



SIGMA

Support for Improvement in Governance and Management

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FEDERALISM AND THE BALANCE OF POWER IN EUROPEAN STATES

Paper prepared for Sigma by

Michael Keating

**Professor of Politics, University of Aberdeen, Scotland
and Professor of Political Science, European University Institute, Florence**

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THE SIGMA PROGRAMME

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PREFACE

In the context of its work on governance reform in the Western Balkans, Sigma asked Michael Keating, Professor and Head of Department of the Department of Political and Social Sciences, European University Institute and expert on regional politics, nationalism and comparative European politics to present and analyse different European models of institutional power sharing. This overview paper is meant to introduce policymakers and practitioners in the region, specifically in Bosnia and Herzegovina, to the topic of federal and devolved systems of government, with particular reference to divided societies. A second paper by Prof. Keating will evaluate the existing situation in Bosnia and Herzegovina and outline potential avenues for reform of the system of government, taking into account the particular experience of federal and devolved systems in Europe and of European integration. This paper, as well as its "successor" benefited from dialogue with and inputs from the Public Governance and Territorial Development Department, as well as Sigma.

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SUMMARY

Federalism and devolution serve to divide and share power in the state, to enhance governmental efficiency, and to manage conflict in divided societies. These aims may be complementary or competing. Issues in federal design include: defining the problem; delineating the units; symmetry and asymmetry; the division of powers; intergovernmental co-operation; federal culture; fiscal autonomy and equalisation; individual and collective rights; and external guarantees. European integration has had important effects on federal and devolved systems. In the post-war years, there was a trend in Western Europe towards co-operative federalism and a blurring of the responsibilities of the two levels. In recent years there has been a move to competitive federalism and a clarification of the roles of the levels. Fiscal equalisation has come under strain. There have been many proposals, some successful and others not, to reform federal and devolved systems in the interests of efficiency, clarity and responsibility. Case studies of Belgium, Spain, the United Kingdom, Germany, Switzerland and Italy illustrate how these general trends have affected different states. The success of federalism depends partly on historic traditions, political culture and internal and external economic trends. There is, however, a role for institutional design in giving the right incentives to political actors and in the balancing of centrifugal and centripetal tendencies.

INTRODUCTION

The aim of this paper is to assess the experience of, and prospects for, systems of divided and shared powers in managing social, cultural and political diversity. It does not attempt to draw conclusions that can be transferred directly from one context to another or to summarise “best practice”. National and ethnic politics are extremely complex, and each conflict has its own history, its own issues, its own contending parties and its own present context.

Rather than transplanting policies and institutions, the aim is to draw lessons about what has worked in which circumstances so as to have a better understanding of the logic of institutions, their scope and their limitations. Only then can institutions and practices be designed for the case at hand.

In accordance with the brief, the main focus is on nationally divided societies. Such societies contain distinct ethnic groups or nationalities that have sought self-government or other forms of special recognition.

Also in accordance with the brief, the paper concentrates on federal and quasi-federal systems. Before doing this, however, it introduces two distinct ways of managing diversity, which are often found in combination.

Managing Diversity

There are two principal means of dividing government in order to address national diversity in modern states. One is based on sharing power at the centre; the other divides power between the centre and the regions.

The first, usually known as *consociationalism*, is a way of dividing power *horizontally* among groups (usually defined by ethnicity or religion)

Key Features of Consociational Democracy

- Groups are given a degree of self-regulation in matters that concern them alone and to which they are particularly sensitive. Typically this would involve schools and cultural matters.
- There is a central government in which the groups share power on a fixed basis. The usual devices are:
 - parties representing group interests;
 - proportional representation of these groups in parliament;
 - power-sharing governments in which all parties are represented proportionally;
 - qualified majority rules such that no major decision can be taken without the consent of all groups;
 - quotas for members of the various groups in institutions, such as the civil service, the military and police, and the broadcasting media.

Consociational systems thus differ from competitive democracies in which the winning party or coalition takes all or most of the power. Such competitive systems, it is argued, are not suitable when elections are

decided on ethnic grounds, as this means a permanent majority for one side, and no group trusts the other enough to allow it to govern on its own.

Consociationalism, often known as power-sharing, has been used in many divided societies as a mechanism for bringing conflicting parties together. It has been criticised, however, on the grounds that:

- it forces citizens to choose a group identity, which they may not want to do;
- it freezes the existing pattern of group identities, which are the cause of the problem in the first place;
- it gives excessive power to the leaders of the groups;
- it discourages citizen participation;
- it is inefficient since, in order to sustain consensus, whatever is given to one group must be given to the others, irrespective of need;
- there are no incentives to pursue common interests above group interests.

The second approach is to divide power *vertically* (territorially) between central and regional governments. This is the basis of *federalism* and *devolution*. Here there are separate governments at the two levels.

Key Features of Federal and Devolved Government

- Separately elected governments at both central and regional levels;
- Division of competences between the two levels;
- Mechanisms for co-operation between the levels on shared interests.

As the brief for this paper was to discuss federalism, this will be the focus of the body of the work. In practice, systems of government in divided societies will often combine consociational and federal elements, as we will see in the discussion of cases.

What are Federalism and Devolution?

Federalism is a constitutional category referring to an entrenched division of competences between two levels of government, neither of which can encroach upon the other. A weaker form of divided government, common in European states, is “devolution”, as has been practised in the United Kingdom since 1990 and recently in Italy. Very similar is the *estado integral* and the *estado de las autonomías* in Spain (in the 1930s and since 1978 respectively). In these cases, lower-tier governments have less extensive powers, bestowed upon them by the central state which can, in principle, take them back. A weaker form again is functional decentralisation or “regionalism”, referring to lower-level governments with a limited range of functions that are also shared with the central government. With this form of decentralisation, regions have an administrative rather than a broad governmental role. This is the case in France and, at least until recently, in Italy. This paper focuses on the first two categories (federalism and strong devolution), which represent a significant division of political power. In practice, the distinction between these two categories is tending to break down since some systems incorporate elements of both – Spain is a good example. Even where the central state is constitutionally dominant and able to take back powers, it may be politically impossible to do so.

Forms of territorial government			
	Federalism	Devolution	Functional decentralisation
Government into upper and lower tiers	yes	yes	yes
Competences of lower units	broad	broad	narrow
Competences of central government	limited	broad	unlimited
Division of powers	Entrenched in Constitution	Subject to ordinary laws	No division of powers

Rather than make any formal distinction, it is more useful to see second-tier governments as more or less strongly entrenched in a range of constitutional, legal and political factors.

These factors have three principal aims:

- To balance power within a Constitution by providing a countervailing force to the central government so as to preserve democracy and enhance liberty;
- To maximise allocative efficiency by locating government functions at the most appropriate scale and to rationalise administration and policy-making;
- To manage nationally diverse and divided societies by giving groups a degree of self-rule while maintaining the overall unity of the state.

A distinction is usually drawn between “classic federalism” or “co-ordinate federalism”, in which each tier is separate and goes its own way, and “co-operative federalism”, where there is a high level of co-ordination and the two levels share power. The United States Constitution was inspired by co-ordinate federalism, which was appropriate in an age of limited government and a constitution dedicated to constraining it further. The German Basic Law, on the other hand, represents co-operative federalism. The main features of each are given below.

Key Features of Co-ordinate Federalism

- Each tier has its own exclusive competences;
- Each tier has its own administration;
- Each tier has its own taxes;
- The need for co-operation is minimised.

Key Features of Co-operative Federalism

- Competences are mostly shared between the tiers;
- The central level passes the basic legislation and the lower-tier governments implement it in most fields;
- Taxes are shared;

- The lower tier is represented in the central legislature;
- There is a strong need for co-operation.

These are ideal-types and in practice most systems are somewhere in-between. In other cases, there is a long list of shared competences, with a premium being placed on co-operation. Some countries have elaborate mechanisms for intergovernmental co-operation, while others rely on informal mechanisms through political parties or politicians. In some cases, lower-level units are represented in a second chamber of the legislature; in others there are understandings about the representation of the group in question in the lower house or in the government.

Over the years, co-ordinate federalism has tended to give way generally to co-operative federalism. The policy challenges of modern government no longer correspond to competences as defined in constitutions, fiscal imbalances arise as the level with the most funds is not always the one with the most needs, and vertical policy communities develop from interest groups and professionals operating at both levels. Thus, the area of shared tasks expands at the expense of exclusive ones. It is possible, however, to ensure lower-tier control of services that are vital to community identity, such as education and culture.

The advantages of federalism and devolution in nationally divided societies are evident. Groups can be given a degree of self-government and issues on which state-level agreement is not possible can be resolved at the lower level. At the same time, there are assurances for the maintenance of common services and of the state itself. There are criticisms, however, some of which echo the criticisms of consociationalism mentioned above.

Criticisms of Federalism in Divided Societies

- It institutionalises divisions and encourages politicians to reinforce boundaries by appealing to their own electorates against the others;
- If the (upper) state level is too weak, the national political community will break up and nobody will speak for the whole rather than the parts;
- Where the federated or devolved units represent distinct nationalities, they will regard themselves as sovereign and self-determining, and their leaders will merely use the institutions as a way of expanding their powers and undermining the state. From this it follows, ironically, that federalism will only work in homogeneous societies (where we might think that it is not needed);
- Since the territory of a federated unit will never correspond perfectly to a nationality group, that federalism or devolution will merely create new discontented minorities within the new units, leading to recurrent challenges and divisions.

Federalism or devolution in itself thus does not represent a definitive solution to conflicts of nationality. It may be a contribution to accommodation, but only in the right conditions and by paying attention to issues of institutional design.

Issues in Federal Design

What is the Problem?

Federalism and other systems of divided government are designed to address a variety of problems in particular contexts. It is therefore important that the design should fit the problem. Systems of divided and shared power are used in two circumstances:

- a) To *disperse* power in an existing centralised state;
- b) To *bring together* formerly separate entities.

In the former case, the design may properly emphasise *centrifugal* effects, dispersing power away from central institutions. Where federalism is aimed at unifying disparate territories, the emphasis will be on *centripetal* effects, bringing more unity and strengthening the centre.

It is also important to bear in mind that the three purposes listed above (balancing power, efficiency, and conflict management) might themselves point in different directions. Any federal system is thus likely to represent a compromise among various aims.

Drawing the Units

An important issue is how the federated or devolved units are drawn. Here there are three rival principles: boundaries may be drawn according to:

- *Historic borders*: This is often the case where previously independent units have come together in a federation, retaining their original identities or traditions.
- *Functional boundaries*:. These are drawn according to considerations of efficiency in the delivery of services. The units may need to be large enough and wealthy enough to sustain their own services, but small enough to respond to local demands.
- *National or ethnic criteria*: Here the aim is to give self-government to the groups making specific demands. A purely ethnic criterion is never possible, since ethnicity is often fluid; ethnic groups are not always concentrated territorially and demographics are constantly changing. Any ethnic homeland is likely to contain members of other groups living within it, while some members of the titular group live outside it.

