

FEDERALISM AS A MODEL FOR SUCCESSFUL POLICY-MAKING AND AS A CHALLENGE TO GOVERNANCE

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Federalism in the world comes in many shapes and institutional realities. This is due to the national circumstances federalism has to pay respect to. Still, it is not impossible to generalize, and to filter out the preconditions for a successful federal state. The most basic context is the one of democracy and federalism: Without democracy, there is no chance to develop the efficiency and participation potentials of federalism.¹ In an ideal world policy-making will follow the logic of federal power-sharing. The reality in federal states is often less straight-forward.²

Federalism is often seen as a challenge to traditional modes of governance and not as offering ways to improve governance. For example, the Westminster model of governance has to find ways to reconcile the thought of absolute parliamentary sovereignty with the popular sovereignty of the states / regions / provinces that make up the federation. Different strategies can be found here. In Canada, for example, the weakening of the role of the federal government in provincial affairs has reduced the fields of joint policy-making to an extent which makes it highly unlikely that the question arises, which of the principles of statecraft, the federal one or the sovereignty of Parliament in Ottawa shall prevail. In addition, with regard to policy-making, there exists no federal chamber to speak of, that would be able to and inclined to veto provincial politics. In India, we find the opposite extreme: A frequent involvement of the

federal government in states' affairs, especially via public administration, which is the backbone of policy implementation. In times of region-state conflicts, the federal government prevails to an extent which has led to the question whether India still is a federal state. The South African case is even more extreme. The leading political party ANC sees the federal organization of the state as an obstacle to governance. This obstacle should be overcome by the centralizing influence of party politics. The centralism of ANC party organization cannot be reconciled with federal diversity.

SUCCESSFUL POLICY-MAKING

The "secret" of successful policy-making in federalism is to make good use of diversity. Diversity is a complex issue. It helps to integrate centrifugal forces in societies, especially in ethnically divided ones. But the acceptance of diversity comes at a price. Governance gains in complexity, and it is necessary to deal with demands for different kinds of participation in policy-making. A balance has to be found between efficiency and voice. Policy experts tend to prefer problem-oriented solutions. In federal states, problem orientation has to take on board procedural orientations. It is not enough to come up with, for example, a better system of health care, when the introduction of such a system ignores regional demands and necessities. A recent example is the National Health Service in Britain, which federalized when the country began to accept a decentralization of its state organization. Now four health services – for England, Wales, Scotland and Northern Ireland – exist. The technical question whether a unitary health service would perhaps be more efficient is obsolete. Diversity is the precondition for the acceptance of the organization of the health service. Efficiency questions need to be answered in a framework which depends on the degree of diversity a society believes to be adequate.³

Organizational complexity in federalism is reflected in what was termed multi-level policy-making. What distinguishes federal from

unitary states is that these levels of policy-making are more than administrative units. They also guarantee political participation. Not the levels of governance matter as such, but the degree to which they give a voice to regional demands. This excludes top down decision-making processes. Federal states rely to a great extent on intergovernmental negotiations – be it in a formal setting, such as second chambers or meetings of federal and regional ministries, be it informally. The degree of transparency necessary in these negotiations depends on the acceptance of this mode of conflict resolution and the strength of traditions. "Older" federations, such as Switzerland, can live with an elite-driven negotiation style, whereas younger ones, such as Iraq, where trust is scarce, or federalizing countries, such as Myanmar, need permanent reassurance that compromises made with regard to policies do not discriminate against one or the other (ethnic) group. Policy-making in unstable federations or failing states, such as South Sudan, is seen as a zero-sum game. Compromise can be interpreted as weakness and the alternative of secession or civil war cannot be excluded.

Successful policy-making in federal states should use the advantage which the proverbial laboratory conditions of federalism provide. Policy innovation is not reduced to the single source of centralized reform. In federalism, numerous centers of policy innovation co-exist and compete. If federations do not give enough freedom to explore innovation in a decentralized manner, the resource of laboratory federalism will not enrich policy-making. So, in addition to respect for ethnic diversity, which is a constant source for the legitimation of policy-making, the respect for regional productive forces explains the need for diversity in policy-making.

