

Federal Democracy

Abstract

Federalism and democracy are often considered as coherent principles. However, when they are established in federal democracies, institutional structures and processes reveal tensions. Whereas democracy means autonomous governing of a community according to the will of its citizens, federalism integrates communities and requires coordinated governance between levels and constituent units. Parties and parliaments legitimize governments within jurisdictions, but constrain governance in the federal system. Contrariwise, coordinated governance strengthens the executives. No institutional form of federal democracy can rule out these conflicts. It is to political actors to cope with them. Comparative research can reveal how federalism and democracy should be linked in order to allow actors to balance effective coordination and legitimacy of governments.

Introduction

Among scholars working on federalism, many assume that federalism and democracy belong together. Democracy is said to constitute a precondition of a stable federation, and federalism supports democracy. At a closer look, both arguments are not convincing. It is true that autocratic governments tend to undermine federal structures of government. It is also true that a federal system has to be founded on constitutionalism and the rule of law. Yet, while rule of law might be closely linked to democracy, it is not democracy which is decisive to make federalism work. Federalism can support democracy, because both principles of a political order prevent a concentration of power. However, federal structures also constrain democracy by limiting the power of the people. Alfred Stepan has characterised the US-model of federalism as *demos* constraining (Stepan 1999), but long before he published his article, scholars and members of constitutional conventions have discussed, whether a parliamentary democracy can work in a federation.

These arguments could be taken as abstract reasonings and challenged by the simple fact that federal democracies exist, and that most of the mature and stable federations indeed are governed according to rules of democracy. However, this is not the issue at stake. The problem we need to address concerns the operation of democratic federalism. Regardless of which patterns of federalism or democracy are concerned, studies have revealed that their linkage causes tensions and conflicts. For instance, federalism divides powers between central and regional or local governments, but more often than not, policies cut across boundaries of jurisdictions. It is then to executives to coordinate their decisions, although democratic processes at the different levels or constituent units legitimise divergent decisions. Or governments mutually adjust their policies in interjurisdictional competition, while in a democracy decisions are influenced by party competition. Parliaments have to hold executives accountable, but have to avoid tying the hands of executives engaged in intergovernmental relations. Moreover, federalism creates multiple access points for parties, but a territorially fragmented party system can obstruct the integration of a federation. In multinational societies, federalism might be *demos*-enabling, but it can also increase conflicts between diverse *demos*, and these conflicts have to be settled in intergovernmental relations.

Incongruent Structures and Divergent Mechanisms

Federal democracies constitute complex organisations of governments. Like all complex organisations they are confronted with a dilemma: The more they differentiate structures into subunits fulfilling particular tasks, the more they have to find ways to coordinate these interlinked tasks and manage interdependence among the organisational units. Yet, whereas many organisations like private corporations or public bureaucracies decompose tasks so that actors responsible for special duties are motivated to cooperate, federal democracies divide powers fulfilled under institutional conditions which obstruct coordination. This particular organisation of a political system is characterised by structural incongruence and divergent mechanisms of governance.

In modern democracies, the relations between elected representatives exerting power and the citizens holding them accountable in elections are organised in a territory. Provided that a government fulfils multiple purposes, a territorial organisation guarantees that those subject to power include to the largest possible extend those legitimizing power. At the same time, a government can claim autonomy within its territorial jurisdiction and citizens can assign full responsibility for policies to those they have elected. In contrast, a federal order spans across the territories of democratic governments. It not only encompasses different territories and different territorial levels, but also establishes processes of coordination in order to manage interdependence between policies made within the territorially defined jurisdictions. Coordination can be accomplished by central regulation, negotiated agreements, or mutual adjustment, otherwise governments interact in detrimental processes of “thrust and riposte”. In any case, coordinated policy-making constraints autonomous governance in democracy.

