

2023

Reading - 4  
Modern Politics  
Federalism

## 1. Introduction



Federalism is a constitutional mechanism for dividing power between different levels of government so that federated units can enjoy substantial, constitutionally guaranteed autonomy over certain policy areas while sharing power in accordance with agreed rules over other areas. Thus, federalism combines partial self-government with partial shared government (Elazar 1987).

Federal systems are usually associated with culturally diverse or territorially large countries. Notable examples of federal countries (or countries with federal-like characteristics, sometimes referred to as 'quasi-federations') include Argentina, Belgium, Brazil, Canada, Germany, India, Malaysia, Nigeria, Pakistan, Spain, South Africa and the United States.

### Advantages and risks

Federalism is a means of ensuring peace, stability and mutual accommodation in countries that have territorially concentrated differences of identity, ethnicity, religion or language. Federalism, especially in large or diverse countries, can also improve service delivery and democratic resilience, ensure decisions are made at the most appropriate level, protect against the over-concentration of power and resources, and create more opportunities for democratic participation.

However, while federalism has helped some countries settle conflicts or improve governance, it can also exacerbate existing differences, sometimes leading to deeper conflicts or state failure. Federalism is also a complicated, often legalistic, form of government, which can be expensive and can hinder the coherent development and application of policies.

types: *representation*  
identity, gives ~~power~~ to groups of different identities  
efficiency, divides power of different levels of government to achieve greater efficiency.  
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## 2. What is the issue?

Federalism is a system of government that establishes a constitutionally specified division of powers between different levels of government. There are usually two main levels: (a) a national, central or federal level, and (b) a state, provincial or regional level. In some cases, however, a federal system may prescribe a three-fold distribution of power by recognizing the constitutional powers of local government (e.g. South Africa) or by creating complex forms of overlapping territorial and linguistic federalism (e.g. Belgium).

Federalism thereby allows distinct communities, defined by their territorial boundaries, to exercise guaranteed autonomy over certain matters of particular importance to them while being part of a larger federal union through which shared powers and responsibilities are exercised over matters of common concern.

To achieve this, the components of a federal system include, in addition to legislative and executive (and sometimes judicial) institutions at each level of government, a relatively rigid constitution that sets out the distribution of powers among the various levels of government and a supreme judicial body that is responsible for adjudicating disputes between them.

\* There are two main contexts in which federalism may be considered.

\* *Identity federalism* occurs when two or more culturally, linguistically, religiously or otherwise distinct national communities have enough commonality of interest or identity to make them want to live together in one polity, but enough distinctiveness of interest or identity to make them demand substantial autonomy within that polity (e.g. Canada, Switzerland).

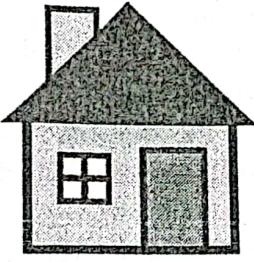
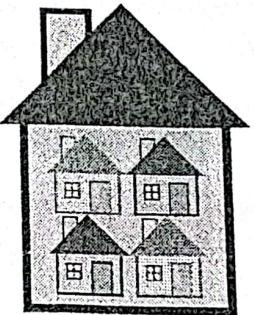
\* *Efficiency federalism* occurs when a culturally homogeneous but geographically large nation wishes to improve democratic representation and accountability by decentralizing power and giving greater control over resources and policies to

## 2. What is the issue?

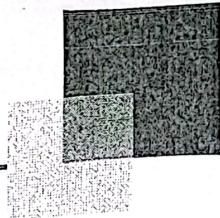
local people while maintaining national unity and the ability to act coherently in matters of national policy (e.g. Germany, Argentina).

Federalism attempts to reconcile a desire for unity and communalities on certain issues with a desire for diversity and autonomy on others (see Figure 2.1). The question of whether federalism is suitable for a given country (and, if so, what form federal institutions should take and to what extent the federal principle should be applied) therefore depends chiefly on the balance between common interests or identities, on the one hand, and divergent interests or identities, on the other.