In practice, given these competing criteria, any drawing of borders will always be a compromise. Even the most carefully drawn ethnic boundaries will often give the titular group a majority within its own territory, but will require guarantees for members of the group outside the territory and of other groups within it.

It has long been apparent therefore that purely territorial divisions of power cannot resolve conflicts of nationality as long as borders are seen as rigid and impenetrable. Modern understandings of borders and territory, however, emphasise the openness of any territorial division and the way in which different social systems may have different borders. Borders of federal units can thus give a group sufficient security in its majority status, without all social systems being confined within these borders. There may be a cultural outreach beyond the borders and encouragement for cross-border activities. So the political, economic, social and cultural units do not always precisely coincide. On the other hand, where group boundaries coincide and have a strong territorial basis, there may be a tendency to isolationism.

Changing units and borders, once they are established, is extremely difficult. In some cases this is because of constitutional protection or the need to gain the consent of the units involved but, even where this does not exist, units become the power base of politicians and other actors and gain a measure of institutional protection¹. There is thus always a danger of locking in a range of interests and identities that, over time, cease to correspond to actual political divisions. Boundaries intended to safeguard the interests of ethnic groups may serve to perpetuate and reinforce group identities rather than attenuating them.

Symmetry or Asymmetry

A second question is whether the system should be symmetrical or asymmetrical. Asymmetrical arrangements, where the regional units have different institutions and powers, are common in multinational states, where demands vary from one place to another. It is often argued that asymmetrical federations are inherently unstable, especially when based on distinct ethnic or cultural groups, since other regions will

1 This has happened even in France, where regions have only administrative powers, which can in theory be changed unilaterally by the state and were not recognised in the Constitution until 2004.

have a permanent incentive to catch up on the group with the most autonomy, while the latter will always be trying to stay ahead. Against this, others have argued that it is the refusal of the state to make a clear distinction between those units based on historic nationalities and the rest that leads to this permanent competition for more decentralisation. Asymmetry is also defended as a means of giving autonomy to the groups who want it, without forcing on the rest of the state a decentralisation that they do not want. Governments have often favoured asymmetrical devolution solutions since they retain full powers in the rest of the state.

Division of Powers

Some federations or devolved systems specify the powers handed to the lower tier, with everything else (the residual powers) reserved to the state; others do it the other way around. The former is usually seen as more centralising, although the evolution of federations in practice may belie this. Australia was designed as a rather decentralised federation with the residual powers at the lower level, but has become centralised over time. Canada is exactly the opposite. Federalist theory sometimes distinguishes four types of competences:

- *Redistributive* services are those that take resources from one group to give them to another. Many observers argue that these services should be located at the central level so as to assure distributive justice and efficiency (discouraging “welfare migration”). Support for such redistributive services may be stronger where there is a sense of national social solidarity based on common identity. Yet they may also, over time, be able to create such a sense of shared national identity.
- *Allocative* services are those provided according to need and to citizen demand. These services can, in federal theory, be located at the sub-state level where communities can decide how much to provide.
- *Market-regulating* competences are those that secure single markets and competition. It is often held that these competences should be located at the state level to avoid economic distortions, thus maintaining a “level playing-field”. Nowadays much of this market regulation is done by the European Union.
- *Promotion* of economic development, an increasingly important task, is now seen as appropriate for the lower level.

These theoretical considerations give us some guide to the right distribution of competences, but in practice any given task of government is likely to include elements of all four. In the real world, the distribution of competences is a product of political factors, history and sometimes pure chance. The above list refers only to domestic policies, since it is traditionally assumed that foreign and security policy is a monopoly of the central government, although in recent years even this assumption has come into question.

If we can generalise, functions reserved to the centre typically include defence and foreign affairs, economic stabilisation, monetary policy, the maintenance of national markets, and in many cases cash welfare benefits. Devolved functions usually include education and culture, personal social services, health, planning and policing.

Divisions of competences at the outset are often rendered irrelevant by later developments. The rise of the welfare state in the 20th century introduced tasks that governments had not faced before and which challenged the old divisions of power. More recent trends in economic policy have seen a migration of powers to the regional level. In foreign policy, while the monopoly of states is not being challenged directly, there are parallel initiatives in paradiplomacy, with regions seeking a foreign presence for political, economic and cultural reasons. What is perhaps more important is not the exact division of powers but that each tier should have its own defined powers and thus something on which to bargain in intergovernmental negotiations. At the same time, the central state needs the powers to secure its basic

responsibilities. There are often override powers, allowing the centre to intervene in devolved matters to secure national goals, but these are rarely used. Indeed, the Canadian Supreme Court has ruled that, since the federal disallowance power of provincial laws has not been used for such a long time, it has lapsed.

Many of the classic state functions – such as monetary policy, market-building and even defence and security – are now handled at the European level. To the extent that this happens and the need for a strong central state is lessened and looser, more asymmetrical forms become possible.

Intergovernmental Co-operation

However much effort is put into specifying the competences of each level, a large shared area will remain. There is thus a need for co-operation; and as noted above there was a tendency during the 20th century towards co-operative federalism. In some cases, a second chamber represents the constituent units, although in few cases does it really work as a chamber of the regions or nationalities rather than just another actor in national politics. The German *Bundesrat* is an exception, representing as it does the governments of the *Länder*.

More important are mechanisms for co-operation between the executive branches at each level. There are usually intergovernmental committees or conferences, bringing together the heads of government or, more frequently, sectoral ministers. There may also be policy frameworks allowing co-operation on specific tasks. In most cases, there is a dense network of informal arrangements, often through the political parties, for the negotiation and resolution of difficult issues.

Co-operation may be vertical – between the centre and the constituent units – or horizontal – among the units themselves. There is a tendency towards co-ordination, even among the lower units, which can lead to centralisation as the federation takes on the responsibility. Recently, however, there has been more discussion on how horizontal co-operation might be managed without going through the centre.

In some systems, the devolved or federated units have complete control over the local or municipal level, which thus has no regular contact with the state. This reinforces the role of the federal units and prevents them from being undermined by localities appealing to the centre. On the other hand, it raises the danger of a recentralisation at the unit level and may encroach upon the autonomy of local minorities and communities.

Most systems have legal provisions for the resolution of conflicts among tiers of government, but the extent to which these are used varies greatly. Generally, politicians will avoid legal challenges if they can resolve issues politically. This has the advantage of avoiding polarization and maintaining dialogue. The disadvantage is that it may also lead to the retreat of decision-making into dark rooms and prevent the emergence of clear case law.

Any federal or devolved system will contain a complex variety of mechanisms, providing multiple incentives to politicians and other actors. This may set up a centrifugal or a centripetal dynamic. In practice, centrifugal and centripetal incentives nearly always co-exist, and at all levels of the system.

In order to negotiate, levels of government must be given powers and resources and an ability to withhold consent; otherwise co-operation degenerates into dictation by one side. The risk, however, is that these powers come to constitute a plethora of veto points across the system, impeding co-operation and common working and complicating decision-making. This is partly a matter of culture and of political conditions underpinning the willingness to co-operate. Where this is present, even poorly designed institutions or those containing apparent contradictions can work. Where the will is lacking, detailed incentives may be needed. It is important, therefore, to be aware of these incentives at both micro and macro levels and of the dynamic processes they can provoke. This involves detailed attention to some issues of institutional design and an awareness of the behavioural aspects of institutionalism.

Federal Culture

It is tempting to attribute successes or failures in institutions to ingrained cultural attitudes and practices of societies. Indeed, at one time differences among countries could be explained by “political culture”. Nowadays this term is out of fashion, since it appears reductionist, often relies on stereotypes and implies that societies are unchanging or unreformable. We have examples of societies that were locked in conflict moving to co-operation rather rapidly, and of the reverse. Nevertheless, there are historical and societal factors that condition the working of institutions and which cannot be ignored. There may be a strong sense of overarching national identity such that a country can incorporate a high degree of decentralisation without being in danger of collapse. In some divided societies, political practices have grown up over time to provide for shared “rules of the game”. Here there is agreement that for any side to push its advantage so far would endanger the system to the point of becoming self-defeating (Switzerland). In other cases there is such a lack of trust that even when all sides have agreed on a set of institutions, they cannot bring themselves to work them (Northern Ireland).

An important influence on federal culture and practice is the political parties, whether they cross community boundaries and whether they link the different levels. Some scholars put great emphasis on electoral systems and rules to provide incentives for parties and voters to cross the lines or create common interests.

The media also have a role to play in determining the relative importance of federal and federated political arenas. If politics is contained within the local arena and all issues appraised in relation to it, then national political life becomes difficult and politicians lose the incentive to appeal to national symbols and constituencies.

Fiscal Autonomy and Equalisation

It is generally considered that a) a federal system should provide a degree of fiscal autonomy to the constituent units so that they can make their own policies and take responsibility for them; and b) at the same time there should be a system of revenue-sharing (fiscal equalisation) so that poorer regions have the resources to make the same policy choices as richer ones. Fiscal equalisation is also an expression of national solidarity.

Revenue-sharing and other forms of territorial redistribution have economic, social and political aims.

- *Economic* – to enhance allocative efficiency by extending markets and improving the economic capacity of lagging regions;
- *Social* – as a territorial dimension of social and national solidarity;
- *Political* – to sustain support for the nation-state in regions where it may be in question.

These three criteria may not always point in the same direction. Economic rationality may not point to helping the poorer regions but rather those with the most potential. Political incentives may lead to favouring potentially secessionist regions rather than the most needy.

Equalisation takes three forms:

- *Resource* equalisation takes into account the different wealth of the units and transfers resources accordingly, so that all units are able to provide the same level of services if they so choose;
- *Needs* equalisation takes into account the greater need of some areas, for example health conditions or demographic factors;
- *Cost* equalisation recognises the greater cost of providing services in some areas, for example because of remoteness or sparsity of population.

Sometimes needs and costs are bundled together as a single criterion.

While a great deal of very sophisticated work is being done on fiscal equalisation, it is never entirely objective since the criteria are a matter of judgement and political choice. So giving weight to the number of children will benefit one area, while emphasising sparsity of population will benefit another. If minority language education is regarded as stemming from an objective fact, e.g. the presence of the group in question, it might be regarded as a need; alternatively, it might be regarded as an autonomous policy choice of the political unit, in which case it will not be eligible for extra support. Generally, fiscal equalisation is “vertical”, i.e. it involves transfers from the upper level, paid for by statewide taxes, to the lower level. In some cases, however, there is “horizontal equalisation” in the form of revenue-sharing among the lower-tier units themselves.

Federal theory suggests that the aim should be “fiscal equivalence”, i.e. that policy decisions taken at each level should be matched to fiscal implications. If one level wants to raise its spending by a given amount, it should make an equivalent “fiscal effort”². Few federations have been able to get this balance right. States are reluctant to lose control by devolving taxes; lower tier units, while in theory in favour of fiscal autonomy, often rather prefer the other level to do the painful work of raising taxes while they get the credit for spending. A lack of fiscal equivalence may produce perverse incentives to overspend or underspend, compared with what citizens would want if they were faced with the straight choice between more taxes and services or reduced taxation and services.