Participation as an ingredient of successful policy-making in federations is often underestimated, and sometimes even seen as an unnecessary hurdle for decision-making. The latter view is based on a limited view of the policy process. In all stages of this process, namely agenda-setting, decision-making, implementation, evaluation and policy learning, participation in federal states improves policy

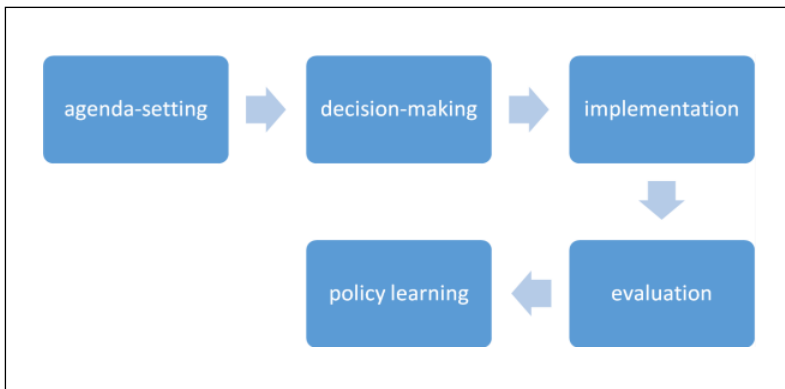
results. With regard to agenda-setting it is obvious that the more ideas contribute to the political agenda of political executives, the greater is the likelihood of convincing results. Early involvement of all levels of a federal state creates procedural legitimacy and shared responsibilities – also with regard to policy outcomes. If regional involvement includes co-decision-making the legitimacy of policy-making is further improved. Whatever central governments decide needs to be implemented. Here, of course, different models of implementation are possible. If the federal government, as in Canada or the US, implements federal laws, this may have the advantage that implementation does not vary by region and remains close to the original intent of a law. The lack of regional sensitivity of policy implementation can, however, also be a problem. It can be helpful not to parachute bureaucrats of the central governments in regions, especially if those regions fight for autonomy and self-determination. Instead, decentralized implementation may be an alternative. It is no problem to provide regional bureaucracies with the necessary know-how and financial means to make decentralized implementation possible, as the German example demonstrates. Implementation is not the end of the story of policy-making.

The evaluation of policies that has to follow is often neglected. It is, of course, important to know what works under which circumstances. In a federal state, circumstances differ by region and we must accept that a certain incentive for social change falls on fertile soil in one region of a country whereas it comes too early or too late in another. Diversity in federalism initiates a number of learning processes, which taken together provide preconditions for successful policy-making. It is important to note that policy learning in federal systems follows the logic of appropriateness. Appropriateness has in contrast to decision-making in unitary states two meanings. We are looking for solutions which are appropriate, because they solve policy problems (as in unitary states), but also for solutions, which find regional acceptance. In other words, the logic of rational choice will not by itself lead to successful policy-

making in federalism. Successful policy-making in federalism in addition always respects the elements of regional identities, traditions, or culture. Whereas policy-making in unitary states stresses efficiency and effectiveness, policy-making in federal states is embedded in the requirements of regional diversity. National policies in federal states are therefore compromises of regional world views and not only pragmatic solutions to policy problems. The simple decision to build a bridge from A to B, or to dig for oil for example, may from the point-of-view of central government yield many economic benefits, but seen from a regional perspective it may destroy the regional heritage.

In addition, there is the question of who controls the income generated by natural resources. In federalism, the distributional consequences of policy-decisions are always a topic. Arjan H. Schakel has formulated the following decentralization theorem: "This theorem states that the optimal degree of decentralization depends on the heterogeneity of preferences, on the one hand, and interjurisdictional spillovers (externalities) and economies of scale on the other."⁴ This is an attempt to bring efficiency and participation together into one equation.