Figure 2.1. Federalism as unity in diversity

Separate states	A unitary state	A federation
		
Diversity and autonomy without unity or communalities	Unity and communalities without diversity or autonomy	Diversity and autonomy within unity and communalities

### **3. Advantages and disadvantages of federalism**



#### **The rationale for federalism**

Federalism is offered as an institutional solution to the problems associated with scale and diversity.

##### **Scale**

The origins of democracy can be traced to ancient and medieval city states where citizens were able to participate directly in political life. Historically, it was thought that democracy was possible only in small states, where decisions were made through face-to-face discussions in the town square. The development of representative institutions enabled democracy to be practised on the scale of the nation state, but the problem of scale still remained.

Increasing the size of the political unit has a number of consequences. As the geographical distance between the government and the people grows, the more difficult it becomes for the people to make their voices heard, the more elites at the centre begin to dominate the political process and the less likely it becomes that the rulers will understand the needs, aspirations and priorities of the people. This can lead to unpopular, inappropriate and unworkable policies, as well as to a sense of alienation and frustration that can damage the reputation of the political system as a whole. Federalism can help resolve this problem, since it enables substantial powers to be exercised at the state or provincial level, in order to give people greater opportunities to exercise democratic control and to tailor policies to their own needs, while entrusting to the centre only those powers that need to be handled centrally.

### 3. Advantages and disadvantages of federalism

#### Diversity

One of the main benefits of federalism is that it provides a framework for the **recognition** of ethnic, religious, linguistic or other cultural communities, reflecting their desire to be recognized as a people with a distinct identity and particular interests. By guaranteeing substantial **autonomy** to such groups, federalism can allow them to exercise partial self-government through state, provincial or regional institutions while still sharing certain functions with other communities through federal or national institutions. By satisfying demands for autonomy and recognition, a federal constitution may protect minorities, prevent conflict, increase the legitimacy of democratic institutions and reduce pressure for secession.

However, federalism (at least as it has traditionally been understood and practiced) is appropriate only where these communities are territorially concentrated; if ethnic, religious or linguistic communities are not concentrated in particular geographical areas, other ways of combining self-rule with shared rule might be preferable (see section 10 of this Primer on possible alternatives to federalism).

Federalism is therefore 'suitable for some countries, [but] not all' (Anderson 2008: 12). Small and homogeneous countries, if viable as independent units, will generally have little reason to consider federalism. In a large country, or one with distinct territorially concentrated minorities, federalism is likely to be high on the agenda.

#### Coming together and holding together

Historically, small states that were confronted by common enemies or existential challenges would sometimes come together in unions, leagues or confederations that were bound together by a treaty or founding agreement. This would enable these states, without sacrificing autonomy in most aspects of domestic policy, to share certain powers and functions, particularly in relation to foreign affairs, defence and trade. In several respects, however, these early unions were more like today's intergovernmental organizations than modern federal countries. Their confederal assemblies were conventions of delegates from the states, not truly national parliaments.

The United States, under the Articles of Confederation (1781–89), was initially such a loose union. Congress had no direct ability to levy taxes and was dependent upon the state governments to execute its decisions. In response to these shortcomings, the US Constitution created a new type of federation that was able to produce a more cohesive union while still respecting the reserved rights of the states in many domestic matters. Enacted in the name of 'We the people' (not 'We the peoples'), this new Constitution was not a treaty between

sovereign states but the constituent act or fundamental law of a new, composite, federal state. The federal government did not derive its powers from the states but directly from the people of the United States as a whole. Under it, US citizens would be subject to two overlapping authorities—the federal and the state governments—each having direct legislative power in their respective constitutionally prescribed spheres of competence. This created the model from which all subsequent federal systems have been (directly or indirectly) derived.