The general tendency is for systems to start off with the predominant financial power at the centre but for taxes gradually to be devolved as the centre realises that it is in its interests to make the lower-tier units share the responsibility, thus restoring a measure of fiscal equivalence.

Transfers from the central to the lower level can be:

- *conditional*, i.e. tied to specific services and subject to central rules about standards and coverage;
- *unconditional*, i.e. awarded as a block, with the lower-tier governments free to determine their own priorities.

Central governments initially tend to prefer conditional grants, tied to specific policies and allowing them to control the lower-tier governments. Conditional grants, however, lead to misallocation, as units are led to pursue policies that might not be appropriate to their own circumstances, and conditional grants to one unit have to be extended to all, irrespective of their needs. Conditional grants are also complicated to administer and expose federal governments to lobbying by regional governments and interest groups. The federal governments then start to move towards consolidated or block grants as a simpler and more effective means of fiscal control.

Individual and Collective Rights

Federalism and devolution create the possibility of different citizens’ rights from one part of the state to another. Most federal systems balance decentralisation with a charter of rights that is binding on all levels. The European Charter of Human Rights and Fundamental Freedoms plays the same role. The critical matter here is how the charter is interpreted and the extent to which it intrudes on delicate nationality and cultural matters. European jurisprudence, compared with American, has tended to be rather sensitive to cultural differences. Minority rights’ regimes (see below) may also affect the federal balance of power.

2 This does not necessarily mean raising all of the taxes needed, since poor jurisdictions will require a greater fiscal effort to raise a given amount than will rich jurisdictions.

External Guarantees

In some cases, minorities within states are in danger of being marginalised even with federal arrangements, where other groups are larger or can use the central state to encroach on the powers of devolved groups. Some devolution settlements are entrenched in treaties with the neighbouring kin state of the minority in question. This is a stabilising factor, securing the minority while assuring the host state that its neighbours will not use devolution to advance irredentist claims.

European Integration and Federalism

The effects of European integration on federal and devolved systems of government have been profound. The economic effects are described below (section on “Trends in Federalism and Devolution”). Here we look at the political ones. The first was a recentralisation as matters of regional competence were transferred to Europe. Since states tended to view European policy as a matter of foreign affairs, these competences were brought into the reserved domain of the centre. National governments could negotiate and settle, in the Council of Ministers, matters which at home were the responsibility of the regions. Power also seeped up to the Commission in its role of elaborating and proposing policies and of policing Community legislation, much of which was applied at the regional level. An initial reaction was some suspicion at regional level of the European project, followed in the 1980s by a serious attempt to obtain access to Community decision-making for the regions. This culminated in the Maastricht Treaty (on the European Union), which produced three key concessions, giving symbolic recognition and enhancing the role of the regions in decision-making.

Maastricht Treaty and the Role of Regions

- The principle of subsidiarity was officially incorporated into the treaties. According to this principle, decisions should be taken at the lowest level possible, although the application of subsidiarity to regions was not defined at this point.
- States were given the opportunity to be represented in the Council of Ministers by regional ministers whenever matters of regional competence were at stake. This has subsequently been applied in Germany, Belgium, Austria and the United Kingdom and is now being introduced in Spain. The modalities are different in each country. In Germany, the *Länder* agree a common position through the *Bundesrat*, and one of them then speaks on behalf of the whole. In Belgium, the relevant units (regions or language communities) must reach unanimous agreement. In the United Kingdom, Scottish and Welsh ministers attend the Council at the invitation of the central government. In all cases there is provision for joint delegations where a mix of central and devolved competences is at stake.
- A Committee of the Regions (CoR) was established as an advisory body whose rights of consultation (by the Commission, the Council of Ministers and the European Parliament) have progressively been extended. In practice CoR has been weakened by its lack of powers and the fact that it must represent such a wide diversity of interests and units, including municipalities, regions, federated units and stateless nations.

Federated and devolved units have also been affected by European policies, notably the progressive extension since the 1980s of the Union’s regional policies, through the Structural Funds. Much writing has exaggerated the political effects of the Structural Funds, which are mostly handled via the Member State governments, but they have been influential in diffusing new thinking about regional development. They have also given the Commission some influence in designing the mechanisms for their implementation. During the 1980s and 1990s the Commission’s preference was for local and regional implementation, giving some encouragement to regional devolution (again the point should not be exaggerated). Since

2000, however, the Commission has insisted on a centralised management of the Structural Funds in New Member States, thus acting as a force for recentralisation.

European integration has stimulated the growth of local and regional lobbies and organisations. Many regions have offices in Brussels to lobby EU institutions, and there is a range of pan-European organisations whose strength and relative importance fluctuate over time. The Assembly of European Regions was an important body that has been rather eclipsed by the CoR. Within the latter, a group of stronger regions emerged, focused on the constitutional treaty and calling themselves the Regions with Legislative Powers (RegLeg). They argued for a special status in the new treaty in recognition of their responsibility in the transmission of European directives and application of European policies. Neither the CoR nor the Convention, however, was prepared to allow this formal asymmetry. The Conference of Peripheral Maritime Regions is an older body which has retained its role. Other groupings represent regions with particular sectoral interests. There are also more limited inter-regional partnerships.

The Commission has long promoted cross-border co-operation at local and regional levels, most recently through the INTERREG programme. Experience has varied. Perhaps the greatest contribution to cross-border co-operation is the fact that, in the Europe of the 15, all borders were settled by the end of the 1990s. This lack of contestation permitted borders to be penetrated and transcended without raising fears of secessionism or irredentism in places like South Tyrol or Northern Ireland. With state borders fixed on the map and legally guaranteed, boundaries can become more fluid and can have different extensions, whether they refer to culture, economy or social life. In border regions, open and multiple identities may be negotiated in daily life without threatening political order. INTERREG programmes themselves have worked best where there is a complementarity of assets on either side of the border so that joint work can benefit both sides. They have proved more difficult where regions and localities on either side of the border regard themselves as competitors for economic development, including the location of large assets, such as airports, or the attraction of inward investment. National governments have often been cautious, requiring complicated and bureaucratic procedures and the application of national norms. The commitment of regional politicians is often short-term, since few votes are obtained by co-operating with the other side. Despite these difficulties, cross-border co-operation is a valuable mechanism for reducing conflict in historically contested areas.

European integration has also affected the politics of national minorities and stateless nations. We can distinguish two different reactions.

- a) For some nationality movements, Europe has lowered the threshold for secession, as nationalist parties can argue that the cost and pain will be reduced and that the state is no longer necessary to look after common goods, such as defence and monetary policy, or to handle externalities, such as inter-regional competition, since Europe is doing this. This, for example, is the position of the Scottish National Party (with its slogan of “Independence in Europe”) and of some Basque nationalists.
- b) More commonly and more interestingly, European integration has allowed some movements to abandon traditional ideas of independence and sovereignty altogether in favour of a “post-sovereignty” stance. This stance recognises that, in an integrated Europe, the old language of statehood is no longer relevant and that sovereignty is necessarily divided and shared. If it can be divided between Europe and the states, then logically it can be further divided between the state and its component units. Stateless national movements have thus embraced Europe not as something that threatens their sovereignty but as something that enlarges their scope to become significant actors in a multi-level system. They have joined forces with the stronger regions to promote the idea of a third level of government in the new Europe, which would recognise cultural and national diversity and not just inter-state differences. Some of these movements are able to draw on strong historical traditions of limited and shared sovereignty as assets in the new order. The European Free Alliance, of regionalist and nationalist parties, is strongly committed to this thinking, which has been taken up in different ways across the Europe of 25.

Option (b) holds great hope for stabilisation in Europe and for the management of nationality issues within a shared framework. There is much evidence that the prospect of working in a pluralistic Europe, in which the state framework is less dominant, has served to tame nationalism and reduce secessionist and irredentist demands. It should be added, however, that the experience of the Convention on the Future of Europe and of the draft constitutional treaty have proved to be disillusioning for these movements, since these documents made very little provision for regions and stateless nations, focusing instead on the division of powers between the Union and its Member States.

There has also been a European impact on the broader issue of national minorities and minority rights. The Council of Europe has two main instruments:

- The Framework Convention for the Protection of National Minorities provides an instrument by which governments can undertake measures of minority protection. It is flexible, making no attempt itself to define minorities and working by moral pressure rather than dictation. A weakness is that national governments are able to designate their own minorities, allowing some to undermine the spirit of the Convention while respecting the letter of its provisions.
- The Charter on Regional and Minority Languages seeks to protect lesser used and minority languages. Again, it is voluntary in scope and neither France nor Belgium has been able to ratify it — France because of an unwillingness to recognise minorities and Belgium because of fears that it would be used by the Francophone minority in Flanders to assert their rights, thus upsetting the federal settlement.

The European Union took up some of these ideas in the process of enlargement to Central and Eastern Europe, seeing a resolution of minority questions as a condition for stability, but has proceeded with great caution. Its policy has been characterised by the following:

- An emphasis on the rights of *individuals* belonging to national minorities rather than on the collective rights of minority groups;
- An avoidance of issues of *internal government* in Member States;
- A particular reluctance to endorse *territorial autonomy* as a solution to nationality conflicts;
- A tendency to confine minority rights' issues to *Central and Eastern Europe*. These rights were part of the Copenhagen Criteria for EU membership at the time of eastern enlargement. When the Criteria were incorporated into the *acquis de l'Union* (the body of law applicable to all members), the only one missing was the clause on minority protection. The implication is clear. The EU was prepared to insist that candidate countries respect the rights of minorities, but the existing Member States were unwilling to impose a similar duty on themselves.

Trends in Federalism and Devolution

It is difficult to generalise about experiences in federalism and devolution, since each country has its own story, but some European and international trends are apparent. During the 1960s and 1970s there were pressures to ensure uniformity and centralisation, to the point that some observers saw federalism disappearing altogether. Others went less far, merely noting that the old model of co-ordinate federalism was giving way to co-operative federalism, in which the roles of the two levels were ever less distinct. Three principal factors led to increased centralisation:

- a) *Keynesian economic management*. This gave central governments a larger role in taxation and spending. The spatial extension of Keynesianism was a set of regional policies intended to integrate regions into national markets and equalise economic conditions. The instruments were direction of industry, fiscal incentives and grants, and infrastructure development and planning – all managed at the central level. Such regional policies simultaneously served *economic, social and political* goals:

- Economically, they maximised factor use by mobilising idle assets, including labour, in the needy regions. Wealthy regions accepted resource transfers to poorer ones since these relieved congestion and inflationary pressures for them, and the funds often came back in orders for their goods.
 - Socially, they represented a commitment to equality of chances across the state.
 - Politically, they secured support for the state from peripheral regions which otherwise might be alienated and even harbour secessionist tendencies.
- b) *Expansion of the welfare state*, with its commitment to equal entitlement underpinned by national solidarity and common social citizenship. There was less tolerance of differences in welfare standards and a demand for steady expansion of services. The fiscal predominance of the upper level allowed it great leverage in getting lower tiers to co-operate.
- c) *Cultural homogeneity*. There was evidence of national (state-level) cultures becoming more homogeneous, and it was widely believed that differences of identity within states were fading away. This in turn was attributable to secularisation, modernisation (with traditional divisions giving way to those based on industrial society), and migration and mixing of populations.

Since the 1980s these trends have, to some degree, been reversed:

- a) Globalisation and European integration are undermining the ability of states to manage their spatial economies. Direction of investment is impractical when investors can go abroad. Incentives are having a diminishing effect and are tightly regulated by European rules. The conditions under which regional policy provided a win for everyone (wealthy regions, poor regions and the state) no longer prevail. Regional development thinking has moved from a paradigm in which regions are presented as complementary elements in a national development programme to one in which they are seen as competitors in European and global markets. Systems of fiscal equalisation have come under strain as wealthy regions complain that transfers are impeding their efforts to compete internationally, as in an open trading order the transfers do not automatically come back to them.
- b) Welfare states have come under strain as wealthy regions are less prepared to subsidise poorer ones. National solidarity has weakened. States have sought to rationalise and limit spending by handing decisions down to lower levels.
- c) There has also been some reversal of trends toward national homogeneity. This is a complex issue. It appears from surveys³ that European societies are becoming more similar in their basic values within and between states. Yet identities are often diverging as local and regional societies adapt differentially to economic and social change. Identities that appeared to be retreating to the cultural sphere have been repoliticised and are being used to mobilise people around issues of economic development, social welfare and global change.

All of these recent trends are leading to a weakening of territorial solidarity across European states.

In these circumstances, the incentives for co-operation have been weakened and co-operative federalism has given way to *competitive* federalism, in which regions compete against each other in the global market rather than co-operating within a national framework.

Key Features of Competitive Federalism

- Economic development is seen as competitive rather than co-operative;
- Regions compete to attract investment, technology and skilled people;

3 Notably the European Values Survey.

- Systems of revenue-sharing and fiscal equalisation are under pressure as rich regions seek to keep their own funds;
- Regions seek allies in other countries;
- Regions promote distinct policies and break with those of the centre.

Such competitive federalism may be constructive if it involves regions developing their own policies, which may then be taken up by others, or competing to demonstrate to their citizens that they are providing a high level of welfare. It can be destructive when it involves regions seeking to attract investment by cutting taxes and social programmes in a process known as the “race to the bottom”. It is also centrifugal, weakening the centre and promoting disintegration.

Governments have responded with institutional change in diverse ways (see below) but with a tendency towards decentralisation. A notable feature has been the rise of an intermediate or “meso” level of government between the centre and the municipal level. Governments have found this to be an appropriate level for a range of functions, including economic development, planning and labour market policies. Sometimes this has produced a mere functional decentralisation. In other cases these spaces correspond to strong identities or have given rise to strong institutions, and in that event they have become politically significant.

A series of region-building processes has therefore been seen across Europe, combining economic, cultural, political and institutional elements in diverse ways. This has become known as the new regionalism. It has weakened nation-states and promoted centrifugal tendencies. At the same time, it has also lessened secessionist pressures, as political leaders in sub-state territories can see new ways of projecting their own group interests in the economic, political and cultural domains without having to set up their own nation-state.

Key Elements of the New Regionalism

- Regions become more important economic units;
- Regional identity strengthens;
- Regional institutions are established;
- Regions seek their own place in the international division of labour;
- New development coalitions of public and private actors emerge at the regional level;
- Inter-regional co-operation increases at international and European levels.

In federal systems there have been efforts to disentangle the responsibilities of the two levels in the interest of transparency, accountability and efficiency. This has applied to both functions and fiscal powers, with a search for clarity and more fiscal equivalence. In practice, disentanglement has proved very difficult, since no fixed division of responsibilities can accommodate the changing nature of policy issues and social problems.

These general trends have impacted differently on different states, according to local conditions. Some federations have demonstrated centripetal and others centrifugal tendencies, depending on the dynamics of their institutions, political factors and the impact of external forces on domestic politics.

European Experiences

As noted above, a strict distinction between federalism and devolution would not be helpful here. Taking both together, the main cases in the Europe of 15 are Belgium, Germany and Switzerland (officially federations); Spain (strong devolution); and the United Kingdom and Italy, which have strong devolution

for special status regions. The following sections review the experiences of these cases in reference to the issues outlined above.

Belgium

Belgium has faced two related issues: a language conflict between Dutch and French speakers, and a regional economic conflict between the territories of Flanders and Wallonia. Historically there was a practice of consociationalism, in which the language groups shared power at the centre. This has evolved over the years into a federal system, which attempts to address both the language and the regional economic conflicts, but strong elements of consociationalism remain.

There are three territorial regions – Flanders, Wallonia and Brussels – and three language communities – the Flemish (Dutch), French and German. It is sometimes believed that the language communities represent a non-territorial form of autonomy but with rigid territorial boundaries, except in Brussels, where both Dutch and French operate. Indeed, there have been strong tendencies to territorialisation in the system, thus undermining the rather artificial distinction between regional and community matters. In Flanders the institutions have merged, and many of the French community services are delivered through the Walloon and Brussels regions. Borders are rigidly drawn and are not changeable, with the relevant populations having to adapt to unilingualism, except in Brussels. There is therefore weak protection for minorities, i.e. members of one group resident in the territory of another. The table below shows the complex overlapping of community and regional boundaries.

The Belgian Federation			
Communities	German	French	Flemish
Regions	Wallonia	Brussels	Flanders
Regional population (in millions)	3.3	1.0	5.8
Regional GDP per capita (PPS), EU25=100	84.6	237.1	115.4

The system is in principle symmetrical although in practice it is not, since the unified Flemish Government is quite different from the division between region and community in Wallonia. Brussels is governed by a complex arrangement, in which both language communities operate, with the city sending a representative on language matters to the Flemish Government and Parliament.

In principle, the Belgian Constitution divides powers exhaustively, with few shared competences. This is intended to minimise the need for co-operation and joint policy-making and therefore for conflict. In principle, the Constitution aims to limit the federal government to defined competences, with residual powers going to the communities and regions. This is less easy than in other systems, since it is necessary in each case to determine whether it is the community or the region. So in practice powers are distributed by attribution. As mentioned above, a rigid division is impossible in modern government and a great deal of co-operation is necessary. Powers reserved for the centre include key state-building matters, such as law and order and justice. Social security is reserved because of pressure from trade unions, considerations of national solidarity, and the insistence of Wallonia, although there are strong pressures in Flanders to transfer it downwards.

In addition to its Federal Constitution (since 1993), Belgium has retained a consociational tradition, with requirements for language parity in the federal government and separate language electoral lists in Brussels and for state elections. Regional representation is provided for in the second chamber, which has a strong role in relation to community and regional matters.

The party system has gradually divided on language lines, so that there are now no Belgian parties and no institutional incentives to establish them; indeed, the incentives are all the other way. Even in Brussels, voters must choose either Flemish or francophone lists. Separate media further separate the two regional/linguistic political spheres and empty the federal one. This leads politicians to compete in defending their own group against the other one, and issues quickly become polarised along these lines. Surveys have repeatedly shown that most Belgian electors identify with the country as a whole and that the move to decentralise is not coming spontaneously from the bottom but follows an institutional logic. Far from increasing the power of the electorate, this enhances the autonomy of the political class. It is not uncommon for politicians elected at one level to take office at the other one, this being a matter of convenience for the parties. National governments are formed after complex negotiations among the parties, divided as these are by ideology and by language. This further estranges national politics from the electorate, which has only a rather distant control over the whole process. Federal culture is therefore weakened. There are incentives for politicians to co-operate on detailed matters, facilitated by the consociational tradition, but this often takes the form of inter-party deals beyond democratic scrutiny.

One objective of federalisation was to separate the levels of spending, as the previous system – in which spending in one region always had to be matched in the other – was highly inflationary and inefficient. This separation has been achieved on the spending side, giving governments the possibility of adopting their own priorities, but fiscal equivalence has not been achieved. The fiscal settlement is very complex. A share of income tax is assigned to the regions and communities, with the former but not the latter having a small power to change rates. Smaller taxes are assigned to regions and communities, without powers to change the rate. There is an equalisation formula, and a large measure of redistribution is achieved through the national social security system. As this moves funds from Flanders to Wallonia, the Flemish parties have argued that it should be divided and devolved.

The European Convention for the Protection of Human Rights has been invoked in Belgium by francophones in Flanders, demanding French-language services in contravention of Belgian law. Belgium has not ratified the European Framework Convention on the Protection of National Minorities as it too could be used by the francophones of Flanders. This is consistent with the principle of not recognising minorities, just local majorities.

Belgian federalism has been strongly influenced by European integration. On the one hand, the common European framework has facilitated the devolution of power to the communities and regions and reduced the need for a statewide framework. On the other hand, the need to agree a common line in European negotiations (in the absence of which Belgium has to abstain in the Council of Ministers) is a force for cohesion. This further complicates matters and makes the system less comprehensible to the citizen.

Belgium's federal reform was adopted over time as a means of keeping the country together by allowing the two language communities to manage their own affairs separately. It has served to defuse language conflict, which reached a peak in the 1960s. There is also some evidence of efficiency gains by removing the necessity to match items in one part of the country with the same in the other, irrespective of need. It has also resulted in the modernisation of the administration, first in Flanders and later in Wallonia.

Yet the process has gone well ahead of public opinion in creating two separate political arenas and undermining common statehood. It contains powerful centrifugal elements and incentives, notably the confrontation between just two language communities, the self-containment of the Flemish region and community, the separation of the parties, and the institutional pressure to pull powers down from the centre. The logic of the system, notably the weakness of the federal arena, means that there is a tendency for issues – even those that have no initial linguistic or regional dimension – to become framed as a

conflict between the communities. These are offset by weaker centripetal forces, which include the need to share the city of Brussels, the monarchy, and the need to speak with a single voice in the European Council of Ministers⁴. The system is complex and obscure for the citizen and has increased rather than reduced political cynicism.

Spain

Spain is a nationally asymmetrical country, with three “historic nations” (Catalonia, the Basque Country and Galicia) with their own identity and nationalist movements. Most people in these three territories have dual identities, although some identify only with the local level and a smaller number just with Spain. The rest of Spain does not have a distinct identity or name, and the people in those regions identify only with Spain (which includes the three historic nations). The 1978 Constitution was intended to resolve this issue by allowing the historic nationalities to have self-government and extending the principle to any other region that wanted it. Different procedures were established for the three historic nations and for the rest, although in principle all could eventually attain the same level of autonomy. To the surprise of some, autonomy movements quickly spread to the whole of Spain, and 17 autonomous governments were set up; the three historic nations all used the fast-track procedure, as did Andalucia.