Graph 1: The policy process



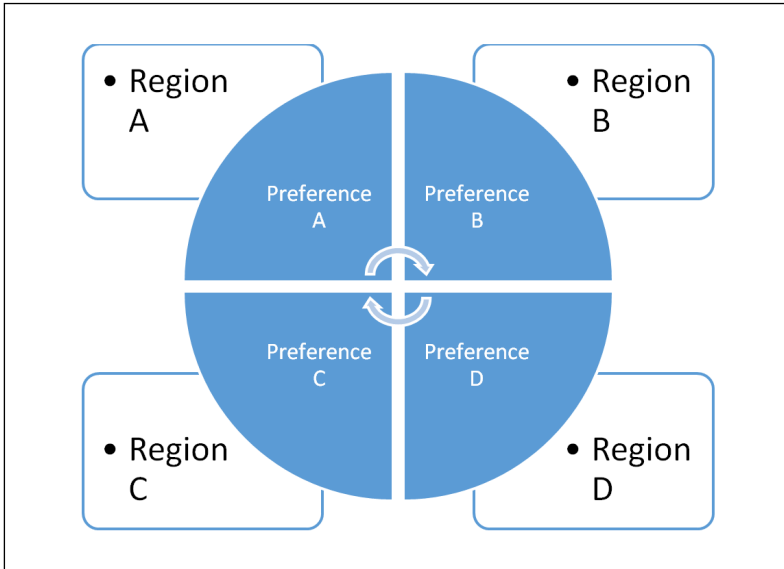
THE PARTY POLITICAL DIMENSION

In democracies, political parties have a decisive role in political decision-making. In federal states, this may either strengthen or weaken centralizing elements in policy-making. The decisive factors here are the policy preferences of the electorate. In federations, based on a political consensus of all regions, policy preferences tend to cluster in the middle ground, and there is a great amount of political flexibility when it comes to political compromises. Interconnected policy-making between the federal and the regional level is possible, even to the extent that federal states function in a way very similar to unitary states, as the examples of Austria and Germany illustrate. This is a general rule which has, however, some notable exceptions, especially when threats to the federal principle become political issues. Interconnected policy-making strengthens national party politics and allows political parties in election campaigns to address the nation as a whole, even disregarding regional interests. But even in the most centralized federations it should not be taken for granted that regional preferences always cluster in the middle ground. Federalism provides an opportunity structure for the politicization of the regional dimension⁵ as conflicts in Germany over energy or refugee policies has shown.

When regional preferences cluster in the middle ground, policy-making decouples to some extent from regional identity politics. Though preferences A to D may show some kind of variation due to political processes in the regions, regional political parties will have no problem to do deals with other regional parties, and for state-wide political parties it is easy to accommodate regional preferences of their electorate. Consensus-based federalism may have ethno-regionalist parties. These parties have their priorities, however, in financial or participatory gains and not in politics of self-determination. If policy-making does not yield the expected results for regions, or if the center has lost regional political support because of repression, corruption, violence or other forms of maladministration the middle ground erodes. Consensus-based federalism loses its

coherence. Regional elites and regional parties may see an alternative in a weaker center and in a less co-operative federalism. The erosion of the center is the story of Belgian federalism. In Belgium the tensions between the Dutch speaking and the French speaking communities have resulted in a model of living apart together.

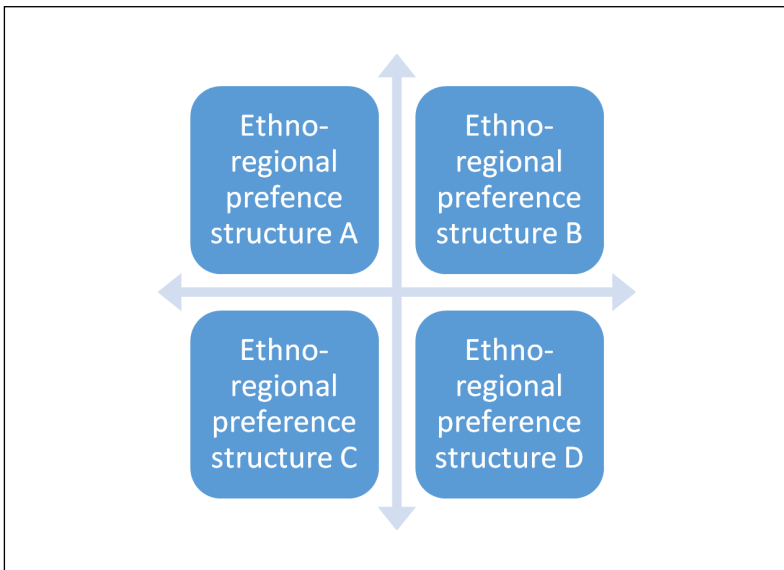
Graph 2: Regional Preferences Cluster in the Middle Ground



When federalism is the expression of different visions of statehood, the political cooperation in a disintegrating federalism proves to be difficult from the start. When secession is no solution, federalism provides an institutional framework which combines self-rule and shared rule. Both are important for policy-making and party political competition. Self-rule finds its expression in the way competences are guaranteed to the regions. The range of competences to be found on the regional level provides a fertile ground for regional party-political competition decoupled from national party-

political competition. State-wide parties may find it difficult to compete on an equal footing with regional parties.⁶ The possible degree of shared rule when decentralizing federalism is difficult to predict.⁷ As the Spanish case demonstrates, not even for the police force one model for the whole of Spain could be found.