Beyond this territorial incongruence, federalism and democracy operate according to different procedures and modes of

politics and policy-making. In a democracy, actors holding legislative power and leading executives are legitimised by elections and by accountability to their citizens. Required to contest for offices, they present competing policies. Those holding power are continuously challenged by opposition parties or factions in parliaments. In this competitive process, responsible political actors claim that they do the best for their citizens, that they defend the public interests of their constituency against threats or expectations from outside, and that they prevent external effects caused in other jurisdictions. In relations with other governments, they are bound to the will of their people, and party competition reinforces inward-looking orientations. Yet managing interdependence between jurisdictions requires them to take into account the overarching functions to be fulfilled in a federation. Finding intergovernmental agreements is difficult among governments acting for their community of citizens. If coordination of policies in a federation can be achieved through intergovernmental competition, the democratic process within jurisdictions can prevent governments from participating or appropriately adjusting their policies.

In a nutshell, democracy unfolds in a territorially defined community of citizens where parties compete for power and elected office-holders claim autonomy to act in the interest of the community of citizens. Federalism links autonomous communities of citizens and integrates them into a larger community by a division of powers between federal and sub-federal governments and by coordinated intergovernmental policy-making. Autonomy and coordination are basic prerequisites of a federal democracy, but the mechanisms ensuring them drive politics to different directions.

Varieties of Federal Democracies

Incongruence of structures and divergence of mechanisms of politics materialize with the institutionalisation of federalism and democracy, two principles of a political order which are compatible from a normative point of view. When applied to a political system, these principles refer to distinct institutional dimensions and patterns of interaction. Their combination and interference cause of tensions in a federal democracy. However, in the various forms of federal democracies that emerged in the course of history, the consequences of these tensions differ significantly. Studies have shed light on these variations, but evidence remained impressionistic due to the lack of a coherent analytical framework and comparative research.

For a long time, tensions between federalism and democracy have been discussed as a problem of federations with parliamentary systems, not the least in Australia, Canada and Germany (Lehmbruch 2000, Sharman 1990). Constitutional lawyers have argued that federalism contradicts the sovereignty of parliaments. In practical governance, intergovernmental coordination is often obstructed by antagonistic behaviour of the participating executives who are associated with and accountable to competing parties in parliament. Nonetheless, these federal democracies proved both effective and stable, and in comparative studies measuring the quality of democracy, they are highly ranked. Apparently, governments have been able to cope with the tensions between competitive politics in parliamentary democracy and coordinated governance in intergovernmental relations. Executives who are involved in both processes are able to deal with the constraints of different rules and commitments to different actors in the respective arenas of intergovernmental and parliamentary politics. However, political polarisation, coalition agreements or binding mandates can strongly tie them to party politics, and institutionalized power-sharing can compel them to coordinate policies across jurisdictions. In this case, tensions in a federal democracy are difficult to manage and either frustrate policy-making or the power of parliaments.

These risks seem comparatively low in federal democracies where powers are separated, like, for instance, in non-parliamentary democracies and so called dual federal systems. The paradigmatic case of this type can be observed in the U.S. Directly elected heads of federal and state executives seem to be democratically legitimised to manage interdependence in the federation without being constrained by accountability to a parliament. As powers are separated between federal and state governments, intergovernmental relations are rarely institutionalised and thus hardly in conflict with the autonomy of democratic governments. At a closer look, the dual separation of power has not only “demos-constraining” effects (Stepan 1999), but also undermines effective coordination by predominating competition among

governments. In consequence the federal government has more and more extended its regulative power. The power of the demos and its representatives is affected by the rise of administrative policy networks spanning across levels of governments. Party confrontation, induced by the winner-takes all character of elections and reinforced by political divides on fundamental policies has causes deadlocks in divided governments and increased conflicts between federal and state governments which obstruct intergovernmental coordination (Conlan 2017).

Coupling Arenas and Coping with Tensions

Certainly, the institutional configuration, in particular the type of democracy and federalism, makes a difference for the tensions in a federal democracy. However, since all varieties are confronted with the incongruence of territorial structures and divergent logics of intergovernmental and democratic politics, it is less the intensity of tensions but rather the ability of political actors to cope with tensions, that matters. In federal democracies, policy-makers are subject to different rules, those guaranteeing democratic legitimacy and those enabling coordinated governance in the federal system. As these rules require autonomy of governments and coordination, no institutional configuration can avoid conflicts. Only political practice can lead to an optimal balance of the diverging requirements, and this is possible only if neither of them determines politics and actors' behaviour. Therefore, it is less the particular institutional form as such but the coupling of processes of democracy and federalism which is essential to make a federal democracy work.