Through successive waves of democratization, federalism has spread around the world. Federal systems can now be found in emerging and consolidated democracies; in common- and civil-law jurisdictions; in countries with presidential, semi-presidential and parliamentary executives; and on every inhabited continent. As federalism has spread, and as the number of names by which federalism is known has grown (see Box 3.1), it has increasingly been used as a means by which an existing state can decentralize power and, as such, has become a tool for holding large or diverse countries together in the face of autonomist or secessionist pressures. Thus we see two approaches to federalism: a 'coming together' federalism in which formerly independent countries unite into a federal state, and a 'holding together' federalism in which a formerly unitary state seeks a federal solution to the problems of scale and diversity.

#### Box 3.1. A note on terminology

Federal systems do not always use the term 'federal' to describe themselves. The federal level may also be known as a 'national', 'central' or 'union' government. Constituent units may be known by a variety of names, including 'states' (Australia, Malaysia, USA), 'provinces' (Argentina, Canada, South Africa), 'regions' (Belgium, Italy), 'cantons' (Switzerland), 'autonomous communities' (Spain) or 'Länder' (Austria, Germany). These differences in terminology do not necessarily correspond to any particular formal models of federalism or to the substantive distribution of powers.

In this Primer, the terms 'constituent unit' and 'subnational unit' are used interchangeably as a generic descriptor for such entities. Some such entities claim a distinct national identity or have a recognized national status, and the use of the term 'subnational' is not to be read as implying a denial of any such claim or recognition.

## Other potential advantages of federalism

Federal government is rooted in constitutionalism and pluralism

Federalism requires power-sharing between federal institutions and those at the subnational level, such that neither level of government has absolute power. A well-functioning federal system is by definition constitutional and pluralist, since it is based on discussion and negotiation between balanced centres of power and the recognition of minorities under a broad framework of agreed constitutional rules.

According to Filippov and Shvetsova:

... successful federalism requires all of its benefits: well functioning democratic institutions, [a] judicial system, integrated national political parties and appropriate electoral incentives created by democratic political competition. The basic finding of the literature is that only in well functioning democracies can federalism be a stable and effective form of government. And conversely, outside of the democratic context, federalism is ultimately an unstable form, which logically progresses either to territorial disintegration or to becoming a mere constitutional formality (2013: 167).

The power-sharing base is broadened

Federalism allows political groups that are minorities on the federal or national level to hold office at the state or provincial level. This can have a beneficial effect in promoting political inclusion and a balance of power in countries with a dominant party at the national level. In South Africa, for example, the African National Congress party has won large majorities at every national election since the transition to democracy in the 1990s, but the opposition Democratic Alliance has enjoyed power in the Western Cape Province. The broader base of office-holding at subnational levels may also provide greater opportunities for women, ethnic minorities, poor people and other traditionally under-represented demographics to be elected to office.

Innovative and pragmatic approaches to policy development are encouraged

By allowing subnational units to develop their own policies to meet their own needs, federalism can promote innovation and experimentation in policymaking, enabling states or provinces to pioneer innovative policies that would not be politically viable at the national level. In 2006, for example, the US state of Massachusetts was able to establish a quasi-public health insurance system that

greatly expanded access to medical care for low-income citizens despite the absence of such a provision at the national level.

#### The burden on central authorities is reduced

Federalism frees the central government from having to handle much of domestic administration and service delivery, enabling it to focus on strategic challenges and national priorities.

#### Resources are shared across geographical space

Federalism is a way of ensuring the wider distribution of public resources through revenue sharing and other forms of fiscal arrangements that guarantee an agreed share of resources to all areas of a country. Federalism may also encourage more geographically diverse economic and social development, in contrast to a unitary state where everything—money, power, culture—gravitates to the capital.