Graph 3: Decentralizing federalism: Incompatible ethno-regional preference structures



In the case of diverging ethno-regional preference structures, two outcomes of policy-making in a federal context are possible. One is separate development. Policies are tailored only to the needs of one ethno-region. This does not need to destabilize a polity, if meaningful shared rule with regard to other policies, for example economic or foreign policies, is upheld. In Canada, for example, Québec's language policy of the 1980s was strongly opposed in Western Canada, but still the country could live with a policy field for which there

existed not even a minimal consensus. The more policies are tailored to regional needs, the more important regional parties become or, alternatively, the more important is the regionalization of state-wide parties.

Table 1: Policy-making in decentralizing and interlocking federalism

	Conflict	Party political strategy
Interlocking federalism	Lack of regional legitimacy	Strengthen national efficiency
Decentralizing federalism	Lack of regional similarity	Strengthen regional representation

A second possible outcome of diverging regional preference structures is institutional reform. Institutional reform removes the pressure on federal institutions to produce consensus where it is impossible. Institutional reform may take the form of a retreat of the central state (further decentralization), the privatization of policy fields or new constitutional safeguards for regional competences.

Decentralizing federalism is not per se less stable than interlocking federalism. Both forms of federalism have points of conflicts. What differs is the party political strategy to overcome political conflict.

FISCAL FEDERALISM

Fiscal decentralization is the decisive precondition for regional policy variation. If regional preferences differ, it is not enough when regions have the right to express their differences in regional legislation. As long as regions lack the financial power to put regional policy variation into practice, federalism allows only symbolic politics. A good example are educational policies which in most federations are controlled by the regions.⁸ In Germany, for example, the

idea was to keep the federal government out of this policy field. Necessary standards were to be upheld by the voluntary cooperation of the *Länder*. The lack of *Länder* resources with regard to financing of universities, educational tests or the reform of primary education has brought the national government back in, not because there was any kind of substantial argument, but only because the *Länder* were not able to mobilize the necessary resources. The Swiss constitution in its article 61a seems to go further than the German constitution, because it recognizes a duty of cantons and the federal government to co-operate in order to secure internal mobility and a high quality of educational standards in Switzerland. But the important difference to the German case is that the constitutional need to cooperate is based on a separate set of competences, whereas in Germany cooperation finds its justification in political goals defined outside constitutional safeguards.

Most federal states are tempted to use their national control over resources as instrument to undermine autonomy in regional policy-making. Only in Canada and Switzerland does the center control less than 50 % of the national income. In Nigeria, Mexico or Malaysia, the central government controls about 90 % of financial resources, and only slightly less in Argentina, South Africa, Australia, Belgium and Brazil. Germany, Austria, Spain and India are in a middle group with control of between 60 and 65 % of resources.⁹ It is not surprising that secessionism often has as its prime motive a greater regional control over the region's own resources, as for example in Catalonia, Scotland or Flanders. The question of control over resources is also a major obstacle to the introduction of federalism, as for example in Myanmar, where administrative decentralization is much easier to achieve than the sharing of natural resources.¹⁰

With regard to policy-making capacities, two alternative models of regional finance co-exist. One is the regional budget, which rarely exists in its purest form, namely with full sovereignty over taxes and expenditures and the right to borrow money from international capital markets. Where such a budget exists, it has to accept three

modes of outside control. The first is control by the voters. Voters see budgets as balance sheets of policy-making. At the polls, they have the opportunity to judge whether the regional government wisely spent regional resources.

A second mode of control is the scrutiny of the political opposition in the regional parliament via budget committees and the work of the general accounting office. And finally, there is the control by international financial markets and their ratings, which are crucial for interest rates, if a region needs to borrow money. The advantages of a regional budget seem to be obvious, because it guarantees transparency, control and responsiveness to regional policy preferences.

In most federations, all these advantages are given up with surprisingly little resistance. A second model of regional finance is frequently applied. This is the model based on the sharing of tax revenues between the center and the regions and on grants by the federal government to improve regional spending power. The consequence of this model is less transparency, because of the co-financing of important policies by the center. Loss of control is unavoidable. For example in Switzerland, where cantons take responsibility for their budgets, the markets rate regional budgets canton by canton differently, whereas in Germany – where the *Länder* and the federal government share resources – no such differentiation is necessary, because a *Land* with an unsustainable budget can rely on a bail-out. Parliamentary control and control by the voters suffer in a system of interconnected finance from a lack of transparency, too. Who is to blame for the misallocation of resources, if executives on all federal levels have been involved in policy-making?