Coping with tensions depends on strategies of actors. Yet in order to interact strategically, actors need room for manoeuvre. In composite political systems, opportunities for "venue shopping" between different arenas in general increases the options policy-makers and in particular executives can exploit. However, if arenas of a federal democracy are tightly coupled, actor are constrained by strong ties that imply conflicting demands for action. This is the case if a government is committed to fulfil policies determined in coalition treaties or demarcated in polarised party politics, while at the same time it should fulfil joint tasks by negotiating mandatory intergovernmental agreements. Certainly, this constellation does not rule out strategic action of governments, but usually they can only avoid conflicts by limiting the scope of policy-making (Scharpf 1988). Their situation is different in loosely coupled systems, for instance in one-party governments or consensus democracies and in a federal system establishing a framework for autonomy-preserving coordination. In this case, neither party politics nor intergovernmental politics predominates as both constitute processes that are open to adjust policy outcomes (Benz 2019).

Conclusion: Avenues for Future Research

Case studies indicate, that existing federal democracies are more or less loosely coupled, but only comparative research can prove this assumption. It is also necessary to identify different conditions like institutions, modes of policy-making, interparliamentary relations, the party system, interest groups etc., which set up to the particular linkages of a federal system to democracy. Depending on these conditions, federal democracies vary in their capacity to adapt patterns of governance in order to balance legitimacy and effectiveness of policies. Loosely coupled systems not only increase the flexibility of politics which allow actors to cope with conflicting expectations, they increase the adaptability of institutions in order to balance intergovernmental politics and the autonomy of democratic governments.

Suggested Citation: Benz, A. 2020. 'Federal Democracy'. *50 Shades of Federalism*. Available at:

References

- Benz, Arthur. 2019. Conclusion: Governing Under the Condition of Complexity, in: Behnke, Nathalie, Broschek, Jörg, and Sonnicksen, Jared (eds.), *Configurations, Dynamics and Mechanisms of Multilevel Governance*, Cham: Palgrave Macmillan, 387-409.
- Conlan, Timothy. 2017. Intergovernmental Relations in a Compound Republic: The Journey from Cooperative to Polarized Federalism; *Publius. The Journal of Federalism* 47 (1): 171-187.
- Lehmbruch, Gerhard. 2000. *Parteienwettbewerb im Bundesstaat. Regelsysteme und Spannungslagen im Institutionengefüge der Bundesrepublik Deutschland*, Wiesbaden: Westdeutscher Verlag, 3rd ed.
- Scharpf, Fritz W. 1988. The Joint Decision Trap: Lessons from German Federalism and European Integration; *Public Administration* 66 (3): 239-278.
- Sharman, Campbell. 1990. Parliamentary Federations and Limited Government. Constitutional Design and Redesign in Australia and Canada; *Journal of Theoretical Politics* 2 (2): 205-230.
- Stepan, Alfred. 1999. Federalism and Democracy: Beyond the U.S. Model; *Journal of Democracy* 10 (4): 19-34.

Further Reading

- Benz, Arthur, Sonnicksen, Jared. 2017. Patterns of Federal Democracy: Tensions, Friction, or Balance Between two Government Dimensions; *European Political Science Review* 9 (1): 3-25.
- Burgess, Michael, Gagnon, Alain-G. (eds). 2010. *Federal Democracies*, London: Routledge.
- Hueglin, Thomas O. 2013. Federalism and Democracy: A Critical Reassessment, in: Skogstad, Grace et al. (eds.), *The Global Promise of Federalism*, Toronto: University of Toronto Press, 17-42.
- Scharpf, Fritz W. 2019. Multilevel Democracy: A Comparative Perspective, in: Behnke, Nathalie, Broschek, Jörg, and Sonnicksen, Jared (eds.), *Configurations, Dynamics and Mechanisms of Multilevel Governance*, Cham: Palgrave Macmillan, 249-271.