

FEDERALISM, DEMOCRACY, AND THE POLITICS OF IDENTITY

For Juan Linz

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1) From Federalism to Devolution

Juan Linz (1999: 382) once complained that most of the writers on federalism do not pay attention to the problem of democracy. Since Calhoun's theories of "concurrent majorities" against the mere "numerical majority" - which became a battle cry in the American Civil War - the federalist principle of a separate politics of identity has frequently been opposed against the principles of "equality" and "numerical majority" of the whole country. The problem was aggravated by the rise of the welfare state. The welfare state acted in an equalizing way. Only in deeply entrenched federal systems - occasionally reinforced by a multi-national composition - the federal units sometimes remained sceptical against federal grants in aid because they resented too much interference from the central state. The ideal type of historical federations such as the USA or Switzerland was organized as "dual federalism" with a clear separation of competences of the union and the states or cantons. It was symmetrical in representation in the second chamber - one of the most important veto player against the numerical majority in the people's chamber. Post-modern federalism, however, is more growing more and more asymmetrical. Charles Tarlton (1965: 861) - who first popularized the term "asymmetric federalism"- still had a bias in favour of symmetry. In the early literature on federalism too many asymmetries led to the verdict that a system was only "sham federalism" or "unauthentic federalism."

This writer in the early days of the new democracies was also biased in the tradition of Carl J. Friedrich towards full-fledged symmetric federalism. Some German political scientists were invited after Franco's death by our Spanish colleagues to talk about "constitutional engineering". We advocated "federalism" and were disappointed that Spain rather granted one "pre-autonomia" after the other and came to a very asymmetric system. Our colleagues in constitutional law were more successful in policy-advice: the German-Austrian model of a constitutional court was adopted. Today I consider the Spanish reluctance to accept symmetrical federalism as a wise move. Multinational states have changed the paradigm: "Inequality is the price paid for the unity of the state" (Linz 1999: 399).

Enlightened neo-institutionalism is less interested in legal considerations of how federations should be organised but rather aiming at a policy-oriented approach. Institutions can be variable - according to different policy areas. In transformation processes, however, two legal minimal conditions had to be met:

- Legal autonomy for the subunits,
- creations of fair chances for minorities in the electoral system.

This was one of the reasons why the winner-takes-all systems - which were practised under Communism and preferred by most Post-Communists - did not prevail in most countries of transition. The institutional mix as a product of constitutional engineering in East Europe was mostly some autonomy for the subunits, in combination with proportional electoral law. Only in federations with a British background, such as Canada, the Westminster tradition was so strong that proportionalism did not prevail. In a non-federal state, such as New Zealand in 1993, this tradition has been interrupted for reasons of sub-autonomy for the native population, the Maori. In Russia the choice of a "parallel system" led to results which were

closer to practices of majority systems (Nohlen/Kasapovic 1996: 34ff). But the local elites were strengthened and became more independent on the central decision-making. The Russian mix of institutions therefore strengthened centrifugal tendencies. Equality of competences – with some exceptions as they were found in Germany or Austria – was only a myth. Russia is a hybrid in a matrix of the typical transitional mix of institutions (equal - unequal competences, and majority or proportional electoral systems).

Matrix: Institutional mix for mitigating territorial conflicts

| Federalism | | |
|---------------|--|---------------------------------|
| | equal rights | unequal rights |
| Electoral law | proportional moderate egalitarian: Germany, Austria, egalitarian: Belgium, Switzerland | modified autonomy: Spain, Italy |
| | majoritarian | devolution: Britain |
| | -----Russia----- | |

This graphic typology should not obscure the fact that the “snap shot” represents only a moment in a permanent dynamic. British devolution after the creation of Parliaments for Scotland and Wales in 1999 can quickly develop in a Spanish direction. The main difference from the Spanish model seems to be a different electoral law. But even the electoral law in Britain is no longer a “holy cow” as Britain shows in the European elections. Russia is particularly floating in this picture. The country has combined American, German and Spanish solutions in a contradictory system. It is comparable in many respects only to India (Traut 1995: 118). The constituent powers of the subunits in these federations are partly dependent on the central decision-making system. Where this central prerogative has been contested the central administration has reacted mostly in an a-symmetric way. The separation of Chechnya and Ingushetiya (1991) was accepted. Further-going claims of Chechnya in the direction of sovereignty were blocked in a bloody way. The attempt to create a Ural Republic with Yekaterinburg (Sverdlovsk) as a capital has also been vetoed (1993) (von Beyme 2000). From Spain to Russia the new federations have reacted in a pragmatic way and increased a-symmetries. The ideal of a federation with symmetric rights and proportional electoral law is partly realised only in Belgium and Switzerland. Bipolar classifications are a first step towards orientation. But they are too schematic for a detailed analysis which has to include:

- de iure-asymmetries in Constitutions and laws,
- de facto asymmetries in the sphere of economic, social and political dynamics.

In classical symmetric federations it was unnecessary to organize identity politics. Identity in Appenzell or Connecticut was given. Only when the regional identity feeling was weakening or got recently a revival - because regions with a distinct ethnic base were feeling as an “*irredenta*” - identity politics was invented. Federalism in the older literature was treated as “an objective fact in the realm of institutions”. Identity, however, was considered as a “subjective factor” which had to be constructed or reconstructed. The mere term “identity politics” demonstrates that the identity is no natural reality which can be mobilized within social regional reality. It has to be transformed into a collective consciousness via identity politics.

The theoretical problem was, however, that political sociology since Talcott Parsons was extremely sceptical that “*social integration*” in a whole system was still possible since the subsystems have turned into “environments” for another which can only communicate with each other in a rational way and construct a kind of “*system’s integration*.” Parsons’ German pupil Niklas Luhmann (1975) went a step further. Since a global society is growing even this antithesis was declared to be obsolete. The subsystems could only observe but hardly influence one another. The opponents of this kind of conservative system’s theory such as Habermas (1976: 111) were convinced that the “*Lebenswelt*” (life world) even in modern societies is not completely absorbed by “the system”. Collective identity thus was possible in a “reflexive way” via a process of learning and communication which could lead to a “*reasonable identity*.” But Luhmann as well as Habermas had one thing in common: they were convinced that these processes of learning and identity building could no longer be steered by the state from above. Warning voices from the philosopher’s side could not prevent, however, that modern states via socialisation, cultural policies, symbolic politics with flags, anthems, monuments and national myths continued to rely on identity policy. In multinational settings Juan Linz’s seminal difference between “*state-nation*” and “*nation-state*” has been neglected. “*Constitutional patriotism*” is sometimes advocated. But as soon as problems of integration of foreign migrants arise silly campaigns are launched such as: “You are Germany”. The authorities which complain about lacking patriotism among the German youth overlook that the same youth goes almost crazy when a foreign team in an international soccer game approaches the German goal. Survey studies show that also in Germany sentimental ethnic patriotism - especially in East Germany - is still stronger than rational post-national “constitutional patriotism” (Westle 1996: 64), though Germany in most surveys on “national pride” ranks even after Belgium, a country which developed almost into two states.

Traditional national feeling in a civil society does not need reinforcement by national identity policies. Only the construction of sub-nations in multinational states have to rely on identity politics. The sub-nations in devolutionary federalist states have to fight the prejudice that “symmetrical federalism” or equal treatment of all the regions is “rational,” whereas special protection of sub-nations is “irrational”. In Spain the privileges of the three “sub-nations” (Basque Country, Catalonia and Galicia) meet with counter-slogans such as “*café para todos*”. When the other regions get additional rights, the sub-nations make further claims and consequently are a blamed for getting “*coffee plus brandy*”. A problem of modern democratic federalism is that symmetrical schemes of early “coming-together-federalisms” do not work in a social situation of centrifugal tendencies, limited by “keeping-together-federalism.” At least in the European Union John C. Calhoun’s (1853, 1953: 23) idea of “*concurrent or constitutional majorities*” - close to a *liberum veto* - is no longer viable as a model of a loose confederation of “sovereign” states. But Calhoun’s basic idea for a “proper organism”, to “regard interests as well as numbers” had a kind of revival. In a more integrated way the sub-nations in post-modern federalism ask for “concurrent majorities” on the level of regional autonomy. Federalism again became a normative concept.

The descriptive typologies underlying the 23 federal states counted by the end of the 20th century (Watts 1998: 121) obscure the fact that “federalism” became an abstract type, containing many varieties such as federations, confederations, associated states, Unions, Condominions, regionalism and constitutionally guaranteed “home rule”. Whereas the old debate about an “authentic parliamentary system” (the British type) and an “unauthentic parliamentarianism” (the French type in the fourth and fifth Republic) came to an end, ideas of an “authentic federalism” from Wheare (1946) to Abromeit (1990: 14f) survived in federal theory. Federal states in recent transformations no longer “bring together”, but rather “hold together” the centrifugal units. Federal systems in the former Communist worlds broke down, such as the Soviet Union, Yugoslavia or Czechoslovakia. Only transitional systems with a

longer democratic tradition held together. The new democracies strengthened our insights that the “*Rechtsstaat*”, the legal state, in times of transition is as important as democratic participation - though federalism plays no mayor role in the construction of transformation indices. In fact, defective democracies mostly had greater deficiencies in the functioning of the legal state than of organizing free elections (Bertelsmann Transformation Index 2006: 134ff).

The importance of the legal state for federalism is documented by the growing impact of constitutional courts in federal systems. Only in Switzerland constitutional courts are no “*pouvoir neutre*”, but rather the double majority needed for innovative legislation by the concurrent majority of the people, represented in parliament and by the majority of the people expressing its views via referenda. Swiss studies in legislation have shown that in many cases the democratic majority met a veto of the majority of the cantons. The majority of the cantons, “*das Ständemehr*”, at a pinch can be organized by 9 little cantons. A vote from Uri in this case counts 31 times as much as one vote from Zürich (Linder 1999: 180). In most federation, however, the *pouvoir neutre* has been developed by judicial review - though Montesquieu (*Ésprit des Lois*, XI, 6) still thought that jurisdiction was “*en quelque façon nulle*”. Even in the early days of the United States judicial review was not conceived as a mediator in conflicts of federalism. The mediation was to take place rather via “*checks and balances*” in the system of horizontal division of powers. Only later the Supreme Court since “*Marbury v. Madison*” (1803) developed its role as a *pouvoir neutre* also in the federal system. When the Commonwealth of Australia created its federal systems many politicians favoured the Swiss system. Finally a unique compromise was created. The High Court - contrary to the British tradition of parliamentary sovereignty – was placed even above the parliamentary procedure. Federalism does not accept “parliamentary sovereignty” as expression of democracy, but rather “constitutional sovereignty”. Hans Kelsen after World War I developed the “Austrian model” which later became the “Austrian-German model”, when the German Court internationally grew more influential than the archetype in Vienna. Kelsen was said to have copied the American system. But Kelsen (1922: 55) himself claimed to have used the Swiss and the Imperial German constitution as a source of inspiration. The constitutional courts developed some prominence in federal conflict resolution. German figures show, however, that until 2005 the conflicts between the federation and the Laender according to Art. 93, lin.1 and Art. 84, line 4 of the Basic Law amounted only to 44 sentences out of 155 000 cases which came to the Karlsruhe Court. In other countries on the way of democratisation, such as Russia, the federal conflicts were the second important type of procedure in front of the Constitutional Court (von Beyme 2002). The more asymmetric federalism developed, the more important judicial review became in the system. This is particularly true in the fight for the rights of the aborigines and ethnic minorities in Canada, USA and Australia. A post-modern type of identity policy strengthened judicial review in the name of “*morality policies*”, e.g. policies of recognition for underprivileged territorial and non-territorial groups. New asymmetries in the federal hierarchy sometimes were a consequence of rigid moral standards, imposed by the federation. Normally they amounted to additional financial burdens for the municipal level of government. Identity policy moreover increasingly used the norms created for “individual complaints” about a violation of citizen’s rights as a tool to promote “collective demands” which changed the rules of the federal game.

Federalism had to change its underlying philosophy and to overcome its thinking in terms of rational symmetric blue-prints. Federalism became just one pole on a scale with many variations between confederation and unitary state. It may well be that classical federalism soon will be a sub-type of *devolution*. A first indicator for this movement is a book title in a truly federal country: “From Federalism to Devolution” (Conlan 1998).

Devolution has captured even former unitary states. In some respects the old debates about the virtues of federalism are obsolete. There are objective data on performance of

systems which support this hypothesis - as well as survey data which show that regional consciousness has grown in post-modern times.

- Some comparative analysts of the performance of states found out that decentralizing unitary states - like Sweden or the Netherlands – may have better results than federal states. Federal states were successful mostly only when they decentralized also below the level of the federal units (Keman 2000). Municipal government in many countries had to be strengthened even against the federal subunits.
- Regional consciousness is growing in post-modern times. Comparative studies in North America found out that Canadians felt the strongest loyalty towards local government, Mexicans towards state governments (in spite – or maybe because they are weak) and only the citizens of the USA had a balanced view of the three echelons of power (Kincaid et al. 2003, 145, 150, 154, Cole et al. 2004: 220f). In Europe Spain was the country where the highest proportion of citizens identified first with the region (38%), followed by Belgium (32%) and Germany (27%). (Eurobarometer 45, 1996: 88f). Dual identity towards Spain and the region is developing even in areas with a tough regional identity policy (Basque country, 30,8%, Catalonia 38,9%, Galicia 47,9% (Moreno 2001: 25, 60, 68f, 115). In Austria about one quarter of the population was identifying with the “Land”, strongest in Salzburg (39%) and Vorarlberg (36%). Only 48% think of themselves first as “Austrians” (except in Vienna 54%). But even in Austria the regional differences have decreasing importance (Plasser/Ullrich 2003: 433, 438).

Oddly enough regional and ethnic minorities were more generally protected between the two world war, though the League of Nations rarely enforced this legal protection. After 1945, however, the United Nations under dominance of American values have emphasized the individual universal human rights rather than minority and other group rights. The European Union normally examines the state of minority protection in countries which apply for membership. As soon as they are members the EU has hardly any interest in this issue and would not find majorities for interference in this matter.

After the war *consociational democracy* was hailed as a model for accommodating ethnic and regional conflict. As soon as these conflicts entered a violent stage the model was no longer feasible. It needed elites which could represent the groups in a coherent way (Waldmann 1989: 364). But this is lacking among the regional elites in most devolutionary systems because the days are gone when PNV was able to represent the whole Basque people. Multiparty systems have substituted the former hegemonial regional parties which survived only in the cases of the “Swedish People’s Party” in Finland and the “South Tirol People’s Party” in Italy. This survival was possible only because the conflicts with their national states developed in a non-violent direction.

2) Social and economic efficiency of federalism versus integration via identity politics

Federalism in times of economic growth was hardly considered as progressive per se, even though most of the theoreticians did not share William Riker's (1964: 152ff) ideas about federalism as a stronghold for the “tyranny of minorities.” Federal countries in comparative system’s studies had a good performance already because only the highly developed countries were evaluated. As soon as comparisons included devolutionary systems among the unitary states the picture was less positive. Comparative studies of federalism turned to rational-choice theory - as in many other fields in political science. The strict design of the theoretical approach, however, lead to a scarcity of cases. Mostly six systems were treated. Among them Canada is highly atypical and Austria very little federalist (Obinger et al. 2005). Even Germany was blamed for turning into a “disguised central state” (Abromeit 1992). Only

Switzerland, the USA and Australia were not contested. Problems of identity-building are normally neglected. Regional identity feeling is very different in Flanders than in North-Rhine-Westphalia, though both entities live closely together and share the basic values of “constitutional patriotism”. Some scholars are already doubtful about the results of quantitative outcome-studies and plead for comparative case studies (Benz 2002: 44). But certainly the new wave of identity politics has embellished the image of federalism because the integration via federalist designs was evaluated together with economic output.

Federalism was mostly considered a less “statist” and closer to “civil society than the unitary state. The society-based federalism everywhere became defensive under the attack of the equalizing tendencies of the welfare state. It is hardly doubted that federalism matters. But mostly as an intervening variable which can hardly be isolated from other variables such as the governmental system (parliamentary or presidential), administrative traditions, dominant political ideologies, the systems of interest groups and parties. Lowi’s “policy determines politics” also in federal systems was hardly an exaggeration. Comparative democratic studies discovered that the policy field determined which kind of inter-governmental relations prevail (Braun 2000, 2002:105). This is especially true in policies which are related to “space” such as economic, regional, agrarian, housing or traffic policies and protection of environment. Other policy areas are related to identity such as culture and education. But they can also develop regional concern. Moreover the regions are modernizing. An Indian disciple of Riker’s was able to show that the new regionalists in India are no longer marginalized “hill billies”, but highly urbanized and mobile capitalists and no longer the agrarian oligarchy suspected by Riker to blackmail the whole Indian Union (Mitra 2000: 51).

Federalism aims at variety, democracy at equality. The classical dual federal systems such as Switzerland and the USA tolerate a good deal of asymmetry. In Switzerland competitive federalism leads to the asymmetry that citizens of the Canton of Zug pay only one quarter of the taxes imposed on the citizens of Zürich, but benefit from the infrastructure and cultural facilities of that metropolitan area without financial contributions. In Switzerland equalization of life conditions is not considered as an aim of the federal system (Fleiner 2002, 2: 113) because this would contradict the declaration of “sovereignty” of the Cantons in Article 3 of the Constitution. In the United States nobody resented that in 1990 the differences of social transfers to the citizens between Alabama and California amounted to a relationship of 1:6. Later data suggest a relationship of 1: 4 (Majone 1996: 235; Ways and Means Committee Print WMCP: 108-6 Greenbook). Democracy as the overarching principle has the problem to make compatible the principle of individual freedom with the collective-territorial principle. The Swiss try to bridge the gap by consociational patterns, emphasizing “solidarity instead of competition” (Linder 1999: 137).

Only few federal countries have adopted an egalitarian model of the welfare state, such as Germany. This was a consequence of the extreme social and economic heterogeneity of dominant Prussia - covering two-thirds of the German territory - in the old Empire (1871-1945). In addition countries with a parliamentary system are more inclined to follow this pattern than dualistic presidential regimes or the Swiss Council system. After German reunification the clause in Basic Law (Art. 72,2), the Constitution, on “*equality of life conditions*” had to be watered down to “*equivalent life conditions*”. The German constitutional court in October 2002 ruled that “equivalent life conditions” did not mean “uniform conditions.” In the early days of federalism the poor states were inclined to ask for more equality. Growing acceptance of neo-liberal thought created a “chauvinism of the rich areas” and a kind of “*class-war from above*.” The richer states deemphasized equality because they evaluated it as a bonus for “bad economic management” as Flanders in Belgium or the South German “Länder”.

Even in the American grants-in-aid system fiscal federalism caused dysfunctions because the Federation was inclined to burden the states with new tasks. A conservative majority in

1995 tried to prevent President Clinton from creating “*unfunded mandates*”. In Canada some of the provinces tried to “opt out” of the well-intended central social programs and the “golden bridles” which touched the autonomy of the smaller units (Conlan 1998). These conflicts of perception do not mean, however, that transfers from the centre have not worked in all the cases. In Spain the poorest region, Extremadura, improved its economic conditions compared to the richest area, Madrid 4% in the 1990s (Moreno 2001: 130). Only in countries with serious problems of development the fiscal policy of equalization often lead to more asymmetry and to a merciless competition between the territories (Souza 2002: 47). Some theories of federalism hoped that decentralization would lead to “democratic” decisions, “close to the grassroots”. Empirical studies did not verify this assumption (Tsebelis 2002: 157). Even in the USA the model of “*market preserving federalism*” worked only until the New Deal. There were objections to this model on the ground of suspicions that a central government strong enough to protect private markets is also strong enough “to confiscate the citizen’s wealth” (Weingast 1995: 138). In new democracies decentralisation causes additional problems: the smaller the territorial units - the greater the danger of corruption (Treisman 2000). In developing countries, such as India, populist regional leaders increased asymmetry in federalism. The planning system as a watchdog of transfers was countervailed by the financial commission and could not guarantee a minimal equality (Singh/Verney 2003: 29). Ethnic identity politics in some federations caused a split of the models applied: in Canada *cooperative federalism* prevailed in the relations of central government and the English speaking provinces, whereas the relations between Québec and Ottawa were characterized by a *competitive federalist model* (Skogstad in: Braun 2000: 58). In some federations asymmetries are also growing by “*regional diplomacy*” of the federal units as between Canada and the USA.

New discoveries are normally overrated in their importance. Some authors claim already that regionalism became more important than federalism (Umbach 1998: 11). But in federal systems the states or Länder serve as regions if they are not too small (Saarland) or too big (Northrhine Westphalia). They have normally more know-how than the recently created regions. This applies even to central states, such as France. The “departements” still prevail in their connections with the hierarchy of central bureaucracy over the regions. Regional consciousness is developed in an symmetric way. England or Castilia don’t feel so much as an “irredenta” that they want to be saved by a “design federalism” in the same way as the Basque Country or Scotland. Identity politics moreover does not create always an adequate feeling of satisfaction because it also creates “rising expectations”. Autonomy in the light of very limited regional success sometimes leads to “*blame avoidance*.” The central government is blamed for insufficient financial support. