the severity of the economic crisis and the precarious financial

position of the state governments. They were in an inferior position during the economic crisis since they depended on the actions, and most of all funding of central governments. Failure to cooperate would have been a very hazardous strategy. That a number of state governments embarked on a pro-cyclical road was due more to political constraints like debt limits and cannot be viewed as “acts of defiance.” Finally, temporary reduction of discretion did not reshape intergovernmental relations. An authority migration “by stealth,” meaning that crisis measures were continued after the recession ended, could not be confirmed. State governments could therefore assume that fiscal instruments designed by central governments to stimulate the economy were not “hostile take-overs,” but rather measures with limited potential to disrupt the balance of power.

Arguably, the most obvious and encompassing effects of the economic crisis was the “symbolic boost” to the leadership of central governments. It could strengthen their legitimacy by demonstrating their capacity to act. This did, of course, not lead to visible changes in intergovernmental relations. Yet it probably can influence future discussions on the fiscal and/or federal order. These effects, however, depend on the federal context: In stable and centralized federations like Austria or Germany, the demonstration of national leadership is expected and regarded as normal, while in the unstable context of South Africa, situations that demand enhanced leadership by the central government can lead to increased appeals to abandon the federal order altogether. Leadership can also shift balances more toward the center in federations with oscillating power balances like in Spain or India.

Taking these considerations into account, what kind of overall impact on the balance of power do we find in the three groups of federal countries distinguished above?

In the group of *unstable federal countries*, the impact of the economic crisis was quite diverse.

- In *Canada*, a long-standing coming-together federation, the crisis had the positive effects of enhancing cohesion and inducing inter-governmental cooperation.
- In *South Africa*, it confirmed the strong leading role of the central government, but at the same time discredited the role of the provinces. This gave the central government further arguments for questioning the latter’s existence.
- In *Belgium*, it was not the economic crisis, but rather the divide between regions that determined fiscal policies. Expectations that the federal government would gain power, as was supported by the French-speaking part of Belgium, were not confirmed. Any concessions toward the federal government would have benefitted Wallonia and been against the

purported interests of Flanders. Arguably, the crisis accelerated Flemish demands to regionalize both fiscal authority and social security spending since equalization payments had intensified in the wake of the financial crisis. But in the end, further fiscal decentralization was agreed upon, weakening the center even further. Within this context, the economic crisis had no centralizing effect, and if anything, the opposite.

In contrast the impact of the economic crisis is more clearly visible in federal countries with an *oscillating equilibrium of power*.

- In *India*, the economic crisis was not the cause of strategies of the central government to shift the fiscal balance in its favor. A number of centralizing measures were taken before the crisis, among them limiting state authority in public borrowing. During the crisis the central government emerged as the dominant actor that can determine at its liberty the capacity of states to act (by easing debt limits and by using conditional grants). This, of course, also contributes to the central government's image of leadership and may in future facilitate more reforms of the federal order. For now though, decentralization and centralization are still in an unstable equilibrium in India.
- The same applies for *Spain*. Here the crisis clearly strengthened the leading role of the central government. From time to time it responded with defiant policies since the central government was not afraid to trespass the authority of regions. Serious fiscal imbalances led to authority migration in debt policy. On the other hand, efforts to continue decentralization aimed at transferring more tax resources to regional governments. Decentralization and centralization are both still virulent forces in fiscal relations. However, the weakening of regional parties in the national parliament could very well signify a further tendency to strengthen the national level again. In Spain, therefore, one can expect more centralization and a weakening of the devolution process.
- In *Argentina*, no reforms succeeded but the central government demonstrated its dominant role in the crisis. It extended its financial capacities and imposed its strategies onto provincial governments by attaching conditions to any extra transfers of federal funding. This should give a symbolic boost to the federal level, which the new Kirchner government could use to strengthen its position vis-à-vis the provinces.

In the *stable federal countries*, we do not find relevant attempts to shift the status quo. But even here the crisis left its marks.

- *Switzerland* has survived the crisis without any remarkable questioning of existing federal structures. Generally, there was a cooperative attitude at the federal and the cantonal level. The economic crisis was not severe

enough to truly test the resilience of the fiscal federal order in Switzerland. This might change in the future.

- Despite recent steps toward decentralization, the dominant position of the federal government in *Germany* has remained uncontested. It was therefore “business as usual” when the federal government took an exceptionally active response to the economic crisis. The policies mainly found the approval of the *Länder*. The introduction of the “debt brake” in 2009 meant centralization. However, this did not jeopardize the overall stability of the federal order.
- Developments have been similar in *Australia*, where the Commonwealth government confirmed its fiscal dominance by taking the lead in combating the economic crisis. Discussions induced by the crisis centered on unsolved problems of excessive bureaucracy in fiscal relations. Such discussions flare up from time to time and the economic crisis lent the federal level plausibility in questioning the efficiency of the fiscal order, though without launching any concrete reform proposals until now. Stability was therefore maintained.
- *The US*, finally, did not see any reform attempts of federalism induced by the crisis. The emerging complaints about the conditional grants were nothing new. But discussions may very well start in the near future because of the states’ reluctance to accept these grants or the balanced budget provisions in their own constitutions. State governments themselves are often at the brink of financial disaster with skyrocketing debt rates, but they cannot rely on bail-outs by the federal government or on an efficient financial equalization system that could help to stabilize their financial situation. These structural weaknesses in the existing fiscal regime, which hindered solutions to both the economic and the financial crisis, may force both sides to enter into negotiations about reforming this regime.

16.6 Conclusion

To sum up, we find more continuity than change during the economic crisis of 2008 and 2009. Spectacular turnarounds—from decentralized to centralized balances of power—or even a clear trend toward strengthening central authority have not taken place. In principle, an economic crisis can have long-lasting centralizing effects on federal structures as the Great Depression of the 1930s demonstrated. The struggle for fiscal authority is certainly a major battlefield in federations, as discretion about revenues and expenditures ultimately determines the capacity or room for maneuver of all territorial

actors. That we did not observe open struggles during the period investigated here can be explained by the relatively limited effects the crisis had on social and economic welfare. The measures taken were often sufficient for overcoming the demand crisis and have resulted in quick recovery. This does not mean that economic crises would have no major impacts on federalism. But, we deem it necessary to distinguish between “strong crisis” and “weak crisis,” with the former being characterized by a longer lasting deterioration of economic conditions leading to profoundly negative effects on economic and social welfare. In contrast, short-time negative effects on economic variables denominate a “weak crisis.” At the same time, the ensuing contest between federal actors differs according to the type of crisis.

The weak crisis concerned in this chapter affected the “capacity to act” of central governments as the main responsible agency. In federations, this capacity depends to different degrees and ways on the cooperation of states. The contest that is carried out here is a “coordination contest” with a low degree of conflict. Federal countries differ in the way they deal with the crisis and in the way this affects federal relations. Yet as a rule, there are—as we have described—minor adjustments, symbolic strengthening or undermining of central governments, pursuits for tactical advantages, and skirmishes. But all this has not, at least not as yet, led to a shift in the balance of power. The case, presumably, would be different in a strong crisis. Under these conditions, not only the financial capacity of states, but also of the central governments may be in danger. In times of serious financial pressure and a severe deterioration of economic development, intergovernmental relations may change. One can expect on the one hand, attempts to redistribute financial authority in favor of the central government in order to gain more leverage to solve the crisis, and on the other hand, more attempts to regulate the behavior of states in order to avoid opportunism during the crisis, or to guarantee a consistent implementation of anti-crisis policies. There are indications for such a development in the federal countries of the Eurozone where regulating states’ debt became the main measure by central governments to cope with the imminent economic instability. Redistribution and regulation ignite intense conflicts and therefore cause confrontations about authority in the federation.

The consequences probably vary between the different types of federal states we have discussed. But it is likely that a serious crisis will lead to significant changes in the balance of powers. Symbolic thrusts by the central government may be used to claim the need to reform fiscal relations; a temporary reduction of discretion may turn into “authority migration by stealth”; acts of defiance on the part of central governments may become a regular strategy; and disputes about competences may become permanently placed on the political agenda. The ongoing international financial crisis may provide an occasion to test whether these postulations turn out to be correct or not.

References

- Amaral, Rodrigo (2009), "Spain's regions may hold the key to economic recovery," *Federations—Special Issue: Federations and the Economic Crisis* 8 (2), 29–30.
- Anderson, Geoff and Fenna, Alan (2010), "Australian federalism and the global economic crisis of 2008–09," presented at the Conference of Federalism and the Global Financial Crisis: Impacts and Responses, Philadelphia, PA, and Rutgers University, Camden, NJ. <http://www.camden.rutgers.edu/federalism/papers.html>
- Armingeon, Klaus (2012), "The politics of fiscal responses to the crisis of 2008–2009," *Governance* (forthcoming).
- Asensio, Miguel A. (2010), "Semi developed federations and the international crisis: The case of Argentina," presented at the Conference of Federalism and the Global Financial Crisis: Impacts and Responses, Philadelphia, PA, and Rutgers University, Camden, NJ. <http://www.camden.rutgers.edu/federalism/papers.html>
- Aziz, Ghazala and Khan, Mohd Saeed (2010), "The dynamics of fiscal federalism in India and the global financial crises," presented at the Conference of Federalism and the Global Financial Crisis: Impacts and Responses, Philadelphia, PA, and Rutgers University, Camden, NJ. <http://www.camden.rutgers.edu/federalism/papers.html>
- Behnke, Nathalie (2010), "Föderalismusreform in Deutschland, der Schweiz und Österreich," in Julia von Blumenthal and Stephan Bröchler (eds.), *Föderalismusreform in Deutschland: Bilanz und Perspektiven im internationalen Vergleich* (Wiesbaden: VS Verlag für Sozialwissenschaften), 37–58.
- Bermúdez, Ismael (2009), "Argentina responds to the crisis with unorthodox measures," *Federations: Federations and the Economic Crisis*, Special Issue 8 (2), 10–11.
- Boadway, Robin and Shah, Anwar (2007), *Intergovernmental Fiscal Transfers: Principles and Practices* (Washington, DC: World Bank Publications).
- Bordo, Michael D., Markiewicz, Agnieszka, and Jonung, Lars (2011), *A Fiscal Union for the Euro: Some Lessons from History* (Cambridge, MA: National Bureau of Economic Research).
- Braun, Dietmar (2000), "The territorial division of power in comparative public policy research: An assessment," in Dietmar Braun (ed.), *Public Policy and Federalism* (Ashgate: Aldershot), 27–56.
- (2003), *Fiscal Policies in Federal States* (Aldershot: Ashgate).
- (2009), "Verfassungsänderung trotz vieler Veto-Spieler: Föderalismusreform in der Schweiz," in Thomas Bräuninger, Susumu Shikano, and Joachim Behnke (eds.), *Jahrbuch für Handlungs- und Entscheidungstheorie* (Wiesbaden: VS Verlag für Sozialwissenschaften), 87–118.
- (2011), "How centralised federations avoid over-centralisation," *Regional and Federal Studies* 21, 35–54.
- Bruss, Fritz, Kaniowski, Serguei, and Schratzenstaller, Margit (2009), "Macro-economic effects of the fiscal stimulus measures in Austria," *Austrian Economic Quarterly* 14 (4), 205–16.
- Curtis, Malcolm (2009), "Swiss stimulus for banks, roads and trains eases crisis," *Federations: Federations and the Economic Crisis*, Special Issue 8 (2), 31–2.