#### Capacities and democratic responsibilities are developed

State, provincial or regional institutions provide a useful training ground for citizens, representatives and public officials. In a centralized country, politics takes places in the capital, and those who are far removed from the capital have few opportunities to participate in holding office and making decisions; in a federal country, many more people have the opportunity to participate in public life.

### Potential disadvantages of federalism

#### Duplication of work and lack of coherence

Federalism can duplicate government functions and lead to the delivery of overlapping or contradictory policies at different levels of government. Although constitutions often attempt to specify which level of government has primacy in each area of policy, many policies cut across these functional boundaries or can affect other policies in unpredictable and undesirable ways. As a consequence, the responsibility of each level of government for policy outcomes and service delivery may be hindered by the actions or inactions of other levels of government. It can become difficult for citizens to know where responsibility lies and to use this information to hold public officials to account.

#### Additional operating costs

Maintaining multiple levels of government is expensive. More public institutions means higher costs for offices, staff, salaries and allowances, and meeting these costs may place a heavy burden on the treasury of a less economically developed country.

### 3. Advantages and disadvantages of federalism

#### **Increasing regional discrepancies of wealth, resources and outcomes**

Unless an effective mechanism for revenue sharing is in place (requiring richer states or provinces to subsidize poorer ones), federalism can lead to increased inequality between subnational units because of their different natural resources or other revenues or levels of development. Federalism may also cause a widening disparity of outcomes in terms of the provision and quality of public services.

#### **Harmful economic competition between subnational units**

A related point is that if the unit of social and economic regulation is smaller than the unit of free trade and of capital movement (e.g. if working conditions or environmental regulations are determined by subnational units), then a 'race to the bottom' might result, as subunits compete to attract capital by lowering wages and costs. This can undermine solidarity and make it more difficult to pursue economically progressive policies.

#### **Judicialization of politics**

A strict constitutional division of power between levels of government may result in an increased political role for the judiciary, as disputes between the competences of national and subnational institutions are resolved in the courts rather than through elected legislatures. In all democratic countries it is necessary to maintain a careful balance between the independence and neutrality of the judiciary, on the one hand, and the responsiveness and inclusivity of the judiciary on the other, but in federal countries striking such a balance is particularly important.

#### **Potential exclusion of minorities**

While federalism can provide opportunities for autonomy and recognition for cultural minorities, it can also expose minorities within constituent units to discrimination and oppression, particularly if states/provinces/regions are established on ethnic, linguistic, cultural or religious lines but contain within them minorities belonging to different groups. A strong central government, on the other hand, may protect such locally concentrated minorities and ensure the equal protection of the law.

#### **The strengthening of local elites who misuse power**

Powerful interests can misuse subnational governments for private gain at the expense of the common good. Corruption, always difficult to eradicate, may be especially hard to tackle at the state, provincial or regional level, where it may be embedded in local networks and take place far from the eyes of national anti-corruption authorities. In situations where many voters are economically or socially dependent on local elites (for example, because those elites control access

to employment, land or other goods), the greatest challenge is to ensure that decentralized government is decentralized democracy, and not decentralized oligarchy or autocracy.

#### Ineffective governance because of a lack of capacity

Subnational governments may be ineffective owing to a lack of the human and financial resources necessary to fulfil their functions. Constitution-makers should be aware of the risk of overburdening weak and newly established governing institutions with demands that they cannot meet—to do so would risk disillusionment, distrust and discontent.

#### Instability and threats to democracy

The multiple centres of power associated with federalism may have a destabilizing effect and can, in the absence of a consolidated democracy, create additional risks of conflict. While federalism may satisfy demands for autonomy and thereby diminish the desire for secession, it may also provide an institutional platform for secessionist demands. These demands, if not accommodated through a further transfer of powers, could result in a destabilizing and potentially violent secession or to anti-democratic measures in order to suppress secessionism.

#### Think Point 1

Considering the advantages and disadvantages of federalism, how can a federal constitution help ensure that the advantages are maximized and the disadvantages minimized?