There are continuing asymmetries in the rate in which the autonomous communities gain powers and a continual competition between the ordinary regions, which want to catch up, and the historic nations, which want to stay ahead and sustain their *hecho diferencial*. This has produced a centrifugal dynamic, with rounds of reform in the 1990s and again at the present time. The Constitution responds inadequately to the claims of the historic nationalities by proclaiming the indivisible unity of Spain and the “regions and nationalities” that comprise it. While “nationalities” was a clear reference to the historic three, some other regions were able to change their statutes in the 1990s so as to declare that they too were nationalities. While the Spanish-level parties welcomed this as a dilution of the term, the Catalans have now insisted on being recognised as a “nation”, which is one step up. There is continuing conflict in the Basque country, where even moderate nationalists claim that the 1978 Constitution is not legitimate since it does not recognise their historic rights as original and prior to it⁵. Even the definition of the Basque country is in dispute, with nationalists claiming the three provinces that constitute the autonomous community, in addition to Navarre and the three provinces in France. There is also a violent element, operating through both terrorism and politics, and a continued debate on whether and how to bring them into the democratic process.

Recent efforts by the Basque Government (led by the moderate nationalists) to establish a new relationship of semi-independence with Spain have been rejected by the Spanish parties as unconstitutional and therefore non-negotiable. Catalonia, by contrast, has sought to expand its autonomy by consensus among the parties (except for the conservative Popular Party) and proceeding within the framework of the Constitution. The Popular Party and a large section of the Socialist Party reject asymmetry or recognition of the nationalities, while the Prime Minister José Luís Rodríguez Zapatero has accepted the idea of a “plurinational” state. At this time, it is still unclear how much symbolic and practical asymmetry the Spanish political class is prepared to concede.

The division of powers in Spain is rather confusing. There is a list of powers reserved to the state, a list of powers to be devolved under individual statutes, and a list of powers that can be devolved. This means that the centre retains the residual powers, although there is a constant argument as to what these constitute. In

4 The Flemish Government has proposed dividing the Belgian vote in the Council, but this is contrary to European law.

5 The Basque Nationalist Party recommended abstention in the constitutional referendum, and as a result this was the only part of Spain in which the referendum did not gain the support of the absolute majority of the electorate.

practice there is a large overlap since even in devolved fields the state can pass “framework laws” laying down the general principles of policy within which the regions could make their own policies. Central governments, especially that of the Popular Party under José María Aznar, have been accused of abusing this power to recentralise.

There are formal mechanisms for co-operation through sectoral conferences but, apart from European affairs, these meetings do not appear to have been very influential. Instead, deals are brokered through the political parties. Spain is unusual in having both strong regional parties (especially in the three historic nationalities) and strong statewide ones. This allows for an articulation of both regional and Spanish interests and has tied territorial politics to the national political system. Where the same party is in power at both levels, internal party channels are important. In those regions controlled by local parties, relations with the centre will depend on whether the local and statewide parties need each other for coalitions or parliamentary majorities at the two levels. Where they do, there is a considerable amount of deal-making. Where they do not, the parties have often resorted to having the Constitutional Court settle issues. Relationships were particularly conflictual in the 1980s and in the late 1990s but, these periods aside, Spain has been able to develop a federal culture encompassing most of the political class, with centre-periphery tensions persisting, but in manageable form. Autonomous communities do not control the system of municipal government, which has guarantees from the centre. This has allowed the provinces, which in many regions constitute a superfluous level, to survive and cities to retain links to the centre.

There are two distinct fiscal systems. The Basque country and Navarre, for historic reasons, have their own fiscal regimes (the *concierto económico*), which allow them to raise their own taxes and negotiate a transfer to Madrid to pay for common services. This is a source of tension, but agreement has always been reached. It causes some resentment in other regions, since the Basque country and Navarre are not contributing to fiscal equalisation, despite being among the wealthiest regions. Other regions have been given progressively more autonomy and can now take over 30% of the income tax, with permission to alter the rates and exemptions within certain limits. Catalonia and other wealthy regions have pressed for more fiscal autonomy and transparency, while the poorer regions have resisted, since hidden transfers are easier to defend politically. There is a system of fiscal equalisation, which again is under pressure from Catalonia, which has asked for its own fiscal regime.

Spanish Autonomous Communities					
	Population (in millions)	Historic nationality	GDP per capita (PPS) EU25=100	Accelerated autonomy	<i>Concierto económico</i>
Catalonia	6.0	X	110.9	X	
Basque country	2.2	X	115.2	X	X
Galicia	2.8	X	73.6	X	
Navarre	0.6		117.1	X	X
Andalucia	6.4		69.3	X	
Cantabria	0.5		89.7		
La Rioja	0.3		105.8		
Aragon	1.2		99.0		
Castile and Leon	2.5		85.8		
Castile La Mancha	1.7		74.8		
Extremadura	1.1		60.0		
Madrid	4.7		124.7		
Valencia	3.7		89.0		
Murcia	1.0		79.4		
Balearic Islands	0.7		116.0		
Canaries	1.4		88.0		
Asturias	1.1		79.3		

Europe has had a large influence on the Spanish system. Moderate nationalists in the Basque country and in Catalonia are strongly pro-European, seeing Europe as a realm in which they can project their national identities and develop a post-sovereignist discourse. The overall Spanish consensus on Europe facilitates this, enabling the Basques and Catalans to emphasise the common enterprise. The evolution of Europe permits them to defer questions about their ultimate aspirations. On the other hand, until now Spanish governments have been unwilling to allow the autonomous communities a presence in the Council of Ministers and, even now that they have, it is not clear that this will satisfy the aspirations of Basque and Catalan nationalists, who feel that they will be reduced to just two of 17 regions. The Convention on the Future of Europe and the draft Constitution showed the gap between the rhetoric of the Basques and Catalans and the reality of a Europe of the states.

Human rights legislation within the Spanish Constitution and at the European level has been used, as in Belgium, by minorities within the national autonomous communities as a basis for insisting on their rights to use Spanish. This has been a more prominent issue in Catalonia, where the policy has been to promote the Catalan language as the normal language of education and to ensure that everyone speaks it. In the Basque country, legislation is more permissive, given the smaller numbers who already command the local language and the great difficulty in learning it. These lawsuits have made little progress, since the courts have generally found that the laws of the Basque and Catalan Governments have not violated rights.

The Spanish system of autonomous communities has been a success for the last quarter-century in balancing centripetal and centrifugal influences and in managing a highly asymmetrical set of issues. It has

done so by responding inadequately to some symbolic questions and allowing nationalists in the Basque country and in Catalonia to make large claims while limiting their practical scope. Different visions of Spain, as a unitary nation or as a federation of nations, have coexisted and invested in the same institutions. The experience of the Francoist dictatorship and the negotiated transition to democracy have left a strong preference for accommodation and trust.

The limits of the present system have been reached, and new statutes of autonomy are being negotiated in most of the regions. These have taken the form of bottom-up initiatives, which are agreed and then taken to the national parliament. The style is radically different from one community to another. The Basque Parliament approved a radical proposal for a “freely-associated state”, which was turned down flat by Madrid. In Catalonia there was agreement by all but the Popular Party on a revised statute recognising Catalonia as a nation, giving it additional powers and increasing asymmetry but, they insisted, remaining within the Constitution. The four most contentious issues have been the following: the symbolic definition of Catalonia as a nation; the claim to historic rights prior to the 1978 Constitution; the proposal to give Catalonia a fiscal regime similar to that of the Basque country; and a range of provisions for a bilateral relationship between Catalonia and Spain, notably in European and external affairs. Other regions have come up with more moderate proposals.

Taken together, these proposals will embody further differentiation, asymmetry and national plurality and require a clarification of some issues that have been obscured in the past. Excluding a return to a more centralised state (as favoured by most of the Popular Party and a section of the Socialists), there are two possible outcomes of these processes. One is a uniform federation or quasi-federation, as favoured by much of the Socialist Party. The other is an asymmetrical and overtly plurinational union, as favoured by the dominant section of opinion in Catalonia, a plurality of Basques, and some sections of the Spanish Left. Such a union, in which the various elements can have a different relationship to the centre, is exemplified by the case of the United Kingdom.

United Kingdom

The United Kingdom is the most explicitly multinational of the states surveyed here, with a high symbolic recognition of the four constituent parts (England, Scotland, Wales and Northern Ireland). Most people in Scotland consider themselves firstly Scottish and secondly (if at all) British. This is more weakly expressed in Wales, while in Northern Ireland the population is divided among Irish, British and Ulster identities. English people have rarely distinguished between British and English identity, but since the 1990s some have begun to do so. In England, only British parties operate. Scotland and Wales have both British and local parties, while in Northern Ireland the only parties are the local ones.

For Scotland and Wales, the issue is one of territorial self-government, although Wales was for a long time divided between a Welsh-speaking area favourable to home rule and an English-speaking area opposed. Northern Ireland is more complicated, since the majority of the population (including almost all Protestants) wants to remain within the United Kingdom while the minority (including the great majority of Catholics) favours unification with the Republic of Ireland. These two communities are in conflict within Northern Irish politics, so that the trust underlying democratic politics is absent.

This situation produces a political asymmetry similar to that in Spain, and the fundamental issue has always been how to manage a multinational union without adopting a formal federal system, for which there has been no demand in England. Until 1999 the three historic nationalities were managed by a differentiated administrative system, although Northern Ireland had its own parliament between 1921 and 1972. Now each has its own elected legislature and executive, taking very different forms, while England remains unitary and will continue to be so after the failure of regional devolution proposals in 2004.

Devolution in the United Kingdom					
	Population (millions)	Institutions	Powers	Electoral system	GDP per capita (PPS) EU25=100
England	50.4	Directly governed from centre	n/a	n/a	115.5
Scotland	5.1	Parliament and Executive Legal system	Legislative and executive. All powers not reserved to centre	Mixed proportional system with party lists	110.16
Northern Ireland	1.6	Assembly (power-sharing)	Legislative and Executive. All powers not reserved or excepted.	Single transferable vote	88.8
Wales	2.9	National Assembly	Executive and secondary legislation. Powers conferred by centre.	Mixed proportional system with party lists	91.4

The United Kingdom is thus highly asymmetrical constitutionally as well as politically. Scotland has a legislative parliament with full control over all matters not explicitly reserved to the centre. Northern Ireland has a legislative assembly with a similar status, although the list of powers is rather different, with three categories – those permanently retained in London, those that may be devolved in the future, and the residue, which are considered to be devolved. Devolved powers are slightly different from those in Scotland, and security powers are among those powers provisionally reserved. Wales has a weaker system — a National Assembly for Wales, with only secondary legislative power over a defined list of functions. In all three cases, social security, cash transfers and the main redistributive functions are reserved to the centre, while education, health, social services, economic development and planning are devolved. Scotland and Northern Ireland have complete control over their systems of local government, so that local governments have almost no dealings with London and no guarantees from there.

Northern Ireland explicitly has the right to secede to join the Republic of Ireland. While there is no such explicit provision in the Scotland Act, successive British governments of both parties have conceded that Scotland, as part of a multinational union, has the right to secede should it decide democratically to do so. In recent decades between 25% and 30% of Scots have favoured independence, but the great majority supports home rule within the United Kingdom.

There is no serious demand for an English parliament or assembly, perhaps because England so dominates the British House of Commons. Nor has there, to the surprise of many, been any rush to regionalise England in order to match Scotland and Wales, as happened in Spain. Even modest regional reforms were turned down in a referendum in northeast England in 2004.

Territorial devolution alone was not enough to resolve the Northern Ireland issue, given the aspiration of nationalists for a united Ireland and of unionists to retain the link with Great Britain. Since these aspirations are irreconcilable under present conditions, the Northern Ireland settlement introduces a north-south dimension in the form of joint institutions and cross-border co-operation and an east-west dimension in the form of the British-Irish Council bringing in the British and Irish Governments, the Northern Ireland Assembly, the devolved bodies in Scotland and Wales, as well as the Channel Islands and the Isle of Man.

To address the internal conflict within the province, there is a power-sharing system requiring that government be a coalition of nationalists and unionists and that there be parity in other institutions. Members of the Northern Ireland Assembly are invited to designate themselves as nationalists or unionists and, although this is not compulsory, failure to self-designate will mean that their votes are devalued⁶. Northern Ireland therefore combines territorial devolution with consociationalism.

The Welsh Government operates within the framework of Westminster, but for Scotland and Northern Ireland there are no UK framework laws; except in reserved matters they can amend or repeal any Westminster law in their territories. Confusingly, Westminster has retained a claim to residual sovereignty and the right to legislate in devolved matters, but this is more theoretical than real. In the case of Northern Ireland, the settlement is entrenched by negotiation with the Republic of Ireland and the referendum of 1998, thus making unilateral action almost impossible. There have been repeated suspensions of institutions since 1999 because of the failure to agree on a power-sharing government, but the fallback position has always been a jointly-imposed settlement by the UK and Ireland rather than a unilateral action by the UK. People in Scotland see the settlement as entrenched by an historic right (that the parliament is the successor to the old one prorogued in 1707) and by the referendum of 1998, seen as an act of national self-determination. Westminster legislates in devolved matters only at the request of the Scottish Parliament (under a special procedure), and any attempt to intervene unilaterally would be regarded in Scotland as unconstitutional. We can say therefore that devolution has become a part of the (unwritten) British Constitution.

A further unusual feature is that British ministers have no power to act or to spend money in Scotland, Northern Ireland or Wales, except in the exercise of a reserved competence. This avoids the sort of interventions, duplication and competition that is found in Spain.

A complex series of mechanisms has been set up to promote intergovernmental co-operation and deal with conflict resolution. Acts of the devolved bodies can be challenged for legality in the courts on the grounds that they contravene the devolution legislation, EU law, or the European Convention for the Protection of Human Rights. Central government can challenge them in the Judicial Committee of the Privy Council (formerly much used to deal with constitutional issues in Commonwealth countries). In practice, almost no challenges from private parties have succeeded, and the central government has never mounted a legal challenge to date.

At the administrative level there are concordats, memoranda of understanding and joint ministerial committees. These have never been used for conflict resolution and, with the exception of European matters, rarely for policy negotiation. Instead, as in Spain since the 1980s, these matters have been dealt with politically. The dominance of the Labour Party at Westminster and in Scotland and Wales has minimised overt conflict and allowed party channels to be used for co-ordination. There is something of a federal culture developing in Scotland and Wales, together with a recognition of the roles and responsibilities of the two levels. On the other hand, Scottish and Welsh policy, while often distinctive, receives almost no attention in London or in the British media, and as a result it does not contribute to policy-making across the state as a whole. Instead, the territories are enclaves of self-government within a system in which the dominant actors do not feel that their role has changed radically. The reliance on the

6 The non-aligned Alliance Party and the Women's Coalition have in the past refused to designate themselves, although on one occasion the Alliance agreed temporarily to designate some of its members as unionists in order to keep the process moving in the face of unionist divisions.

party system for ensuring co-operation raises the question of what will happen when the two levels are controlled by different parties. It is likely at that point that more formal mechanisms will be needed.

An issue derived directly from the asymmetrical nature of the settlement is the “West Lothian Question”, which refers to the anomaly by which Scottish MPs at Westminster can vote on English matters when neither they nor English MPs can vote on equivalent measures for Scotland. On two occasions, the Blair Government has used loyalist Scottish MPs to override English opposition and to impose measures (foundation hospitals and university fees) on England that the Scottish Parliament had rejected for Scotland.

The competences and functional autonomy of Scottish and Northern Ireland institutions – wider than those of any federated unit in Europe – are in contrast with an almost complete absence of fiscal autonomy. These institutions, along with the National Assembly for Wales, are financed by a block grant, whose size at the margin is determined by a population formula, the Barnett Formula. This formula precedes devolution, having been used for the deconcentrated territorial offices since the late 1970s and simply perpetuated in 1999. Northern Ireland and Scotland control local government taxation, and Scotland has the power (never used) to alter the standard rate of income tax by three pence to the pound. Yet dependence on a block grant does not lead to policy conformity, since they are free to spend the money as they choose, and London departments have no way of influencing these decisions. Indeed it is now very difficult, for technical reasons, to even compare the spending priorities of the various governments. The block grant has been criticised, however, for undermining the responsibility of the devolved governments and preventing them from determining their overall levels of expenditure or the balance between taxes and charges.

The balance of spending among the four nations depends on historic levels, moderated by population-based increments in each spending round. Scotland, Northern Ireland and, to a lesser extent, Wales have historically had higher spending levels than England, including the needy northern parts of England, and the formula perpetuates this while diminishing it over time. In practice, in the 20 years since its introduction, the Barnett Formula has not produced a convergence in spending levels since, for political reasons, central governments have bypassed it. Devolution has turned this into an important political issue, and the territorial balance of expenditure in the United Kingdom, as elsewhere, has become very controversial. The Treasury now applies Barnett more rigorously, giving Scotland a smaller percentage of each spending increase, causing complaints within Scotland about the consequent squeeze, and from England about the continuing Scottish advantage. Since there is no agreement on a new needs or resources formula, however, Barnett remains.

A distinctive feature of the United Kingdom is the absence of a statewide charter of rights. Such a charter would be difficult to sell in Northern Ireland and Scotland, where it might be regarded by nationalists as an integrative measure, consolidating a British nation and state. Instead, the devolved legislatures and administrations are directly subject to the European Convention for the Protection of Human Rights and Fundamental Freedoms. This allows courts to strike down Scottish and Northern Ireland laws, while an identical law in England could only be referred back to parliament for reconsideration. Westminster has regularly opted out of the Convention when it suited it, while this is not possible for devolved institutions. So the Northern Irish and Scottish legal systems are directly interpenetrated by European jurisprudence without passing through British courts or the UK legislature.

Arrangements for representation of devolved bodies in the European Union are laid down in a concordat, but effectively this gives Westminster the final word in case of disagreement. Scottish, Welsh and (when the institutions are operating) Northern Irish ministers participate in the Council of Ministers at the invitation of London and are expected to sustain the common UK line. They are consulted on this line but, unlike in Germany or Belgium, cannot determine it. This is another consequence of the asymmetrical nature of devolution, which has left the central government in the dual role of “federal” government of the UK and domestic government for England. In some respects, Europe replaces the UK as the overall frame

for policy. One strange effect of this is that European students coming to Scotland are treated as domestic and pay no fees, while English students do pay fees⁷.

Asymmetry is a fundamental feature of the UK system, allowing a differentiated treatment for those parts of the state that demand autonomy while leaving the government of the larger part unchanged and the essential principle of the Constitution – parliamentary sovereignty – untouched. In practice, parliamentary sovereignty is seriously diminished in its reach, and the asymmetry raises all manner of anomalies. Many people have argued that a formal federation would be more logical but, since there is no demand for this in England, it is not going to happen. It is this implied bargain that explains the settlement. Scotland and Northern Ireland have compromise solutions, widely supported in the former, with more difficulty in the latter. England does not want autonomy, but neither public opinion nor elites grudge smaller nations having it (although for many years they did). Fears that devolution would be inherently centrifugal as in Spain, with nations continually demanding more and English regions seeking to catch up, have not so far been justified.

Germany

Germany is not a nationally divided society and federalism was introduced into the post-war Constitution in order to limit the power of the central government and in accordance with older German traditions. There are territorial tensions between richer and poorer areas and between the new and old *Länder*, but there are no secessionist movements or demands for distinct constitutional status for groups or territories. The party system is essentially national, although in Bavaria the Christian Democrats (CDU) are represented by a separate group, the Christian Social Union (in permanent alliance with the CDU). The post-communist PDS operates mainly in eastern Germany but is not an explicitly territorial party and is not autonomist. This perhaps makes Germany less relevant for our purposes, but it does nevertheless illustrate some institutional features of federalism.

The boundaries of the *Länder* are rather arbitrary, except for the three city-states of Berlin, Hamburg and Bremen, and Bavaria, which were carved out of the old zones of occupation and revived in the east after unification. It is generally accepted that they are not functionally optimal, varying enormously in size, but they have become important power-bases, and mergers have proved impossible in recent years, as shown by the abortive efforts to amalgamate Berlin and Brandenburg. The system is formally symmetrical, with all of the *Länder* having the same powers. They do, however, have very different populations, areas and wealth.

7 All students in England – including English, Scottish and other European nationalities – pay fees. The Scottish Parliament decided not to introduce them in Scotland.

German Federalism			
	Population (millions)	GDP per capita (PPS) EU25=100	Votes in <i>Bundesrat</i>
North Rhine Westphalia	17.7	111.0	6
Bavaria	11.6	128.4	6
Baden-Württemberg	10.2	126.1	6
Lower Saxony	7.6	98.0	6
Hesse	5.9	135.5	6
Saxony	4.6	73.5	4
Rhineland-Palatinate	3.9	98.0	4
Berlin	3.5	99.0	4
Saxony-Anhalt	2.8	72.0	4
Brandenburg	2.6	74.4	4
Schleswig-Holstein	2.7	101.0	4
Thuringia	2.5	73.1	4
Mecklenburg-West Pomerania	1.8	72.6	4
Hamburg	1.7	188.1	3
Saarland	1.1	103.2	3
Bremen	0.7	150.0	3

There are lists of competences for the two levels, but the main principle of the German federal system is that competences are shared, with the federal level doing most of the legislating while the *Länder* administer most matters. This puts a high premium on co-operation. The *Bundesrat*, the second chamber of the federal parliament, consists of nominees of the *Länder* governments and can veto about two-thirds of all legislation, including financial and budgetary laws. The larger *Länder* have more votes in the *Bundesrat* but not at all in proportion to their population, so that the smaller ones are over-represented. Since the 1960s, some policies – even in areas where there does appear to be a clear division of powers – have been handled by the joint task frameworks, involving close working relations of the two levels.

The institutions are generally provided strong incentives for co-operation, which has paid off in superior policy performance and better use of resources. There has also been a strong culture of co-operation or federal trust (*Bundestreue*) by which the two levels have recognised each other's prerogatives and division of labour. A constitutional commitment to equality of living standards has underpinned national and inter-territorial solidarity.

This co-operation has extended to the fiscal system, which involves revenue-sharing among the three levels – federal, *Land* and local. Rates for main taxes (on personal income, corporations and consumption) are agreed nationally through the *Bundesrat* and the federal government, and revenues are shared according to a formula. Income and corporation tax yields are shared among the three levels and distributed according to where the tax was collected. Value-Added Tax is distributed by population. Then there is a system of horizontal equalisation that shifts funds from rich to poor *Länder*. With the addition of vertical redistribution from the centre, this produces a very high degree of fiscal equalisation. Indeed there is over-equalisation in that some of the poorer *Länder* end up financially better off than the richer ones.