- Dandoy, Régis, Matagne, Geoffroy, and Van Wynsberghe, Caroline (2009), "The future of Belgian federalism through the eyes of the political actors," presented at the ECPR Potsdam General Conference, Potsdam.
- Dubuc, Alain (2009), "Ottawa Provinces ally to quell a Meltdown," *Federations: Federations and the Economic Crisis*, Special Issue 8 (2), 8–9.
- (2010), "Canadian federalism and the global crisis," presented at the Conference of Federalism and the Global Financial Crisis: Impacts and Responses, Philadelphia, PA, and Rutgers University, Camden, NJ. <http://www.camden.rutgers.edu/federalism/papers.html>
- Falletti, Tulia G. (2010), *Decentralization and Subnational Politics in Latin America* (Cambridge, MA: Cambridge University Press).
- Färber, Gisela (2010), "Impacts of the global financial crisis in a federation: Evidence from Germany," presented at the Conference of Federalism and the Global Financial Crisis: Impacts and Responses, Philadelphia, PA, and Rutgers University, Camden, NJ. <http://www.camden.rutgers.edu/federalism/papers.html>
- Federal Council (2009), *Stabilisierungsmassnahmen: Finanzielle Folgen für die Kantone*. Bern: Der Bundesrat (Federal Council of Switzerland).
- Feld, Lars P. and von Hagen, Jürgen (2007), "Federal Republic of Germany," in Anwar Shah and John Kincaid (eds.), *The Practice of Fiscal Federalism: Comparative Perspectives* (Montreal & Kingston, London, Ithaca: McGill-Queen's University Press), 125–50.
- Fox, William (2007), "United States of America," in Anwar Shah and John Kincaid (eds.), *The Practice of Fiscal Federalism: Comparative Perspectives* (Montreal & Kingston, London, Ithaca: McGill-Queen's University Press), 344–69.
- Fuentes, Andrés, Wurzel, Eckhard, and Wörgötter, Andreas (2006), "Reforming federal fiscal relations in Austria," OECD Economics Department Working Papers No. 474 (Paris: OECD Publishing).
- Gosh, Jayati (2009), "Global meltdown hits India's poor the hardest," *Federations: Federations and the Economic Crisis*, Special Issue 23–4.
- Greenblatt, Alan (2009), "Where the crisis began, governments pass creative laws and desperate measures," *Federations: Federations and the Economic Crisis*, Special Issue 8 (2), 5–7.
- Horn, Karen (2009), "Hit hard by the Crisis, Germany fights back," *Federations: Federations and the Economic Crisis*, Special Issue 8 (2), 27–8.
- International Monetary Fund (2010), "Fiscal exit: From strategy to implementation," *Fiscal Monitor* (November) (Washington, DC: International Monetary Fund).
- Khumalo, Bongani and Mokate, Renosi (2007), "Republic of South Africa," in Anwar Shah and John Kincaid (eds.), *The Practice of Fiscal Federalism: Comparative Perspectives* (Montreal & Kingston, London, Ithaca: McGill-Queen's University Press), 262–86.
- Kincaid, John (2010), "The impact of the global financial crisis on American federalism," presented at the Conference, Federalism and the Global Financial Crisis: Impacts and Responses, Philadelphia, PA, and Rutgers University, Camden, NJ. <http://www.camden.rutgers.edu/federalism/papers.html>
- Lopez-Laborda, Julio, Martinez-Vazquez, Jorge, and Monasterio, Carlos (2007), "Kingdom of Spain," in Anwar Shah and John Kincaid (eds.), *The Practice of Fiscal Federalism: Comparative Perspectives* (Montreal & Kingston, London, Ithaca: McGill-Queen's University Press), 287–316.

- Morris, Allan (2007), "Commonwealth of Australia," in Anwar Shah and John Kincaid (eds.), *The Practice of Fiscal Federalism: Comparative Perspectives* (Montreal & Kingston, London, Ithaca: McGill-Queen's University Press), 43–72.
- Organisation for Economic Co-operation and Development (2009), "Austria," *OECD Economic Surveys* (Paris: OECD Publishing Services).
- (2009), "Belgium," *OECD Economic Surveys* (Paris: OECD Publishing Services).
- (2009), *Policy Responses to the Economic Crisis: Investing in Innovation for Long-Term Growth* (Paris: OECD Publishing Services).
- (2009), "Switzerland," *OECD Economic Surveys* (Paris: OECD Publishing Services).
- (2010), "Australia," *OECD Economic Surveys* (Paris: OECD Publishing Services).
- (2010), "Canada," *OECD Economic Surveys* (Paris: OECD Publishing Services).
- (2010), "Germany," *OECD Economic Surveys* (Paris: OECD Publishing Services).
- (2010), "South Africa," *OECD Economic Surveys* (Paris: OECD Publishing Services).
- (2010), "Spain," *OECD Economic Surveys* (Paris: OECD Publishing Services).
- (2010), "United States," *OECD Economic Surveys* (Paris: OECD Publishing Services).
- (2011), "Austria," *OECD Economic Surveys* (Paris: OECD Publishing Services).
- (2011), "Belgium," *OECD Economic Surveys* (Paris: OECD Publishing Services).
- Österreichische Nationalbank (2009), *Bericht über die öffentlichen Finanzen* (Vienna: Österreichische Nationalbank).
- (2010), *Bericht über die öffentlichen Finanzen* (Vienna: Österreichische Nationalbank).
- Powell, Derek and Steytler, Nico (2010), "The impact of the global financial crisis on decentralized government in South Africa," presented at the Conference of Federalism and the Global Financial Crisis: Impacts and Responses, Philadelphia, PA and Rutgers University, Camden, NJ. <http://www.camden.rutgers.edu/federalism/papers.html>
- Rao, Govinda (2007), "Republic of India," in Anwar Shah and John Kincaid (eds.), *The Practice of Fiscal Federalism: Comparative Perspectives* (Montreal & Kingston, London, Ithaca: McGill-Queen's University Press), 151–77.
- Renzsch, Wolfgang (2010), "Recent developments of the German fiscal equalization system and the reaction to the challenges of the financial crisis," presented at the Conference of Federalism and the Global Financial Crisis: Impacts and Responses, Philadelphia, PA, and Rutgers University, Camden, NJ. <http://www.camden.rutgers.edu/federalism/papers.html>
- Singh, Nirvikar (2007), "Fiscal federalism and decentralization in India," MPRA Paper No. 1447, Munich. <http://mpra.ub.uni-muenchen.de/1447/>
- Steketee, Mike (2009), "Australia counting on co-operation and luck to weather crisis," *Federations: Federations and the Economic Crisis*, Special Issue 8 (2), 21–2.
- Stepan, Alfred (1999), "Federalism and democracy: Beyond the U.S. model," *Journal of Democracy* 10 (4), 19–34.
- Tarr, Alan G. (2010), "The recession: A view from the American states," presented at the Conference *Federalism and the Global Financial Crisis: Impacts and Responses*, Philadelphia, PA and Rutgers University, Camden, NJ. <http://www.camden.rutgers.edu/federalism/papers.html>

- Tommasi, Mariano, Saiegh, Sebastián, and Sanguinetti, Pablo (2001), "Fiscal federalism in Argentina: Policies, politics, and institutional reform," *Economía* 1 (2): 147–201.
- Viver, Carles (2010), "Impact of the financial crisis on the territorial power structure in Spain," presented at the Conference of Federalism and the Global Financial Crisis: Impacts and Responses, Philadelphia, PA, and Rutgers University, Camden, NJ. <http://www.camden.rutgers.edu/federalism/papers.html>
- Warren, Neil (2010), "The challenge of managing the disproportionate regional impact of the GFC on the Australian federation," presented at the Conference of Federalism and the Global Financial Crisis: Impacts and Responses, Philadelphia, PA, and Rutgers University, Camden, NJ. <http://www.camden.rutgers.edu/federalism/papers.html>

Conclusion: Theorizing federal dynamics

Arthur Benz and Jörg Broschek

17.1 Introduction

That federalism implies dynamics is a truism. In political systems where power is divided between constituent units organized on a territorial basis and characterized by a distinct set of rules and institutions linked to multidimensional structures (“federal regimes”), continuous change is not only necessary but also incorporated in the structures. Change emanates from the need to coordinate interdependent policies across boundaries of jurisdictions, the combination of functional and territorial divisions of power in government and between governments, as well as the accommodation rights-based on individual citizenship versus those based on group rights in a pluralistic or divided society. In view of these aspects many articles and books on federalism refer to the concept of dynamics in one way or another (for example, Nicolaidis 2001; Gerber and Kollman 2004). According to classical conceptualizations, federalism has to be conceived of as both structure and process (Friedrich 1968; Elazar 1987; Broschek 2011). In addition, there are quite a number of studies that have explored changes in particular federal systems.

Taking a closer look at these publications, however, two deficits become apparent. First, the concept of dynamics usually has been applied in a metaphorical way, often simply meaning change or process, which is usually contrasted with stability, stagnation, or continuity. It may be used with positive connotations like flexibility and innovation (for example Landau 1973; Nicolaidis 2001), but also may point out negative implications (instability). As a rule, its meaning remains implicit and rather broad, if not diffuse. Second, theories of federalism have hardly dealt with dynamics. Neither do we find systematic accounts of what may be affected by change if we describe federalism as dynamic and how change occurs. Nor do we find convincing

explanations of how and why federalism changes or not. Beyond empirical research, there is apparently urgent need to advance our theoretical understanding of federal dynamics.

Drawing on the contributions to this volume, we outline in this chapter an analytical framework integrating different strands of theoretical research. As explained in the introduction, our perspective on federalism addresses the complexity and diversity of federal systems, which is encapsulated in our concept of “variety of federal regimes.” In order to comprehend the varying dynamics, that is continuity and change, of these regimes, we build upon insights from historical institutionalism, sociological approaches emphasizing the impact of society and actor-centered approaches. We propose integrating these theories, based on macro- and micro-level analyses, into an approach we label “dynamic institutionalism.” It takes into consideration the duality of institutions as rigid conditions and structures evolving through time, the driving forces in society, and dynamics caused by policy-making and constitutional politics.

This framework should not be understood as a theory in the narrower sense of the term, that is, as a broad-brush explanation of how federal systems operate and how and why they change or not. When theorizing federal dynamics, we apparently are confronted with a highly complex object of research. For this reason, deeper comparative inquiries into the varieties of federalism are necessary, as is research in particular on what changes or persists in federal regimes in practice, how dynamics materialize, and why this is the case. Of course we cannot answer these questions in detail in this conclusion. However, we believe that the analytical perspective summarized in the following sections sheds new light on some of the most relevant debates in the burgeoning literature of comparative federalism.

17.2 An Extended Conceptual Framework

In order to analyze federal dynamics in a systematic way, it seems appropriate to recapitulate how we use the term dynamics in this volume and to further clarify the concept.

- First, dynamics refer to change *and* continuity. While change can be conceived of as deviation from a status quo, continuity means persistence of the status quo over time. Both should be regarded as processes, which can occur at the same time in different institutional arenas or social structures and which, through time, combine in various patterns. Hence whether we observe continuity or change depends on the perspective.

- Second, continuity and change usually interact. At least three general patterns can be distinguished: (1) continuity may be achieved “through change,” for example by institutional reform restoring a balance of powers or negative feedback mechanisms; (2) change may become continuous (“continuity of change” or evolution); (3) a direction of a trajectory begins to change (“change of continuity”), leading to abrupt transformation or discontinuous evolution. In historical institutionalism, these varieties of dynamics are conceptualized as path-dependence and critical junctures. Yet the concept as we understand it also points to different patterns of dynamics.
- Third, the concept of dynamics as it is used in different scientific disciplines refers either to the system or macro level and to the adjustment—that is, to the adjustment of a system or its parts in relation to its environment, or to the micro-level processes and the functioning of a system. Applied to federalism, both levels are relevant. Different dimensions have to be considered, but also different layers and arenas. While some parts persist, others can change, with the resulting tensions creating sources of dynamics of their own.
- Fourth, although system theory captures dynamics as autopoietic or self-controlling processes, the concept usually covers sources and mechanisms of continuity and change. They can be endogenous and cause auto-dynamics or they can be induced from outside the system. Such sources of change surface as exogenous shocks, but also as disturbances originating from other institutional arenas within the same political system. Of particular relevance is the interplay between external and internal forces. Federal institutions can persist in times of significant transformation of their social or international environment, but they can also change under conditions of contextual stability (see Thelen and Karcher in this volume).
- Fifth, continuity and change are empirical concepts. Whether they result in stability or instability has to be determined in relation to a normative criterion of “sustainability.” Dynamics might vary depending on the rigidity or flexibility of federal structures, but federal systems are never entirely immobile.

The chapters in this book focus on the interplay between continuity and change. Yet they outline quite different perspectives on the dynamics of federal systems. This volume is, therefore, inspired by a broad range of theoretical approaches. The chapters focus on the historical development of federalism, on relations between state and society, as well as on the impact of policy-making on structures of federalism. They analyze dynamics at the macro level of federal systems or at the level of particular institutions or patterns of inter-institutional relations. Usually, historical analysis puts an emphasis on

continuity of structures despite changes in the sociopolitical context or attempts to revise or transform institutions. In contrast, the chapters in this volume take the history of any given federal regime as a process determined by sequences and asynchronous developments in different institutional layers or arenas. Despite the inertia endemic to organically evolved institutions, we are likely to observe ongoing change induced by social structures or, as some of our chapters illustrate, through the impact of redistributive conflicts in the welfare state and dynamics of parties and party systems. Finally, studies on governance and policy-making in federalism reveal continuous change in patterns of conflict and modes of interaction or power relations. At the same time, they also show that this is not necessarily translated into formal institutional change. Chapters addressing constitutional policy or constitutional change explain modifications of the formal distribution of powers, but whether this leads to a change in policy-making and patterns of interaction is another question.

We can summarize these findings in a more systematic way by distinguishing dynamics of institutions, of state-society relations, and of institutional policy. Institutions are formed by collective ideas legitimizing the allocation of power in a federal polity, by patterns of interaction consolidated in standard operating procedures through repeated collective action and by rules usually entrenched in a federal constitution. The social structure of federalism resulting from state-society relations is established through loyalties of citizens and their identification with national or regional communities, the places and spaces of action or resources, and resources determined by mobility of actors, goods, or capital inside and across the boundaries of territorial jurisdictions, and the “political structuring” of a society in parties or interest organizations. Institutional policy comprises intended or unintended change of federal institutions through a re-interpretation of ideas or rules, by implicit change in processes of normal politics and policy-making, or by institutional reform—that is the deliberate change of formal rules according to prescribed decision procedures.

In general, institutions, and even more so constitutions, tend to be rather continuous compared to state-society relations, whereas institutional policy aims at change per se. As for the ideas, identities, and interpretations emerging from ongoing communication as cognitive-normative frames of reference that predominate political discourses, we can assume that they reveal more continuity than patterns of interaction, places, and spaces or implicit institutional change, all of which are mainly driven by actors competing for positions, resources, and influence, but who are often also willing to cooperate in order to pursue their particular interests. In contrast, rules, political organization, and institutional reform result from negotiations and collective decisions which cause rigidity, but may also result in discontinuous change. Beyond


these mechanisms of collective action (micro-level) which shape the dynamics of the different dimensions of federal regimes, we can identify different mechanisms of structural (macro-level) change in institutions, in state-society relations, and in institutional policy. As we outline in the following sections, institutions basically evolve in sequences of development. The relationship between state and society can be conceptualized as co-evolutionary, since the state can influence identities, mobility, and interest organization. At the same time, the state depends on general support from communities of citizens, specific support from mobile tax payers, and organizational support from parties and associations. Institutional policy results from processes of inter-institutional coordination of decisions between levels and different arenas, which are driven by communicative processes, mutual adjustment, or joint decision-making.

Continuity and change of different dimensions are linked in one way or another. Each particular process can constitute a source of change affecting other dimensions with reinforcing effects. At the same time, each of them can also set constraints for dynamics instigated in a certain dimension. Again, the analytical distinction of these dimensions does not imply a theory of dynamics. As a first step toward theory building, however, it allows us to locate sources of continuity and change. The framework, summarized in Table 17.1, can guide our search for driving mechanisms, patterns of dynamics, and consequences of continuity and change.

As we explained in the introduction, patterns of continuity and change vary within, but also between, federal systems. The variety of federalism can be captured by coherent models of federal systems as well as by multidimensional typologies. Following Thomas Hueglin (in this volume), we can distinguish at least two basic models of federalism: on the one hand “constitutional federalism” founded on the idea of constraining governments by separating powers wielded by competing governments and stabilized by constitutional rules which are difficult to change; on the other hand “treaty federalism” aiming at coordinated governance between jurisdictions, allowing shared-rule and intergovernmental cooperation in council governance, and based on a flexible constitution. Obviously, these models reveal a particular combination of ideas, patterns of interaction, and rules. For this reason, we assume that they are determined by path-dependent evolution. In practice we observe variations of these models, but due to the continuity of the founding ideas and standard operating procedures, we do not expect a convergence of these models of federalism.

In addition to Hueglin’s typology, we can identify a second basic feature which seems to determine divergent pathways of federal evolution and corresponding patterns of federal dynamics. This concerns the societal foundation of federalism which differs between nationally homogeneous and

Table 17.1. Analytical framework

		<i>Mechanisms of federal regime dynamics</i>		
		<i>co-evolution</i>	<i>sequential development</i>	<i>inter-institutional policy-making</i>
		state-society relations	institutions	institutional policy
<i>Mechanisms of collective action</i>	<i>communication</i>	national/ regional communities (identities)	ideas (concept of federalism)	interpretation
	<i>mutual adjustment, competition, and cooperation</i>	places and spaces of action/ resources	patterns of interaction	implicit institutional change
	<i>voice, negotiation, voting</i>	interest organization (party system)	rules	institutional reform
		 varieties of federalism		

heterogeneous societies. The relative continuity of loyalties to national or regional communities is one reason for the persistence of this difference. In addition, disparities in welfare caused by globalization and regionalization of economic structures and the corresponding evolution of the party system produce social dynamics which reinforce multinational cleavages or mono-national homogeneity.

Beyond these models, comparative research on federalism has discovered a variety of institutional forms and intergovernmental relations working under different conditions. While models of federalism refer to coherent institutional configurations which are assumed to follow their own logic and specific historical trajectories, varieties of distinct patterns may also combine incompatible structures. Therefore, although divergence of models will persist, shifts

from one particular pattern of federalism to another cannot be ruled out. In a world of nation states existing under quite different geographical, economic, social, and cultural conditions, change creates variety. Comparative research on federalism has increasingly provided information about the many different forms of federal institutions and governance. Only multidimensional concepts allow us to uncover the varieties of federalism and federal dynamics (see Colino in this volume).

One important reason for this variety is the combination of models of federalism with “patterns of democracy” (or non-democratic forms of government). The organization of democratic government is more or less stable under normal conditions. However, federalism and democracy have different implications for actors and different effects on policy-making which often produces conflicts. Federalism constitutes an arena of intergovernmental relations characterized by territorial interests. In the arena of democratic government, politics is predominantly conducted by competing parties, as well as executives responsible to parliaments and the electorate. Hence a democratic federation is characterized by built-in tensions between arenas of inter- and intra-level governance. Another typical source of variety, but also of tensions, emanates from particular combinations of vertical and horizontal structures of intergovernmental relations. They find expression in continuing debates about unity and diversity, symmetry and asymmetry, cooperation and competition, or multilateralism and unilateralism.

All of this only adds to the tensions caused by the asynchronous development of different layers of federal institutions. Patterns of interactions among actors and rules of federalism can change either in processes of adjustment in normal policy-making or by institutional reform. Nevertheless, ideas and interpretations can persist, or they can express conflicting views of federalism, as is observable most saliently in Canadian federalism. In times of “paradigmatic change,” ideas can be reinterpreted or replaced by new ones (Benz 1984). These changes can occur when newly elected governments proclaim a “new federalism,” or if ongoing public complaints about ineffective or undemocratic governance in federalism translate into an alternative concept. More often than not, these changing ideas are advocated by entrepreneurial coalitions to justify far-reaching demands for constitutional reform or renewal of policy-making. However they do not necessarily induce changes in patterns of interaction or rules as requested. Periods of reform often end with results clearly deviating from the expectations raised with new ideas. For these reasons, tensions between ideas, interaction, and rules drive dynamics of federalism.

In the following sections, we use this framework to summarize some conclusions from the articles in this volume. Moreover, we outline how it can be

applied in comparative research on federalism in order to advance theories of federal dynamics.

17.3 Differential Dynamics: Asynchrony and Sequential Development

The chapters preoccupied with historical development highlight change through evolution, but they also stress continuity through path-dependence. If we look at models of federalism, the second perspective seems to be appropriate as it highlights continuous reproduction of divergent federal trajectories. Varieties of federalism, however, also involve varieties of change (see Colino and Broschek in this volume). In view of the multidimensional character of federal regimes and the coexistence of multiple arenas, dynamics can imply change and continuity which both occur simultaneously and in combination with particular patterns over time. From our perspective, the concurrence of continuity and change in different layers or arenas is aptly expressed by the concept of asynchrony, while we understand the patterns emerging over time as a sequential development. The theoretical reasoning sketched in this section is based on different strands of historical institutionalism, taking ideas and discourses (Liebermann 2002; Schmidt 2010), interests and power of rational actors (Mahoney and Thelen 2010), and costs of transforming existing-rule systems (Pierson 2000), as factors that affect continuity and change. It goes beyond these approaches by integrating them and linking them with the concept of timing.

Asynchronous development comes about for two reasons. First, as outlined above, the different layers of institutionalization that form federal regimes generate variation in dynamics. Other things being equal, rules are easier to revise than patterns of interaction or mutual understandings, norms, and ideas. Second, institutional policy never comprehensively transforms a political system, but only affects particular arenas like, for example institutions of democratic representation, vertical intergovernmental relations, or horizontal relations among governments. As a consequence, federal regimes are, by their very nature, endowed with structural tensions. This does not mean that federalism is necessarily unstable. Asynchronous development creates tensions, but tensions are also a source of dynamics that can equally contribute to overcoming them. They can create a stable balance of power in the long run, not despite, but rather because in the short run, the balance remains contested and in flux (Bednar, Chapter 13, in this volume).

Tensions between territorial structures, intergovernmental politics, and democratic governance at different levels have been described for many federations. For Germany, Gerhard Lehmbruch has discovered an impasse

between party competition in parliamentary democracy and cooperative federalism (Lehmbruch 2000). In Canada, the concept of executive federalism is in constant conflict with the principle of parliamentary sovereignty (Simeon and Nugent 2008). In general, democratic governance requires majority decisions where each voter or representative counts as equal whereas federalism implies competition among different jurisdictions or negotiated agreements. Political centralization combined with administrative decentralization might also cause tensions since democratic decisions can be undermined when implemented by autonomous regional or local administration. Similar conflicts can arise if political powers and fiscal resources lead to vertical or horizontal imbalances.

In well-established democratic federations, federalism and democracy can coexist in arenas of decision-making, which interact in a flexible process of checks and balances. The balance depends on the power allocated to actors in the respective arenas and the application of power over time. This is the reason why executive federalism produces quite distinct dynamics in Canada and Australia. As for Canada, the predominance of prime ministers in the Westminster system is tempered through the system of intergovernmental relations, whereas in Australia, executive power is checked through intra-governmental mechanisms (see Sayers and Banfield, Chapter 9, in this volume). Overall, flexibility is greater in loosely coupled structures allowing mutual adjustments in case of conflict (Benz 2010). In Canadian federalism, intergovernmental cooperation works in the shadow of parliamentary sovereignty, and if a provincial parliament disagrees, its government can opt out of an agreement. In Germany, on the other hand, parliamentary majorities are always a determining factor in intergovernmental politics and opting-out is prevented by rules of joint decision-making. Nonetheless, mature forms of democratic federalism can establish a balance through continuous dynamics since power shifts back and forth between arenas. In emerging federations or democracies, maintaining this balance seems to be rather difficult as Mikhail Filippov and Olga Shvetsova convincingly argue (see Chapter 8, in this volume). Under these conditions, federal structures provide opportunities for actors to extend their power, thereby obstructing processes of democratization. For the same reason, democratization can foster unidirectional paths of centralization or decentralization due to the rise of representative government at different levels, which threatens to destabilize a federal balance.

German federalism provides a particular case of asynchronous development, as illustrated by Kathleen Thelen and Sebastian Karcher in their (Chapter 6) study on the *Bundesrat*. Due to the power of *Länder* executives and regional subunits of political parties, this institution persisted in times of political transformation after the two World Wars. The federal council of executives survived the constitutional transition after World War I and the restoration of

parliamentary democracy after World War II. It was during the continuous evolution of parliamentary government in the Federal Republic that the *Bundesrat* changed from a body representing administrative interests toward a party-political institution supporting centralization instead of decentralization. Thus Thelen and Karcher show the simultaneity of continuity and change in different arenas of federalism. Implicitly, they also point out the sequential nature of historical evolution.

Sequential development means that what comes first in history determines later processes. In a federal regime consisting of interdependent rule systems or arenas of interaction, partial changes early in a historical sequence shape the conditions for developmental adjustments at some later point. Thus the combination of continuity and change creates a mechanism for historical evolution.

The importance of sequencing was highlighted by Paul Pierson (2004) in his elaboration of historical institutionalism. Meanwhile, it has been described in a number of publications on federalism. Of particular relevance is Tulia Falleti's (2010) study on decentralization, which she revisits in her chapter in this volume. By tracing processes of political, administrative, and fiscal decentralization, Falleti takes account of sequences of institutional change in different arenas of federal regimes. Various sequences can also be observed in the history of federalism, setting off with either state building or the constitutionalization of democratic government (Benz, Chapter 4, in this volume). The impact of federalism on welfare-state development has also been found to depend on different sequential patterns (Obinger et al. 2005).

While these sequences develop due to the different timing of continuity and change in the arenas of federal regimes, others can be traced back to the multi-layered nature of institutions (Broschek, Chapter 5, in this volume). Change in federalism can be constrained by a founding idea as has been the case in the US (a demos-constraining division of power entrenched in the constitution) and in Switzerland (a compact of free citizens guaranteeing rights of self-government). In other federal systems, constitutional rules and patterns of interaction resulted from pragmatic compromises which were later legitimized by concepts of federalism. For instance, federalism as it was established by the German Basic Law in 1949 originally had been the outcome of constitutional bargaining which remained a matter of dispute until the idea of cooperative or unitary federalism was formulated in the 1960s. When in the 1970s this idea became a guideline of a significant constitutional reform, tensions between party competition and cooperative federalism revealed their constraining impact on governance. As a consequence, the envisaged reform failed, and the concept of cooperative federalism came under attack. However, pragmatic adjustment prevailed, and during the 1980s, a new idea of a more decentralized federalism gained currency in the federal discourse

(Benz 1984). In contrast to sequences of reform occurring in one particular arena after another, these sequences affecting different layers of institutionalization at different times are caused by varying degrees of rigidity of ideas, patterns of interaction, and formal rules.

The co-evolution of institutions and societal change can also produce particular sequences that affect the dynamics of federalism. Of particular relevance is the timing of state building and nation building. The well-known distinction between “coming-together” and “holding-together” federalism (Stepan 1999) emphasizes this aspect. Where federalism had been designed to integrate a heterogeneous society of different nations (as in Canada or the EU), its evolution followed a distinct path from that sort of evolution of federalism that transpired in countries where national movements determined the decision to install a federal constitution and institutions. Where a nation had been formed before states merged into a federal union, as in Germany or in the US, particular patterns of dynamics can be observed compared to federal states where we find late national integration, as, for example, in Switzerland, or where state-wide nation building failed altogether, as in Canada or Belgium.

In a theory of federal dynamics, sequential development should be considered a mechanism set in motion both by the highly differentiated nature of federalism and the asynchronous change of different dimensions within federal regimes. Based on this analytical approach, we can explain the long-term development of federal trajectories as they are described in studies following a historical perspective.

17.4 Dynamics of Society and Federalism

Society has often been regarded as crucial for understanding federal dynamics. And indeed, there can be no doubt that technological innovation has an impact on the allocation of powers and the need for intergovernmental coordination. Moreover, the economy matters because it affects the distribution of resources between central and regional governments and the fiscal balance between regions. As we already emphasized, the homogeneity or heterogeneity of nations explains varieties and dynamics of federalism as well. However, while the importance of societal factors for federal development might make sense intuitively, a theory of federal dynamics should be able to explicate the causal mechanisms linking societal and federal dynamics.

As outlined in the previous section, there is no unidirectional causal link between federalism and society. One reason for this is the persistence and path-dependence of institutions. Even in times of social transformation, federalism or at least some institutions in federal regimes may continue to exist.

The German *Bundesrat* again is a case in point, as is the Canadian Senate. Moreover, societies do not change in a coherent way, but produce contradictory conditions for federalism. Economic globalization and increasing transnational mobility coincide with the rise of a new regionalism or regional nationalisms due to the obvious inclination of regional communities to preserve their identity or their particular resources. Finally, the political organization of societies in parties and associations causes rigidities and path-dependence. Hence not only institutional change, but societal change, too, is characterized by asynchrony.

As a consequence, change in society and dynamics of federalism are linked in a rather loose manner, which we describe with the concept of co-evolution. Both dynamics follow their own logics, but they mutually influence each other, for the reasons mentioned above. Federal structures are not determined by economic structures, as has been argued in theories influenced by neo-Marxist reasoning or, more implicitly, in economic theories reflecting on the impacts of spatial patterns of production and distribution of resources on federalism. Territorial structures of societies are shaped by technological innovation, be it in transportation or in communication networks, but institutions and the operations of federalism are ultimately shaped by governments exploiting the opportunities provided by new technologies if they expect to benefit from them. Moreover, it goes without saying that party systems matter, but, as convincingly outlined by Lori Thorlakson, Chapter 11, in this volume, the political organization of a society as well as the structures and dynamics of federalism affect one another in a virtually reciprocal fashion.

Following a society-centered view of federalism, the relevance of national homogeneity or diversity mentioned above warrants consideration. But instead of overrating cultural or ethnic factors, nations have to be conceived as “imagined communities” (Anderson 1983). They are constructed in processes influenced by loyalties of citizens as well as by interests of elites and institutions. Although a common language provides for a strong common bond among people, loyalties toward communities develop in the context of changing opportunities to communicate in a globalized world and in institutional structures of politics. They also are influenced by economic considerations and therefore are closely connected with the development of welfare-state regimes. As Daniel Béland and André Lecours reveal in Chapter 10, this volume, the interplay between welfare state regimes and national integration depends on historical sequences. Yet nationalities evolve in a long history at a gradual pace, which is also why they constitute an important condition with regard to varieties of federalism. Nonetheless, they are not static but rather co-evolve with territorial structures of political systems.

Like the sequential development of institutions, the mechanism of co-evolution refers to the macro-level of structures. The dynamics behind

evolution in particular dimensions of state–society relations, however, are based on collective action. The creation of communities in processes of communication influences integration or differentiation of nations. Action spaces which transgress territorial boundaries of jurisdictions are shaped and transformed by mobility of competing or cooperating actors. Decisions to form and reform parties translate the particular formation of societal interests into political structures of democracies. But collective action is channeled and constrained by institutions and, therefore, has no determining impact on federal dynamics (see Benz, Chapter 4, in this volume).

The increasing mobility of actors affects loyalties of citizens to a nation, but much more, it concerns spaces of policies which more or less overlap with territories of governments responsible for policy-making. These spaces may expand or decrease in size with growing mobility. To a certain extent, governments can control or at least influence movements of firms, citizens, goods, and capital, but they cannot stop trans-border interchange and migration. The impact of these processes on federal structures can differ from policy to policy. Spaces of society and territories of states are interdependent and therefore co-evolve, but in variegated processes of mutual adjustment. Probably the most important and dynamic effects from increasing mobility in modern societies are economic disparities between regions which affect intergovernmental politics and policy-making, structures of conflict in federalism and debates on institutional reform. The accelerated flow of financial capital across borders causes dramatic and barely foreseeable effects within transnational federations like the EU or in international relations, but one should not underestimate economic imbalances resulting from indirect effects of these processes on regional economies in federal countries.

Party systems reflect historical cleavages and societal change. Whether they adjust to institutional structures of a federal system or whether parties are decisive forces in changing federal structures is a matter of dispute (see Swenden and Toubeau, in this volume). In any case, parties matter for stabilizing federal systems, either by integrating central and regional politics (Riker 1964) and supporting intergovernmental coordination, or by dividing central and regional politics and increasing competition between levels and jurisdictions (see Thorlakson, Chapter 11, in this volume). Thus they also contribute to the dynamics of federalism. Party systems result from decisions on the organization of interests in society. Moreover, they reflect the collective will of citizens expressed in elections, which reveal increasing volatility. Parties also constitute main actors in decisions on institutions and institutional reform and have, as Swenden and Toubeau show (in Chapter 12), a profound impact on federal dynamics. The competition of parties is likely to cause discontinuity compared to the more continuous evolution of national or regional communities and action spaces and territorial resource allocation.

The concept of co-evolution describes the mutual influence of societal and federal dynamics in a necessarily abstract way. But it implies that neither state-centered nor society-centered theories of federalism suffice in order to comprehend the complexity and variability of causes and effects. The direction of causality and the strength of effects depend on particular conditions. Regardless of these conditions, we can conclude that loyalties of citizens toward state-wide or regional nationalities constitute a factor that continuously shapes federalism and thus cannot be ignored in comparative research. In contrast, effects of globalization are more diverse and contingent upon sectors in society and policy fields. Dynamics of party systems can induce institutional change, but they might also contribute to the continuity of existing federal structures.

17.5 Institutional Policy in Interlocked Arenas

Historical sequences of institutional development and the co-evolution of federalism and society bring forth unintended processes of continuity and change. They lead to tensions in federal regimes that governments have to cope with. While tensions can be managed through normal policy-making, they also induce changes by reinterpretation of guiding ideas or authority migration between levels or between the executive, the legislature, or courts. From time to time, governments deem it necessary to reform federal constitutions and thus initiate processes of deliberate institutional change. When analyzing these dimensions of institutional policy in greater detail, we find a paradox. Those institutional features which make federalism flexible in policy-making tend to increase the hurdles for institutional reform (Bednar, Chapter 13, in this volume).

First, change may occur on account of discourses that have elicited a re-interpretation of basic concepts of federalism or acceptable justifications for a re-allocation of powers or resources. These processes often emerge in “epistemic communities” of experts. However, even more important are legal discourses in constitutional courts or in a dialogue between courts and parliaments or governments. Courts are authorized to decide on binding interpretations, whereas political or expert discourses can influence the frame of possible principles and justifications. But even courts depend on public support and they require legitimacy for their decisions (Erk 2011). Hence any effective re-interpretation of ideas results from inter-institutional communication aiming at public opinion or a political agreement. As a rule, continuous discourses support and dispute existing ideas guiding federal institutions. If institutions reveal an obvious imbalance or if societal changes increase distributive conflicts, these changes often are reflected in a paradigmatic

shift in the interpretation of ideas, which define the frame of reference for institutional reform.

Second, in periods of normal politics and policy-making, authority may be shifted to another level of government, either in response to situational challenges or as a consequence of changing patterns of interaction. The allocation of power and resources in federal regimes allows strategic actors to pursue their policy goals, but “inter-institutional” policy-making also offers opportunities actors can exploit in order to extend their power. As Dietmar Braun and Philip Trein (Chapter 16) suggest in their comparative study on fiscal policy under stress, the consequences of these institutional drifts (“authority migration”) vary. They seem to have stronger effects in stable federations than in states where federalism is developing or contested. Apparently mature federal regimes can allow for more flexibility in their structures, while unstable regimes tend to respond to external pressure with rigidity.

The adjustment of patterns of interaction between governments has often been regarded as the decisive source of flexibility in federal regimes. Inter-governmental relations can change toward centralization or decentralization, toward redistribution of resources or toward new forms of coordination between central and regional governments or between regional governments. Yet as Nicole Bolleyer (Chapter 15) explains, willingness and capacities of governments to change their relations depend on the pattern of intra-governmental division of power between the executive and the legislative. Tensions between federalism and democracy mentioned above can constitute a source of institutional dynamics, but it can also constrain implicit institutional change in ongoing processes of policy-making. In any case, it is the inter-institutional process of institutional policy-making that drives federal dynamics.

Third, institutional policy can aim at a modification of the formal rules. In multidimensional federal regimes, a reform is elaborated in negotiations among actors from different arenas and levels. Due to the relevance of a formal constitution that lays down the allocation of powers, agreements on institutional reforms often have to pass procedures of constitutional legislation according to the amendment rules. Regardless of specific rules, processes of negotiations and final decisions always cut across boundaries of institutions and include actors from the central and regional governments and the relevant parties in parliaments. Due to their inter-institutional character and the need to come to a wide consensus, they can be conceived as joint decision-making with many veto players (Benz 2011). At first glance, these conditions seem to make federalism rather rigid, as is suggested by the concept of the joint-decision trap (Scharpf 1988).

But institutional or constitutional reforms are not necessarily caught in this trap. As Bettina Petersohn outlines in Chapter 14, reforms evolve in iterative steps, with outcomes of earlier processes setting constraints and opportunities

for later reforms. Sequential processes contain conflicts by focusing on decisions that are feasible and reduce complexity. Moreover, they allow for time to negotiate agreements, for convincing veto players, for accumulating knowledge and for finding alternative solutions. They also may induce learning on procedures and decision rules which increases the probability of success in later reform steps. Thus the dynamics of constitutional reform are driven by a negotiated agreement on the substance of amendments and by an agreement on procedures. Apparently it is not the constellation of veto players defined by formal amendment rules but the opening and closing of negotiations for actors, which, by fostering innovation and compromise, constitute decisive conditions for successful constitutional change.

Tellingly, the federal system praised for its flexibility for decades, namely US federalism, is the one which is clearly caught in the joint-decision trap of constitutional reform. As a consequence, constitutional change takes place via constitutional interpretation or “judicial review” by the Supreme Court, via political discourses between lawyers and political actors, and in unilateral adjustments of federal–state relations by governments (Devins and Fischer 2004). Multinational federations confronted with insurmountable identity conflicts are able to amend their constitution by asymmetric solutions or by incremental adjustment of the living constitution. Other federal systems have gone through a series of incremental reforms, which are often triggered by the interplay between legislatures and constitutional courts (Behnke and Benz 2009).

The complexity of structures and dimensions in democratic federalism is apparently not only a precondition for flexible adjustment (Landau 1973); it also implies, as illustrated in the chapter by Jenna Bednar, potential for constitutional change. Nonetheless, federal regimes can hardly escape the paradox outlined above. In general, inter-institutional coordination of interpretations or patterns of interaction are more likely than joint decisions on new rules. Again this should not lead us to ignore the many other conditions which may foster or constrain institutional policy. Moreover, we cannot exclude institutional reforms when considering how and why federal regimes change. Not only do reforms take place, they also create significant dynamics, not the least if induced, supported, or implemented by re-interpretation of norms and ideas or strategic change of patterns of interaction. As several case studies have demonstrated, even failed reforms stimulate dynamics since real or imminent deadlocks require actors to change their strategies and modes of interaction (Scharpf 1988; Falkner 2011). In other words, the complexity of federalism with its imperfect balance of power apparently coincides with flexibility to adjust the “living constitution” to a changing societal and political context (see Bednar, Chapter 13, in this volume). In the short run, the more or less successful reform attempts stimulate public discourse on the intended balance

of power. In the long run, this dynamic contributes to the sequential evolution of institutions.

17.6 Theoretical Implications

Although we do not claim to provide an elaborated theory of federalism, our framework and the chapters of this volume allow us to draw some general conclusions which bear relevance for important theoretical debates in the literature on comparative federalism. To illustrate the implications, some brief notes must suffice.

a) To argue that federal systems are dynamic does not imply that they are necessarily unstable. William Riker (1964) rightly discovered that actors at different levels tend to increase their power and that coping with “authority migration” (Gerber and Kollman 2004) poses a continuous challenge, but a perfect federal balance cannot be achieved by simply fixing a particular structural arrangement. Rather it is dynamics, the ongoing dualism of continuity and change, which creates a “sustainable” federation. A “federal vision calls for embedding flexible adjustment within a context of ‘constitutional’ stability” (Nicolaidis 2001: 449). However, such a proposition should take into account the fact that constitutional stability may be a problem, too. Rational actors seeking to extend their power can be guided by rules, but they are subject to different societal and political forces constraining and guiding their strategic activities. In the multidimensional regime of federalism, neither constitutional rules nor an integrated party system seem to suffice to countervail destabilizing effects of authority migration effectively. Our integrative framework of dynamic institutionalism underlines the importance of additional mechanisms. Moreover, it proposes to seek dynamic stability in the multidimensional character of federalism. Accordingly, in addition to “multiple safeguards” like parliaments, courts, or cooperating regional governments (Nicolaidis 2001; De Figueiredo and Weingast 2005; Bednar 2009), rules of democracy come to light as mechanisms compelling actors to justify their claims for power in parliaments or in public discourses. Even if formal constitutional rules may not be self-enforcing (Filippov et al. 2004: 35–38), shared ideas of a federal order and public discourses in democratic procedures can provide stabilizing mechanisms, in particular if they are supported by “safeguarding” rules and organizations like those mentioned above. Hence not only constitutional designs or countervailing powers, but also legitimacy in public seems to be a precondition of a more balanced, sustainable federalism.

b) Emphasizing the continuous interplay of ideas, rules, and interaction in federalism should not lead us to ignore change in society as a source of federal dynamics, as proponents of a society-centered theory of federalism propose (Livingston 1967; Erk 2008). Based on our framework, we caution against following both approaches stressing a cultural or economic determinism and implying functionalist or neo-functionalist assumptions. Instead, we suggest considering different mechanisms linking society and federalism. The homogeneity or heterogeneity of nations certainly has a strong impact on the territorial organization of a democratic political system, while changing loyalties are a basic mechanism behind federal dynamics. Patterns of mononational or multinational societies evolve continuously in a long history. Therefore, integrating or disintegrating tendencies in political systems usually are triggered by change in economic structures, reinforcing cleavages based on identities in a society which can be traced back to rather contingent historical developments. From this perspective, change in loyalties to communities, leading to either mononational integration or multinational diversity, appears as a necessary but insufficient condition for federal change. As regards the allocation of power and resources between levels of government, dynamics are being induced by trans-border mobility of people, corporations, goods, and activities. These processes can urge pressure for more integration, either by centralization of power or by hierarchical modes of governance. Yet the consequences for institutional change depend on political strategies of actors and collective decisions which do not immediately follow functionalist needs, but are channeled through interests, rules, and ideas. Societal change is more directly transformed into institutional change if it is reflected in the party system. But again, it most often takes more than political pressure for reforming federal institutions to achieve required or expected collective decisions.

Therefore, we believe that our concept of co-evolution of federal regimes and societies and the distinction of different mechanisms linking state and society can guide empirical research to a better understanding of the effects of societal change on federalism and consequences of nationalism and regionalism, globalization and regionalization, as well as change in interest intermediation and party politics. Empirical research based on this perspective on federal dynamics can help in leading the theoretical discussion out of the unproductive antagonism of state-centered versus society-centered federalism. Moreover, although the distinction between mononational and multinational federalism constitutes a fundamental typology for comparative research, we have good reasons to relate these categories to the context of economic and political dynamics.

c) The third theoretical discussion refers to governance and institutional reform in federalism. Collective decisions in federal systems tend to be more

difficult to achieve than in unitary polities. However, the degree of centralization and the configuration of governmental institutions create significant variation within the universe of federal systems. Sharing of power and competition between autonomous governments can undermine governance capacity of the polity as a whole, either through a tendency toward deadlock in joint decision-making or uncoordinated decisions with contradictory effects. Competitive federalism is often regarded as more dynamic, innovative, and effective whereas cooperative federalism is said to produce incremental change and ineffective decisions (Scharpf 1988). Yet, in systems of shared power, governments also share responsibility for solving collective problems. Therefore, although institutional rules create veto players and encumber decision-making, governments and policy-makers are usually motivated to overcome deadlocks. In contrast, the separation of power in federalism renders individual governments within the federation responsible for their decisions. It does not create incentives to overcome contradicting policies, in particular since coordination entails internal decision costs. Thus both institutional constellations generate different dynamics in policy-making, which cannot be appropriately comprehended by exclusively looking at veto players and decision rules. In short, mechanisms of negotiation and mutual adjustment work under different structures of societal and political conflicts as well as different normative frames.

Conceiving federal polities as multidimensional regimes reveals that both types are subject to another kind of dynamics. Policy-making in federal systems, more than in unitary states, concerns interests related to a particular policy field and interests in powers. Implicitly at least, each decision confirms or questions an established allocation of power entrenched in the institutional or constitutional framework. The concept of authority migration hints at this duality in politics. According to the concept of the joint-decision trap, actors switch between policy interests and institutional interests, but are not able to revise power structures even if they perceive the constitution as an obstacle for effective policy-making. Again, this applies to both models of treaty federalism and constitutional federalism as well as to other variations of federal regimes since in all cases change requires agreements among many actors on the solution to a redistributive conflict.

The overlap of policy and institutional conflicts increases problems of federal governance, but simultaneously enhances the potential for dynamics. As a consequence, theories of multilevel governance have to take more notice on how policy impasses ultimately induce institutional change and how deadlocks in institutional or constitutional policy are dissolved by dynamics in practical governance. Moreover, over periods of time the interplay between ideas, rules, and patterns of interaction can also open up leeway for change in federal governance. In drawing attention to the multidimensional character of

federalism and to dynamics, this framework bears relevance for our understanding of governance and modifies the prevailing evaluations on effectiveness or ineffectiveness of federal regimes.

d) Regarding their constitutionally entrenched rules, federal regimes are more or less conducive to change, depending on their particular structures. Nonetheless, a distinction between rigid and flexible constitutions is not very helpful. Institutional or constitutional change occurs under particular conditions that may stem from decision rules, changes in ideas, patterns of interaction and dynamics of state–society relations. Regardless of these variables and conditions, it is the continuous shift between “normal” politics (policy-making) and “institutional” politics (reinterpretation or reform), with both being influenced by ideas, interests, and power structures, that is one important driving force behind federal dynamics. Thus our framework not only raises doubts about theories that depict federalism as unstable, but also about theories emphasizing the inertia and rigidity of federalism.

Regardless of varieties of federalism, we can identify patterns of intergovernmental or executive–legislative interaction as the dynamic core of federal regimes, which undergo continuous change. Ideas and rules more or less constrain the flexibility of these patterns. Ideas evolve in inter-institutional discourses and reflect the nature of a federal society. Therefore they usually remain stable and change in a discontinuous pattern of paradigmatic transformations. These transformations in perceptions and interpretation of federalism usually reflect a gap between ideas (for example, what a particular federal system is or should be) and actual functioning (the federal system at work). Amendments of rules or institutional reform are bound to restore continuity through change. But given the obstacles of joint decision-making, specific conditions influence whether they succeed or fail. Reforms often end with partial success, and they never affect the complete structures of a federal regime. But by causing tensions in institutions, partial reforms are a source of change while attempts to comprehensively change a rather complex federal regime usually end in deadlock.

17.7 Theorizing Federal Dynamics in Comparative Research

This volume approaches federal dynamics from different theoretical and empirical perspectives. On the whole, the authors view federalism as complex and multidimensional federal systems or regimes, drawing on discursive (Schmidt 2010), sociological (Di Maggio and Powell 1991), and economic versions (North 1990; Pierson 2000) of institutionalism. Accordingly, the analyses presented here can be integrated into a framework of dynamic institutionalism. Such a comprehensive framework must cover the complexity of

structures, conditions, processes, and outcomes in a multidimensional and institutionally differentiated political system, and their relations to society. Explaining federal change and dynamics, however, requires reduced complexity and parsimony. A theory of federalism including all imaginable aspects cannot explain very much.

Therefore, the next step of theorizing federal dynamics would be to look at particular federations in a certain period of time, to explicate sources and mechanisms causing continuity and change, and to identify effects and consequences systematically. In principle, these causal inferences should include the analytical dimensions of institutions, state–society relations, and institutional policy, and take into account mechanisms like discourses or communicative action, mutual adjustment, and collective decision-making. Applied in empirical research, there are good reasons to focus on selected categories and to define them more precisely. This allows the researcher to formulate concrete theories or hypothesis for particular cases.

Finally, studying federal dynamics can serve to advance our understanding of how multidimensional federal systems change and how they come and hold together different communities, jurisdictions, actor constellations, as well as institutions, and how they manage tensions and institutional rigidity or instability. To these ends, we have to elaborate particular theories for types of federal systems which can be tested in comparative research. The empirical information can be produced by “evolutionary narratives” (Steinmo 2010), which reveal the complex causation in federal regimes by tracing processes of continuity and change, and by considering that the same factors have different effects under different conditions. Nonetheless, any explanation has to focus on selected aspects on federal dynamics. Concrete theories on, for instance, the emergence of particular institutions, sequences of evolution, adjustment to external challenges, the management of tensions, or institutional change in a specific situation or process can constitute “modules” of a more general approach (Scharpf 2001: 20). But we should never expect to come to an all-encompassing theory of federal dynamics. The best we can achieve is to take into account how the particular explanations may be linked to other particular explanations. For this purpose, our overarching analytical framework is essential.

References

- Anderson, Benedict (1983), *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (London, New York: Verso).
- Bednar, Jenna (2009), *The Robust Federation: Principles of Design* (New York: Cambridge University Press).

- Behnke, Nathalie and Benz, Arthur (eds.) (2009), "Federalism and constitutional change," *Publius: The Journal of Federalism* 39 (2), 213–40.
- Benz, Arthur (1984), "Zur Dynamik der föderativen Staatsorganisation," *Politische Vierteljahresschrift* 25 (1), 53–73.
- (2010), "The EU as a loosely coupled multi-level system," in Henrik Enderlein, Sonia Wälti, and Michael Zürn (eds.), *Handbook on Multi-Level Governance* (Cheltenham: Edward Elgar), 214–26.
- (2011), "Escaping joint-decision traps: National and supranational experiences compared," in Gerda Falkner (ed.), *The EU's Decision Traps: Comparing Policies* (Oxford: Oxford University Press), 199–216.
- Broschek, Jörg (2011), "Conceptualizing and theorizing constitutional change in federal systems: Insights from historical institutionalism," *Regional and Federal Studies* 21 (4), 535–55.
- De Figueiredo, Rui J. and Weingast, Barry R. (2005), "Self-enforcing federalism," *Journal of Law, Economics, and Organization* 21 (1), 103–35.
- Devins, Neil and Fischer, Louis (2004), *The Democratic Constitution* (Oxford, New York: Oxford University Press).
- DiMaggio, Paul and Powell, Walter (1991), *The New Institutionalism in Organizational Analysis* (Chicago: Chicago University Press).
- Elazar, Daniel J. (1987), *Exploring Federalism* (Tuscaloosa, AL: University of Alabama Press).
- Erk, Jan (2008), *Explaining Federalism: State, Society and Congruence in Austria, Belgium, Canada, Germany and Switzerland* (London/New York: Routledge).
- (2011), "The sociology of constitutional politics: Demos, legitimacy and constitutional courts in Canada and Germany," *Regional and Federal Studies* 21 (4/5), 523–38.
- Falkner, Gerda (ed.) (2011), *The EU's Decision Traps: Comparing Policies* (Oxford: Oxford University Press).
- Falleti, Tulia G. (2010), *Decentralization and Subnational Politics in Latin America* (New York: Cambridge University Press).
- Filippov, Mikhail, Ordeshook, Peter C., and Shvetsova, Olga (2004), *Designing Federalism: A Theory of Self-sustainable Federal Institutions* (New York: Cambridge University Press).
- Friedrich, Carl Joachim (1968), *Trends of Federalism in Theory and Practice* (New York: Praeger).
- Gerber, Elisabeth and Kollman, Ken (2004), "Introduction—Authority migration: Defining an emerging research agenda," *PS: Political Science and Politics* 37 (3), 397–400.
- Landau, Martin (1973), "Federalism, redundancy, and system reliability," *Publius: The Journal of Federalism*, 3 (3), 173–96.
- Lehmbruch, Gerhard (2000), *Parteienwettbewerb im Bundesstaat. Regelsysteme und Spannungslagen im Institutionengefüge der Bundesrepublik Deutschland*. 3rd edition. (Wiesbaden: Westdeutscher Verlag).
- Liebermann, Robert (2002), "Ideas, institutions, and political order: Explaining political change," *American Political Science Review* 96 (4), 697–712.

- Livingston, William S. (1967), "A note on the nature of federalism," in Aaron Wildavsky (ed.), *American Federalism in Perspective* (Boston: Little, Brown and Company), 33–40.
- Mahoney, James and Thelen, Kathleen (2010), *Explaining Institutional Change. Ambiguity, Agency, and Power* (Cambridge: Cambridge University Press).
- Nicolaïdis, Kalypso (2001), "Conclusion: The federal vision beyond the federal state," in Kalypso Nicolaïdis and Robert Howse (eds.), *The Federal Vision: Legitimacy and Levels of Governance in the United States and the European Union* (Oxford: Oxford University Press), 443–84.
- North, Douglass (1990), *Institutions, Institutional Change and Economic Development* (Cambridge: Cambridge University Press).
- Obinger, Herbert, Leibfried, Stephan, and Castles, Francis G. (2005), *Federalism and Welfare State: New World and European Experiences* (Cambridge: Cambridge University Press).
- Pierson, Paul (2000), "Increasing returns, path dependence and the study of politics," *American Political Science Review* 94 (2), 251–67.
- (2004), *Politics in Time: History, Institutions and Social Analysis* (Princeton/Oxford: Princeton University Press).
- Riker, William H. (1964), *Federalism: Origins, Operation, Significance* (Boston/Toronto: Little Brown & Co).
- Scharpf, Fritz W. (1988), "The joint decision trap: Lessons from German federalism and European integration," *Public Administration* 66 (3), 239–78.
- (2001), "Notes toward a theory of multilevel governing in Europe," *Scandinavian Political Studies* 24 (1), 1–26.
- Schmidt, Vivien A. (2010), "Taking ideas and discourse seriously: Explaining change through discursive institutionalism as the fourth 'new institutionalism,'" *European Journal of Political Research* 2 (1), 1–25.
- Simeon, Richard and Nugent, Amy (2008), "Parliamentary Canada and intergovernmental Canada: Exploring the tensions," in Herman Bakvis and Grace Skogstad (eds.), *Canadian Federalism*. 2nd edition (Don Mills/Ontario: Oxford University Press), 89–111.
- Steinmo, Sven (2010), *The Evolution of Modern States: Sweden, Japan, and the United States* (Cambridge: Cambridge University Press).
- Stepan, Alfred (1999), "Federalism and democracy: Beyond the U.S. model," *Journal of Democracy* 10 (4), 19–34.

Index

- accountability 82, 223, 230, 234–5, 238
- action orientation 8, 10, 56, 330
- actor constellation 7–8, 13
- actors' strategies 56, 60
- acts of defiance 349–51, 354–5, 358
- adjustment 13–16, 62, 106, 286, 323, 326, 368, 375, 380–2
 - mutual 78, 80, 323, 326, 370–1, 374, 378, 384, 386
 - policy 260, 262
 - unilateral 8, 323, 330
- administration 75–6, 128, 130, 132, 152, 154
- agenda-setting 252, 264–5, 341
 - see also* capacity, agenda setting
- allocation of power 9, 29–33, 36, 39, 44, 72–3, 83, 85, 104, 140, 146–7, 185, 187, 242, 299, 301–2, 310–11, 316, 376, 379–80, 383–4
- ambiguity 107–8, 119–20
- amendment, *see* constitutional, amendment
 - rule 33–4, 298–9, 301
- American model 28, 33, 44
- American Political Development 5
- antecedent condition 100
- Argentina 141–2, 144–6, 148–52, 157–8, 160, 162, 346–7, 350, 352, 354, 357, 359
- asymmetry 9, 16, 38, 59, 105, 108–9, 198, 222–4, 239, 315, 381
- asynchrony 74, 372–6
- Australia 42–3, 103, 107, 185–202, 236–7, 344, 347–8, 351–4, 360, 374
- Austria 103–4, 236–7, 344, 347, 350–2, 355–8
- authoritarianism 121–6, 152–3
- authority migration 13, 74, 99, 249–50, 258, 294, 349–50, 352, 355, 357–9, 380, 382

- balance of power 29, 57–9, 147–8, 280, 290, 344–351, 356–8, 373, 381
- bargaining 35, 84–5, 168, 170–2, 174, 305
- Basic Law (German constitution) 33, 130–1
- behavioral spillovers 290–2
- Belgium 58, 75, 102, 167, 210–11, 214–26, 236–7, 306–7, 310–6, 344–5, 350–1, 354–8, 376

- benchmarking 326
- bicameralism 41, 239
- boundaries of authority 277–8, 281, 293
- Brazil 141–2, 144–52, 155–7, 160–3, 233
- Bryce's Law 169
- Bundesrat*, *see* German Federal Council

- Canada 28, 33–7, 40, 77, 82, 85, 98, 100, 103–4, 108–10, 167, 185–202, 210, 216–17, 219–20, 222–6, 235–6, 306–10, 314–16, 333–4, 336, 344–7, 351–4, 357–8, 374, 376
- Canadian constitution 33–4, 309
- capacity
 - agenda setting 256–7, 264, 269–70
 - coordinating 61–2, 323, 328, 333
 - decision-making 61–4
 - integrative 61–2, 64
 - reform 49–50
- center-periphery relations 8, 111, 252
- centralization 53, 55–6, 72–4, 131, 249, 251, 253, 266–7, 277, 279, 288, 290, 292–3, 340, 374–5
- centrifugality 56–7, 60, 63–5
- centrifugal tendencies 254, 299, 313, 316
- centripetality 55–7, 66
- change
 - constitutional, *see* constitutional, change
 - gradual 94, 96–7, 101, 104–8, 111–1, 136, 284–8, 293
 - institutional, *see* institutional, change
 - policy, *see* policy, change
 - sequence of, *see* sequence of historical development
 - social, *see* social, change
 - source of 8–10, 13, 97, 106, 297–9, 310, 344
- Charlottetown Accord 35, 85, 309
- cleavages
 - class-based 214, 264
 - cross-cutting 238
 - cultural 52, 244, 307, 383
 - functional 98
 - generative 99
 - social 5, 11, 19, 78–80, 238, 250, 269
 - territorial 11, 97–9, 238, 252

- coalition formation 233–4, 307
 co-evolution 376–9, 383
 collaboration, *see* co-operation
 Commonwealth of Australia, *see* Australia
 comparative federalism 1–3, 27–9, 340, 367, 382
 competition 8, 56, 64–5, 78–82, 232, 235–45,
 262–3, 330, 335, 371–2, 378
 party, *see* party, competition
 yardstick, *see* yardstick competition
 complex adaptive systems 279, 293
 compound majoritarianism 41–3
 compromise 39–44, 73–4, 172, 193–4, 300,
 314, 322
 concurrent powers 30–1, 62, 103, 131–2, 148, 349
 Conference of Cantonal Executives
 (Switzerland) 335, 337
 conflict
 efficiency-related 298, 300–1, 303, 306
 group-related 298–302
 resolution of 55, 63
 congruence/incongruence 12–13, 65–6
 party system 243–5, 254, 269
 constitution 6, 13, 28–9, 33–40, 49–50, 72–4,
 169–73, 181, 185–7, 299, 369–70,
 382–3, 385
 living 381
 constitutional
 amendment 33–5, 38–9, 82, 278–9, 290
 see also constitutional, change
 asymmetry 239
 change 19, 33, 65, 84–6, 101, 381, 277–94,
 297–316, 381
 conflict 299–301, 306, 315
 court 36, 84, 107, 133, 197–8, 279, 290, 381
 design 53, 55, 57–60, 62, 136
 federalism, *see* federalism, constitutional
 interpretation 65, 105–6, 198, 278–89, 381–5
 politics 82, 84, 315
 reform, *see* reform, constitutional
 rigidity, *see* rigidity, constitutional
 consultation 298, 303–5, 308–10, 314
 contingency 95–100, 111–12
 continuity 14–16, 86, 95–7, 284–6, 298,
 310–11, 313, 360, 367–8
 contradictory institutionalization,
 see institutionalization, contradictory
 conversion 97, 105–8, 111
 co-operation 7–8, 39, 52, 55–9, 64, 82, 242,
 370–2
 coordination
 horizontal 231–7
 intergovernmental 231–8, 321–40, 380
 policy 242
 problem 13–14, 348–9
 vertical 232–7
 see also self-coordination
 council governance 41–4, 75
 Council of Australian Governments 187, 202
 Council of the Federation (Canada) 337
 coupling 8, 61, 107, 374
 crisis 348–50, 352–6, 359
 economic 345–50, 352, 355–61
 financial 343–5, 348, 356, 359–61
 critical juncture 947, 99–101, 112, 118, 122,
 135, 267–8
 Czechoslovakia 170, 182
 debt 359–61
 decentralization 18, 48, 53, 58, 63, 65, 72–3,
 117, 140–64, 168–9, 171, 187, 210–11,
 215, 217, 219–26, 238–42, 249–70,
 277–8, 288, 293–4, 340, 346, 374–5
 administrative 143–4, 150–4, 157–9, 162
 fiscal 143, 150–1, 155–8, 160–1, 163, 238–40
 mechanisms of 252–5
 neoliberal 141, 149–52, 155–60
 political 43–4, 150–2, 154–8, 160–1
 deficit-spending 353–5
 deliberation 283, 304, 306
 democracy 53, 72–6, 167, 173–80, 229–30,
 372, 374, 380, 382
 consensus, 85, 305–6
 direct 110
 see also referendum
 parliamentary 76–7, 213, 374–5
 democracy
 transition to 122–5, 151–5, 167–8, 173–80
 democratization 74–6, 87, 162–3, 167–82, 374
 demonstration effect 145, 158–9
Deutscher Bund, *see* German Confederation
 dictatorship
 elected 186
 friendly 187
 diffusion 326, 330
 discourses 379, 381
 discretion 87, 349, 351, 353, 355, 357–8
 reduction of 349, 351–3, 355, 357–8, 361
 disintegration 63, 167–70
 displacement 97, 105–6, 108–9, 111
 distribution of powers, *see* allocation of power
 diversity (of federal society) 5, 52, 71, 77, 192,
 212, 240–1, 283, 377, 383
 divided government 134–5, 266
 division of powers 74, 76, 103–4, 107, 130,
 196, 212, 299–300, 313
 functional 76, 104, 107
 territorial 238, 298
 drift 82, 97, 105–6, 109–11, 380
 dynamics
 definition of 367–8
 patterns of 14–16, 368
 electoral incentives 167, 173
 entropy 291–2

- equilibrium 167–70, 173–5, 345–7, 359
 punctuated, *see* punctuated equilibrium
- European integration 1, 98, 108, 357
- European Parliament 38, 42–3
- European Union 1, 9, 27–8, 31–2, 38, 42–4, 98
- evolution 48–9, 51, 53–4, 58–60, 65, 81–6, 94, 111, 291, 370, 376–9, 383
- executive 185–201, 213–17, 221, 224–6, 310, 333, 374
 decision-making 213–17, 221, 224–6
 federalism, *see* federalism, executive power 185–201, 239, 310
- executive-legislative relations 51, 57–8, 73, 81, 189–93, 201, 224
- exit/entry 78–80, 87
- exit options 11, 94, 99, 108, 326
- experimentation 280, 282–4, 287, 293–4, 286
- federal
 bargain 12–13, 168–71
 regime 3, 5–8, 71–4, 77, 87, 365, 373
 relations 51, 54, 56–7, 60, 62–6, 344, 357
see also intergovernmental relations
- federalism
 accommodation 57, 59–60
 administrative 30
 centralized 119, 358
 coercive 29, 33
 coming-together 51, 98–101, 111, 347, 358, 376
 competitive 384
 constitutional 38–9, 44, 84, 370
 contested 81
 cooperative 29, 376, 384
 democratic 72, 374
 dimensions of 53, 56, 60
 divided power 32
 dual 29
 ethno- 52
 executive 44, 196, 201, 212, 223, 374
 fiscal 128, 347, 349, 356, 360–1
 hegemonic 120
 holding-together 52, 98, 101–2, 112, 346–7, 376
 integrated 29–30
 inter-state 39–40, 43, 62, 186, 189, 192–3, 195–6, 198
 intra-state 39–41, 43–4, 62, 186–7, 191–3, 195, 198, 200–1
 linguistic 261
 loosely coupled 8, 107
 market-preserving 12–13
 models of 27–44, 56, 62
 mono-national 49, 52, 84, 370–1, 383
 multidimensional concept of 3–8
 multinational 49, 52, 84, 370–1, 383
 peripheralized 119
 pluralistic 120
 power-sharing 31–2
 segmented 58
 sustainable 382
 tightly coupled 8
 treaty 17–18, 37–9, 44, 370
 unitary 57, 119, 130, 375
 varieties of 1–3, 48, 50–1, 54, 56–7, 59–66, 111, 370–1
- federalization 18, 52, 57, 97–102, 111–12, 215–18, 221–2, 310–12
- federation
 stable, *see* stable federations
 unstable, *see* unstable federations
- feedback 2, 13, 65, 289
- negative 16, 368
- positive 13, 102–3, 161
- fiscal
 policy 343–4, 354, 357–8
 regime 343–4, 348–9, 354, 360
- fiscal imbalance 4, 79, 196, 343, 359
- First Ministers' Conference (Canada) 197, 216, 308
- Flanders 214–26, 345, 359
- flexibility 35, 38–9, 136, 223, 239, 314–16, 330, 332, 368, 374
- framework legislation 30–1, 380–1
- France 302–3, 306, 311
- frictions 9–10, 13, 101, 187, 200, 298–9, 312–13, 316
- genetic variation 282–3
- German Confederation 121
- German Federal Council 33, 35, 41, 75–6, 118–36, 304, 374–5
- German Reich 121
- Germany 30–5, 38, 41–2, 53, 58, 75–6, 82, 84, 100–4, 117–37, 239, 303–6, 311–14, 347–52, 355–60, 373–7
- governance 74–8, 82–4, 223–5, 383, 369–75, 383–5
 auxiliary institutions of 281
 council, *see* council governance
 multilevel, *see* multilevel governance
- grants-in-aid 104–5, 132, 348–60
 conditional 199, 348–54, 357–60
- Great Britain 261, 264–5, 268, 302, 306–8, 310–13, 316
- group-related conflict 298–9, 301–2, 306, 314, 316
- historical institutionalism, *see* institutionalism, historical
- historical legacies 73, 80, 211–14, 225

- ideas 6–7, 9–10, 13, 64–5, 101, 209, 211–15, 217, 219, 222–6, 280, 283, 372, 380, 385
- identity 59, 76, 84, 217, 225, 233, 235, 252, 381
- ideology 40–1, 95, 124, 210–13, 216, 219, 224–6, 249–70, 290, 294, 307
- incomplete contract 170
- incongruence, *see* congruence/incongruence
- increasing returns 16, 102–3, 337
- incrementalism 145, 158–9, 161–2
- India 59, 167, 237, 243, 249–69, 344, 346–7, 350–4, 357–9
- infrastructure 75, 350, 352
- capacity 199–200
- organizational 324
- power of government 199
- innovation 49, 280–3, 286, 292–4, 366, 381
- instability of federalism 65, 236, 245, 344–5, 348–9, 357–61, 382
- integration 55, 57, 60–6, 231, 233, 235–6, 242–5
- national 74–6, 376–8
- negative 105, 108
- positive 105, 108
- vertical 233–5, 242–3
- interaction styles 56, 58–9
- institution 4, 6, 10–2, 48–9, 54, 64–6, 80, 209–11, 213–15, 218, 221–6, 324–5, 369
- institutional
- arena 4, 9, 367–8
- change 14, 18, 48, 50, 54, 60–1, 86, 111, 118, 135, 379–80, 383–4
- choice 49, 324, 329
- complementarities 66
- constraints 13, 54, 71, 80
- imperfection 280–4, 287, 294
- integration 55, 60–3
- mechanisms 3, 13, 95–9, 102–3, 107–12, 209, 211, 376
- policy 369–70, 379–81
- reform, *see* reform, institutional
- rigidity, *see* rigidity, institutional
- safeguards 13, 44, 277–8, 281, 283–8, 294, 382
- institutionalism 212, 385
- actor-centered 14, 71, 87
- discursive 210
- dynamic 366, 385
- historical 11, 13, 18, 71, 95–7, 110–13, 136, 337, 368, 375
- rational choice, *see* institutionalism, actor-centered
- institutionalization 74–7, 337
- contradictory 72–3, 77, 322
- interdependence 55, 59, 61, 63–4, 81, 109, 175, 238–9, 242, 245
- intergovernmental
- agreement 80, 170, 314, 325–6, 333, 336, 338–9
- competition, *see* competition
- conflict lines, *see* intergovernmental, relations
- institutions 321–5, 328–9, 333–40
- relations 6, 52–4, 76, 82, 103–4, 151–2, 196–8, 212, 223, 357–8, 361, 371–3
- staff 333–5
- joint decision-making 13–14, 76–7, 82, 84, 103, 187, 201, 385
- joint-decision trap 14, 84, 109, 380–1, 384–5
- joint task 132
- Judicial Committee of the Privy Council (JCPC) 108, 197
- Keynesian demand management 343, 345, 349
- Kyoto Accords 188
- layering 97, 101–2, 104–5, 111
- layer, institutional 5–9, 13, 375
- leadership 358–9
- party, *see* party, leadership
- selection 191, 194
- loyalty 9, 78–80, 383
- mechanisms 8–11, 13, 51, 59–61, 65–6, 181, 211–12, 250, 326
- causal 10–14, 61, 141, 145, 149, 157–8, 160–2
- of collective action 73, 78–80, 370
- of coordination 329–32, 338–40
- of decentralization 252–4, 258–60, 268–70
- of federal dynamics 11–14, 74–86, 97, 226, 297, 371
- institutional 13, 95–7, 211, 225
- inter-institutional 98–9, 102–4, 107–9, 111–12, 186–7, 200–2
- intra-institutional 98–9, 102–4, 109–12, 186–7, 200–2
- of reproduction 136
- safeguard, *see* safeguard, mechanism
- selection, *see* selection mechanism
- Mediation Committee (Germany) 35–6, 38, 41, 128
- mobility 79–80, 369–70, 377–8, 383
- multidimensionality 2, 5, 7, 15–19, 50–1, 71–2, 77–8, 87, 284, 287, 372, 380
- multilevel governance 27–9, 81–2, 327, 340, 384
- approach 27–9
- multinational state 226, 249–50
- see also* federalism, multinational
- multistability 12
- nation 75–6, 122, 220, 377
- nation building 75–6, 142, 376
- National Governors Association (USA) 332, 335

- nationalism 79, 209–11, 222, 224–6, 383
 sub-state (regional) 73, 75, 77, 81, 209–11,
 214, 216–17, 219–20, 232–3, 245, 377
- nationalization 231–3
- negotiation 8, 13, 44, 53, 74, 80, 83–5, 198–201
 constitutional 84–7, 298–9, 301–2, 304–5,
 307–16
 elite nature of 197
 intergovernmental 82, 324, 326–7, 331,
 371, 380–1
- New Deal 36, 76, 288
- Northern Ireland 101, 251
- office-seeking 253
- opting-out 34, 37–8, 105, 108–9, 374
- oscillation 345, 358–9
- participation 176–80, 299–301, 303–6,
 308–10, 312, 314, 316
- parties 7–8, 11–13, 79–80, 191–5, 212, 215–16,
 222–3, 229–44, 301, 307–12
 mainstream 249–70
 regional 59, 231
 regionalist 249–70
 state-wide 64
see also parties, mainstream
- party
 competition 42, 76–7, 167–8, 173–5, 181–2,
 230–4, 234–43, 258, 374–5
 ideology 249, 258–60, 265–8
 leadership 240, 254, 259–68
 nationalization of 232, 243
 organization 125, 191, 234–5, 253–70
 politics 134–5
- party system 7, 12–13, 19, 64–5, 79, 81, 168,
 181, 191–2, 233–4, 241–3, 270, 328, 378
 territorial concentration 232, 236, 240, 243
- path dependence 16, 49, 94, 96–7, 102–4, 111,
 337, 373
- periodization 141, 143, 149–50, 287–8
- peripheralization 278–80, 287–8
- policy
 change 19, 210–12, 224, 343–61
 diffusion, *see* diffusion
 laboratories 278
 legacies 211, 213
 pre-emption 13, 105, 109
- policy
 fiscal, *see* fiscal, policy
 reform, *see* reform policy
- policy-making, inter-institutional 380
- political structuring 9, 11, 17, 19, 79–80, 97,
 101, 111
- Popitz's Law 169
- power-concentration government 327–8,
 330–2, 339
- power-sharing government 327–8, 330–2, 339
- presidentialism 213
- presidentialization 188
- problem-solving 282–3
- process organization 298, 300, 310–1, 313
- process-tracing 140–1, 144–5, 149, 162
- proportionality 31–2
- Prussia 121–6
- public 279–83, 285–6, 290–2, 294, 301–2
- punctuated equilibrium 118, 135, 186–7, 259
- Punjab 258
- quasi-federalism 28
- Quebec 34–5, 37, 77, 109, 197, 201,
 216–7, 219–20, 222–6, 236, 309, 315
- ratchet effect 145, 161, 163
- rational choice theory 12, 70–1
- recurrence 16
- redundancy 12–3, 187
- referendum 220, 266, 303–5, 308, 310–15
- reform 13–4, 19, 61–6, 81–7, 140–63, 359–60,
 380–1, 385
 capacity, *see* capacity, reform
 constitutional 30–1, 34–5, 83, 102, 135, 157,
 162–3, 255, 260–3, 297–316, 337, 380–1
 decentralization 140–5, 149–63, 252–63
 fiscal 157
 institutional 61, 63, 83–4, 86–7, 172, 339,
 369, 383
 intergovernmental 322–3, 336–7, 339
 process 83–4, 297–9, 301, 304, 308, 310,
 313–15
 territorial 249, 263
- regionalism 1, 73, 377
- regionalization 1, 78, 371, 383
- regional party, *see* parties, regional
- Reichsrat 118, 123, 126–7
- repetition 15–16
- representation 230, 235, 241, 243
- reproduction 16, 94, 97, 118, 145, 158, 161–3
- residual powers 55, 107–8, 132, 185–6
- rigidity 35–6, 368–9, 376, 384–5
 constitutional 28, 74, 77
 institutional 94, 97, 107–11, 386
- rules 54–5, 59–62, 80, 83, 86, 105, 278, 369–73,
 383–5
- Russia 170, 172
- safeguard 277–9, 281, 283–8, 294
 complementarity 284, 286–7, 294
 mechanism 13–14
- Scotland 102, 251, 259, 261, 264–5, 308–16
- Scottish National Convention 259
- secession 52, 169, 220, 251
- second chamber 40–2, 53, 58, 103, 128,
 134, 377
- selection mechanism 283

- self-coordination 325–40
- self-reinforcement 13, 16, 65
- Senate 40, 129, 134
 - Australia 187, 193–5
 - Brazil 148
 - Canada 10, 40, 190–2, 201, 315, 377
 - US 40–1, 110, 288
- separation of powers 8, 29, 107, 384
- sequence of historical development 75–8, 86, 87, 373–6
- sequencing 5, 13, 93–4, 140–1, 143, 151–2, 155, 162, 375
- sharing of powers 8, 29–31, 73, 384
- Single Transferable Vote 193
- social
 - change 78–9, 81, 86, 250, 377–9
 - homogeneity 42
 - insurance 213–15, 217, 220–2
 - policy 209, 211–14, 217, 219–26
- society 80–1, 376–9, 383
 - functional differentiation 72, 79, 84
 - regional differentiation 78–80
- society-centered perspective 71, 78, 377, 383
- sociological approach 9, 78
- solidarity 53, 56, 60, 211, 214
 - inter-territorial 218, 224, 251
- sources of change 8–16, 97, 211, 214, 224–6, 297–9, 321, 344, 368
- South Africa 172, 344–5, 352–3, 358
- Soviet Union 170, 182
- Spain 38–9, 52, 58–9, 75, 167, 236–7, 256–62, 265–8, 329, 346–7, 350–9
- spending power 108, 110, 196–8
- stability of federalism 12, 49, 74, 104, 117–18, 135–6, 167, 170–1, 181–2, 220–5, 229–30, 234–6, 245, 270, 344–5, 348–9, 357–61, 368, 382
- stable federations 344, 349, 354, 357–9
- Ständerat* (Switzerland) 41
- state-centered perspective 78, 383
- state formation 9, 74–7, 99–100, 376
- state-society relations 78–81, 369, 376–9
- stimulus package 343, 349–50, 352, 355
- strategic incentives 250, 253
- subsidiarity 31–2
- supreme court, *see* constitutional, court
- Switzerland 28, 41, 51–2, 57, 85, 103–4, 106, 109–10, 167, 239, 302–6, 310–11, 334–8, 347, 350–4, 357, 359–60, 375–6
- system connectivity 289
- system theory 12–13, 282, 286–9, 293–4
- tax 343–61
 - credit 348–51
 - policy 343–61
 - system 128, 169, 348–51
- taxation power 127–8, 153–4, 156–7, 198–200, 326, 348–51
- timing 5, 18, 93
- transformation 18, 118, 135–6, 280, 289, 311–12, 368, 385
 - incremental 101, 111
- transgression 284
- unilateralism 63
- unintended consequences 11, 13–14, 30, 49, 106
- Union Territories (India) 251
- unitary federalism, *see* federalism, unitary
- unitary state 81, 99, 212, 301
- United Kingdom 101–2, 251, 256, 258, 299, 311
- United States 28, 36, 43, 76–7, 82, 84, 98, 103–4, 106–7, 109–10, 232, 238–40, 281–2, 288–9, 332–3, 381
- USSR 170
- unstable federations 344, 349, 357–8
- veto player 129, 255, 266, 278, 283, 299, 301–2, 380
- veto point 62–3, 108–9
- voice mechanism 78–80, 98, 371
- vote-seeking 253
- Wales 101, 251, 261, 301–2, 308, 311
- Wallonia 215–18, 345, 356
- Weimar Republic 123–7
- welfare state regimes 213, 225, 377
- yardstick competition 326, 331
- Yugoslavia 170, 182