Models of resource-sharing are often said to provide more stable regional finance and should help the poorest regions in a state. This should logically exclude extra payments by the center to the regions. The opposite is often the case. Grants are given by federal governments not only to regions with relatively autonomous budgets, as in the United States, Canada (and against the spirit of its constitution: Switzerland) but also to regions which are included in resource-

sharing models. Why is that? A plausible explanation seems to be that the center has difficulties to accept the financial autonomy of regions. It wants to control taxes and to a lesser degree expenditures, because it sees itself as being responsible for the international competitiveness of a federation as a whole. Less altruistic is the motive of control. Monetary support by the center can influence policy preferences and can be the precondition for policies to be implemented.

The participatory nature of federalism is often challenged by top-down financial steering of the center. This is not only in contradiction with the principle of subsidiarity, it is also no recipe for successful policy-making, as empirical analyses have shown. A study by Sorens which compares 39 countries has shown that countries which opt for regional budgetary autonomy at least to some degree spend less and have a lower government spending ratio.¹¹ Gervasoni has shown that central government grants which do not correspond with the financial abilities of a region (in other words cannot be absorbed adequately) do not bring about economic development, but produce rent-seeking of the regional governments.¹²

THE GOVERNANCE CHALLENGE

Federalism increases the number of stakeholders in public policies. It also provides additional access for civil society organizations on the local and regional levels. Theories of governance have claimed that network governance has replaced hierarchical decision-making.¹³ Federalism would – in this perspective – be another element of structural diversity. Regional governments, regional representatives of civil society, lobbyists and policy specific constellations of political power need to be added to the list of actors, which influence policy decisions and outcomes. What the governance literature exactly has to offer for the investigation of the dynamics of federalism is an open research question. What we can say is that in multiethnic federations policy-making is secondary to questions

of power-sharing and democracy. As long as a federation has not found a stable balance of regional and national interest representation embedded in a culture of federalism,¹⁴ policy-making as such will not solve the constitutional problem. Good governance is dependent on a functioning federalism and not vice versa.

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- ² Cf. Butenschen, Nils A. / Stiansen, Øyvind: *Power-Sharing in Conflict-Ridden Societies. Challenges for Peace and Stability*, Farnham 2015.
- ³ Cf. Fierlbeck, Katherine / Palley, Howard A. (Eds.): *Comparative Health Care Federalism*, Farnham 2015.
- ⁴ Schakel, Arjan H.: *Explaining Regional and Local Government: An Empirical Test of the Decentralization Theorem*, in: *Governance* 2/2010, p. 331-355, p. 331.
- ⁵ Cf. Lustick, Jan S. / Miodownik, Dan / Eidelson, Roy J.: *Secessionism in Multicultural States: Does Sharing Power Prevent or Encourage It?*, in: *American Political Science Review* 2/2004, p. 209-229.
- ⁶ Cf. Alonso, Sonia: *Challenging the State: Devolution and the Battle for Partisan Credibility. A Comparison of Belgium, Italy, Spain and the United Kingdom*, Oxford 2012.
- ⁷ Cf. Biela, Jan / Hennl, Annika: *The distinct effects of federalism and decentralization on performance*, in: *New Directions in Federalism Studies*, ed. by Jan Erk and Winfried Swenden, London / New York 2010, p. 157-171.
- ⁸ Cf. Hrbek, Rudolf / Große Hüttmann, Martin / Schmid, Josef (Eds.): *Bildungspolitik in Föderalstaaten und der Europäischen Union: Does Federalism Matter?*, Baden-Baden 2012.
- ⁹ Cf. Anderson, George / Scheller, Hendrik: *Fiskalföderalismus. Eine internationale vergleichende Einführung*, Opladen / Berlin / Toronto 2012, p. 43.

- ¹⁰ Cf. Lynn, Thet Aung / Oye, Mari: Natural Resources and Subnational Governments in Myanmar: Key considerations for wealth sharing, Yangon 2014 (Paper IGC, MDRI, The Asia Foundation).
- ¹¹ Cf. Sorens, Jason: The Institutions of Federalism, in: *Publius* 2/2010, p. 207-231.
- ¹² Cf. Gervasoni, Carlos: A Rentier Theory of Subnational Regimes. Fiscal Federalism, Democracy, and Authoritarianism in the Argentine Provinces, in: *World Politics* 2/2010, p. 302-340.
- ¹³ Cf. for example Rhodes, Rod A. W.: *Understanding Governance. Policy Networks, Governance, Reflexivity and Accountability*, Buckingham 1997.
- ¹⁴ Cf. Kincaid, John / Cole, Richard L.: Citizen Attitudes Towards Issues of Federalism in Canada, Mexico, and the United States, in: *Publius* 1/2010, p. 53-75.