German federalism has been affected by European integration, and the *Länder* were among the first to complain of its domestic centralising effects and to demand a say in German negotiations. Gradually they gained this, notably when they obtained the right – by virtue of the Treaty on the European Union – to represent Germany in the Council of Ministers whenever *Land* competences were at issue. This too was incorporated into the consensual and bargained federal system, with the *Länder* negotiating their joint interests in the *Bundesrat* and then agreeing a common line with the federal government where matters of joint competence were at stake.

This co-operative federalism worked well during the early decades of the Federal Republic. There was broad political consensus on the main lines of policy, and economic disparities were not very high. Institutional incentives to co-operation complemented the underlying political culture. Since the 1990s, however, there have been serious strains. First the economic gap between the declining north and the booming south produced visible and politically salient transfers. Then unification produced an even more dramatic set of transfers to the east. The wealthier *Länder* have been demanding a fiscal decentralisation and the right to keep more of their own revenues. The interlocking system of federal and *Land* competences has been criticised as unwieldy, complex and an obstacle to needed change. *Länder*, like their counterparts elsewhere in Europe, have adopted more competitive strategies to secure economic development in European and global markets. While they remain broadly pro-European, some of the *Länder* are complaining more about European encroachment into their competences and have called for a limitation of the powers of the EU.

German co-operative federalism was always difficult to export to other countries, since it relied on a particular institutional set and culture and arose out of specific circumstances. It was never intended to address the problem of divided societies, where there is a lack of trust, and it worked in Germany because the institutions were well adapted to the policy needs of the post-war decades. It is now facing serious difficulties, and there have been many proposals to reform it in the direction of less interdependence, disentanglement, more competition and greater fiscal autonomy. That none of these proposals has succeeded so far is due to the interlocking nature of the system itself, which works well under some circumstances but does not permit it to adapt easily to new ones. A system that allowed the various tiers of government to negotiate from a position of strength, but with underlying common interests, has become a series of veto points in which no party is willing to surrender accumulated privileges in the interest of the whole.

Switzerland

Switzerland is often cited as a model for culturally divided societies. Its federal system originated in the aftermath of a civil war in 1848 and since then it has exhibited great stability and democratic consensus. The division that federation originally addressed was largely religious, and the original deal gave the losers in the civil war (the Catholic side) a series of privileges and opportunities that was disproportionate to the size of the population. Since then, the federal system has accommodated a number of other social and political divisions. These include divisions between centre and periphery, between rural and urban areas, and over language.

The units are 26 cantons, whose boundaries are very difficult to change, as shown by the long struggle to carve out a new canton of Jura from the Canton of Berne, which involved complex negotiations and a series of referenda to draw the boundaries. The original basis of division between Catholic and Protestant areas is now largely redundant due to migration and secularisation, but serves to protect rural, small town and conservative interests at the expense of the cities and of the political left. The system is formally symmetrical, with all cantons having the same competences and status, but the large disparities in population and wealth mean that in practice they do not have the same power.

Switzerland is highly decentralised. The powers of the federal level are specified and all residual powers belong to the cantons. It is also normal for the cantons to administer federal laws, although – unlike in Germany – this is not a constitutional requirement. This feature has become more important since the Second World War, with the federal government preparing much of the legislation and the cantons ensuring the administration. The social security system is a force for centralisation, although it is administered largely at cantonal and municipal levels. Cantons have complete control over the municipal level and differ considerably in the role they allow for local government. Referendums are widely used at cantonal and local levels, along with other instruments of direct democracy.

Cantons	Population (thousands)	GDP per capita (thousands of Swiss francs)
Zurich	1181	61.1
Berne	900	42.3
Luzern	300	41.8
Uri	35	45.3
Shwyz	125	50.9
Obwalden	31	36.4
Nidwalden	37	57.7
Glarus	38	53.0
Zug	95	77.4
Fribourg	229	38.6
Solothurn	241	44.1
Basel-Stadt	193	72.2
Basel-Land	255	51.1
Schaffhausen	74	50.6
Appenzell-A	54	43.9
Appenzell –I	15	41.8
Saint Gallen	443	45.5
Graubünden	185	43.3
Aargau	534	48.3
Thurgau	225	43.1
Ticino	305	37.2
Vaud	608	48.5
Valais	273	36.8
Neuchâtel	165	42.3
Geneva	396	52.0
Jura	69	36.0

A striking feature of the Swiss system is the role of the cantons in national politics. The second chamber of the federal legislature, the Council of States, has two members from each canton⁸ and equal powers with the popularly elected chamber. Although the method of choosing their members is up to the cantons, all are now directly elected, with the result that they do not speak for the cantonal governments and the chamber is divided in practice along party lines. National referendums on altering the distribution of powers, changing the Constitution, or joining international organisations require a majority of all voters and a majority in each canton, giving the smaller cantons a disproportionate influence; the disparity in population

8 The two former half-cantons have one each.

between the largest and smallest canton is 78-1, much larger than in 1848 as a result of urbanisation and population movement. There is no joint task system as in Germany, but in practice there is a great deal of vertical co-operation (between the federal government and the cantons) and horizontal co-operation (among the cantons). There are inter-cantonal concordats involving all or of some of the cantons and a Conference of Cantonal Governments, which is largely concerned with foreign and European matters. Cantons are also involved in the consultation process prior to federal legislation, although here they are often overshadowed by the main interest groups.

The complexity and decentralised nature of the system is managed by an overlying practice of accommodation and consensus and a consociational tradition that, as in Belgium, complements territorial federalism. Federal governments represent the parties in parliament proportionately, not just within a winning coalition. Care is taken to maintain a balance among the language communities and cantons, and policy is negotiated rather than imposed. This consensus has been challenged in recent years by the rise of the nationalist-populist party SVP led by Christophe Blocher, but eventually it was decided to include the SVP within the national cabinet rather than break the consensus tradition and move to competitive party politics. Parties themselves are decentralised and play a role in mediating between cantonal and national politics. Proportionality among language groups is also observed in the federal bureaucracy, the army and other public institutions.

The federal culture of Switzerland is marked by accommodation and continuing consociational practices derived from the past. A notable feature is the practice of parties of understating their demands and settling for less than they might have achieved by pursuing the issues. Eight cantons have the power to insist on a referendum on national legislation or on the recall of parliament, which – while never used – provides an implicit threat, which is then underplayed. This deeply ingrained practice is not the result of gradual nation-building. On the contrary, it is the product of civil war in 1848 and the deep divisions that remained afterwards. Rather, the consociational practices reflect the need to keep a divided country together, especially in the face of threats from outside. These specific conditions mean that the system could not be easily exported. Accommodation is also helped by the fact that traditional divisions – by religion, language and region – do not coincide, so that there is no permanent opposition between monolithic blocs.

There are wide differences in the wealth and fiscal capacity of cantons, although these remain the main tax-raising bodies. There are intergovernmental transfers, and there has been a system of fiscal equalisation but with some problematic features. Transfers from the federal government have been largely conditional and require the cantons to provide matching funds, thus benefiting the wealthier cantons and biasing expenditures, to the distortion of local priorities and needs. The amount given to equalisation among the cantons was much smaller. In recent years fiscal competition has increased as some cantons are able to offer lower tax levels while maintaining spending levels, and there are fears of a race to the bottom.

European integration has put more strains on the federation. Proposals to join the European Economic Area and a non-governmental attempt to join the European Union failed the referendum test, being defeated massively in the German-speaking rural areas while gaining more support in the French areas. In the future there is a real prospect of a majority vote in favour of measures of integration being vetoed by the small, rural, German-speaking cantons. There are also fears that European integration and other international obligations could undermine Swiss direct democracy and the referendum. On the other hand, referendums on joining the United Nations and the Bretton Woods institutions have succeeded in recent years. Free trade with Europe has also drawn the various regions into closer economic links with regions in neighbouring countries, which also tend to share their language, serving as a further centrifugal force.

Swiss federalism, long admired, has recently come under a series of criticisms. The first set concerns the fairness of a system designed to accommodate cleavages of an earlier era. Rural and small town interests are favoured over those of the cities, isolationists over European integrationists, and conservative interests over the political left. So some minorities have entrenched protection while others do not. Competitive federalism, European and global market integration, tax competition, and weak fiscal equalisation have

favoured wealthy regions over poorer ones, reinforcing the protectionist and isolationist instincts of the latter.

The second set of criticisms concerns efficiency. Some cantons are too small to effectively discharge their responsibilities, including implementation of federal law. There are, it is said, too many veto points in the system, preventing modernisation and change. Joint decision-making is too cumbersome and the necessity for compromise may undermine good policy. Conditional grants may lead to wasteful expenditures and duplication and a tendency to adopt the most expensive options. Co-operative federalism can lead to a lack of transparency and accountability and to bureaucratic malfunctions. Horizontal co-ordination is weak and often haphazard. Hence there has been an effort to disentangle federal and cantonal responsibilities, to simplify decision-making, and to improve fiscal equalisation and fiscal equivalence.

A reform of the federal system was voted in a referendum in 2004 and is currently being put into effect. Federal and cantonal responsibilities will be disentangled to enhance efficiency and accountability. For the remaining joint tasks (mainly federal competences administered by the cantons), there will be a planning framework in which policy objectives (not precise projects) will be agreed, together with a system for assessing achievement. If cantons manage to achieve outcomes at lower cost, they can keep the surplus revenues, thus providing an incentive to economy. A new system of fiscal equalisation will operate at two levels: vertical (between the federation and the cantons) and horizontal (among the cantons). Vertical equalisation will be based on needs, as measured by geo-topographic factors (in other words mountains) and socio-demographic factors. Horizontal equalisation will be based on resources. There will be a four-year settlement. Funds thus transferred can be used freely by the recipient cantons to increase expenditure, reduce taxes or retire debt. In order to avoid perverse incentives and encourage growth, cantons will not be compensated entirely for fiscal disadvantage. Equalisation will be capped at 85%, i.e. every canton, by making the same fiscal effort, will be able to reach 85% of average per capita revenues. In addition, no canton will be able to change rank in the list of cantonal revenues as a result of equalisation. This arrangement aims to avoid the effect of the German system, in which poorer *Länder* can, after equalisation, end up with more revenues than richer ones.

Italy

Italy is not a federal state, although there is a strong federal tradition going back to the 19th century. Following the Second World War there was a commitment to decentralise as a response to the centralisation of Fascism. This took two different forms. In four (later five) regions, which were considered to have a secessionist or irredentist potential, *special status regions* were set up and integrated into the 1948 Constitution. The other *ordinary status regions* were not set up until 1970 and given their powers even later. They remained largely administrative and subject to the national parties until the 1990s, when the old national party system collapsed and regional interests were able to gain a degree of autonomy in the new one. Since then regional reforms have been promised by the main parties of the right and left under the threat of the Northern League, a populist party which has at turns been federalist, regionalist, separatist and Italian nationalist, as well as veering from pro-European to anti-European postures. As has happened in other countries, the League has posed the issue of the inequity of fiscal transfers from the wealthy north to the poorer south. At the end of the centre-left government in 2001, a constitutional reform was enacted on paper, making Italy a federal state but whose meaning was far from clear. Since then the Berlusconi Government has introduced an incoherent and rather contradictory set of reforms under the heading of “devolution”.

Italian Regions			
	Population (in millions)	GDP per capita (PPS) EU25=100	Special status
Val d'Aosta	0.12	135.0	X
Trentino-Alto Adige	0.9	140.1	X
Friuli-Venezia-Giulia	1.2	124.6	X
Sicily	5.0	71.2	X
Sardinia	1.7	82.7	X
Lombardy	8.9	144.3	
Piedmont	4.3	127.6	
Veneto	4.4	126.5	
Emilia-Romagna	3.9	138.8	
Liguria	1.6	120.0	
Tuscany	3.5	121.7	
Marche	1.4	109.2	
Umbria	0.8	107.9	
Lazio	5.2	125.8	
Abruzzo	1.3	92.9	
Molise	0.3	85.2	
Campania	5.7	71.8	
Puglia	4.0	72.5	
Basilicata	0.6	77.5	
Calabria	2.1	67.9	

Of more interest to our theme, however, are the special status regions to accommodate national minorities in the north – the Val d'Aosta, Trentino-Alto Adige (South Tyrol) and Friuli-Venezia-Giulia. These regions represent an asymmetrical element in the Italian State and have special powers, some fiscal autonomy and their own party systems. The most difficult has been the South Tyrol, a complex region combining Italian and German speakers and bordering Austria. It was incorporated into Italy after the First World War. Coming out on the winning side in the war and wishing to include the Italian speakers of Trentino, the

Italian Government took advantage of conditions to go all the way to the Alpine watershed, taking in a large German-speaking population as well. After the Second World War, rather than give autonomy to the German-speaking area, the Italian State kept them with the Italians in the new region of Trentino-Alto-Adige. While the language boundary and linguistic conflicts in the region follow rather clear lines, national identities in the region are more complex. The German speakers have never belonged to a German or Austrian nation-state and have a strong Tyrolian regional identity. Austria has assumed the role of kin-state for these German speakers and has negotiated a number of deals with Italy to secure language and self-government rights. Since Austria's entry into the EU this has become much easier, tensions have been reduced and the last agreement was signed in 1993 in the run-up to accession. In 1995 the Austrian Tyrol and the two Italian provinces of Tirol and Trentino opened a joint office in Brussels. In 1998 a euro-region was launched.

Within the Trentino-Alto Adige, relations between the communities have been handled by various consociational arrangements, including proportional representation in public employment. In recent decades this has been complemented by the concession of increased autonomy to the province of Alto Adige (Sud Tirol) within the wider region, thus giving more power to the German-speaking community. The dominant local party, the *Sudtiroler Volkspartei* (SVP), has been adept at playing Italian politics. The electoral system enables it to maintain a permanent presence in the Italian Parliament and it is able to play on the divisions of the Italian parties. The party has never renounced the right of self-determination for the Tyrol, but it plays a role in Italian politics and the political importance of the region has enabled it to extract favourable fiscal conditions from the Italian State. Like Northern Ireland, this illustrates the need for complex solutions to complex problems and the interplay of domestic and cross-border politics.

CONCLUSIONS

This paper started off with two ways of dividing and sharing governmental power in divided societies. Consociationalism divides and shares power horizontally, within central institutions. Federalism and devolution divide and share power vertically, between two tiers of territorial government. In practice, these forms are mixed in various ways, but the tendency in Western Europe has been towards the territorial form. The reasons for this are:

- Functional change in the economy and other systems have encouraged a “new regionalism” in which the regional level, at least in the larger states, has become an important level of regulation and promotion.
- Territory is a more inclusive principle than ethnicity or group identity, and thus more consistent with modern ideas about liberal democracy.
- Identity and language groups have a tendency to territorialise in line with the above trends.
- New understandings of territory are less rigid and bound, and different functional systems can have somewhat different boundaries within these territories.
- European integration is encouraging territorial economic competition and in the older Member States has fostered regional institutions.

Yet consociational principles have not died out, as we have seen in several cases.

Federal and quasi-federal systems have been introduced in very different contexts. In some cases the aim is to unite formerly separate systems. In others it is to decentralise the unitary state. As well as helping to manage conflict in divided societies, federalism serves a number of other needs related to efficiency, responsiveness, democracy and pluralism. These needs may be complementary, or they may point in different directions, in which case federalism may be successful at solving one problem while not dealing with another. In all cases, federalism is about reconciling differentiation with unity, but this means different things in states that are culturally, politically and economically homogeneous and in those that are not.

In some cases, the needs of reconciling diversity and of functional efficiency come together well, as in the devolution systems of Spain and Great Britain.⁹ Flanders has also been able to reconcile territorial and cultural principles, albeit at the cost of distancing itself from the rest of Belgium. The French language community in Belgium or the smaller cantons of Switzerland represent cultural and historical identities, but suffer from a lack of functional capacity, as do the smaller German *Länder*, notably the city-states.

Federal systems divide power, thus allowing different communities to go their own way and reducing the number of issues on which they must agree. Yet they also involve sharing power and, however tasks are divided, there is a large area in which co-operation is needed. Most systems have evolved norms and conventions as to how actors will behave and how their demands are to be limited. This is easier in culturally homogeneous societies, where there is trust and shared identity. The irony is then that those societies in which federalism is most needed, i.e. divided societies without trust and goodwill, are those in which it is most difficult for it to work.

9 Great Britain comprises England, Scotland and Wales (excluding Northern Ireland).

In the absence of shared norms and identity, institutions must provide the basis for co-operation. Institutions are to be understood in several senses:

- a) as rules and procedures, entrenched in law;
- b) As detailed incentives to behaviour;
- c) As norms and understandings as to correct behaviour and its limits.

These, taken together, may be *centrifugal*, leading to progressive separation and lack of common action; or *centripetal*, leading to more shared action and stronger common policies.

Complex problems have given rise to more complex institutional solutions. Where there is a clear coincidence between group and territory, or where the identity of the group is open enough to include everyone including incomers, then a simple territorial solution will work. This is, to a considerable degree, the case in Catalonia and Scotland. In other cases, minorities within the minority (who may themselves be a majority within the larger state) may demand collective protection. Collective rights and provisions may conflict with individual rights. The Belgian system is particularly complex, but still causes complaints, for example in Brussels or among francophones in Flanders. Northern Ireland is another example of a complex problem with a complex solution. Complex systems, however, provide opportunities for manipulation and still rest on a basis of trust. It is the lack of this trust that has held up implementation of the Northern Ireland settlement for so long.

It has frequently been argued that incentives to co-operation will be present where there are cross-cutting cleavages, i.e. where the various lines of conflict do not coincide. In Spain and Great Britain, for example, some parties represent territorial interests and others compete across the whole state. Class interests and ideological divisions are superimposed on national-cultural ones. In Switzerland the religious and linguistic divisions do not coincide, and neither corresponds perfectly with the division into cantons. Northern Ireland, by contrast, has almost no cross-cutting cleavages.

If these divisions are entrenched, there may be little that institutions can do to shift them, but they might still provide incentives to co-operation. Belgium provides few incentives to co-operation across the communities, apart from the need to come together in Europe. Consociationalism has been criticised for freezing community identities and leaving it to the elites to work out deals among them. Territorial devolution, by contrast, may encourage cross-community working precisely because the territorial divisions will not correspond precisely to those of the communities. Territorial governments may be encouraged to respect minorities, especially where they have co-ethnics as minorities elsewhere. It is not a coincidence that Austria and Hungary have been among the states promoting transnational minority rights regimes, given their self-appointed role as protector of German-speaking and Hungarian minorities in other states.

Territorial devolution may also provide for every group to be a majority at one level or another, thereby ensuring a degree of security. A minority within the state may be a majority within its own region. In turn, the minority within this region may be a majority at the very local level or else across the state as a whole. Trans-border co-operation may provide spaces where groups that are minorities in two states can be a majority within the cross-border institutions. This kind of nested system of devolution can also avoid the freezing of ethnic groups and borders.

Incentives may also be provided by electoral rules. In Belgium and in Northern Ireland such rules discourage or prevent appeals across community boundaries. It is an open question whether ingenious electoral rules could really induce people to vote for parties other than those of their ethnic group, but at least care can be taken not to discourage such action.

Economic incentives may also be important, where clear material gains resulting from co-operation can be demonstrated. This is not to say that people will always behave in accordance with economic rationality; but at least the design should not go against such behaviour.

Sharing power and co-operation are one side of federalism. The other is self-government and responsibility. The balance between these two is critical. We have noted the problems of a lack of co-operation and shared authority. Yet if the area of shared powers is too great, then politicians in the constituent units can evade responsibility for their own decisions, blaming the centre or the other side. Responsibility is enhanced where the division of responsibilities between the tiers is clear. As argued above, it is impossible to secure a watertight division of powers in modern government, but competences should at least be devolved in coherent blocks. Excessive entanglement allows for blame-shifting and evasion as well as inefficiency. It is this lack of accountability of the local level, indeed, that has led many central governments (for example in France) to promote decentralisation even when this looks like giving up power for themselves.

Fiscal responsibility is another important element. If governments are responsible for spending funds that they do not raise, then they will press for higher expenditures and blame the centre for policy failures. If the constituent units are responsible for raising all their own revenue, then the poorer ones will be penalised and national solidarity will disappear. It is important, therefore, to secure systems of fiscal federalism that combine taxing and spending responsibility with a measure of equalisation.

No system of government can be permanently stable. It will always contain tensions within its design. Federal systems are there to manage tensions; they often involve compromises and they introduce new tensions through their very institutions. Even when a system appears stable in relation to a given context and set of problems, it may face challenges when the problem or context changes, as we have seen in Germany and Switzerland.

The economic context is important, as we have seen that European integration and globalisation have enhanced tendencies toward competition among territories and undermined the rationale for integrative regional policies. Social solidarity has come under strain, but national welfare states still exist and engage in powerful forms of redistribution. These forms depend in turn on a strong federal state with the financial capacity for redistribution and control of key welfare provisions, notably cash transfers. Devolution and federalism are more complicated in a modern welfare state than they were when the American Constitution was adopted, but experience has shown that federalism and the welfare state are not incompatible. Research is underway on whether multiculturalism and multinationalism make social solidarity within states less likely, but as yet no definite conclusions have been reached. Political culture comes into play here, especially the existence of norms of co-operation and restraint and the belief in an overriding interest in keeping the state together.

Faced with these powerful historical, cultural and economic forces, political institutions may play a limited role, but an important one. Political culture and practice are not independent of institutions but are shaped by it. Economic trends are powerful but can be managed if decision-making is taken to the right level; this indeed is the rationale for taking market-building measures up to the European level. At the regional level, too, there are new possibilities for confronting global economic change with a local response, depending on the right institutional set in government and civil society.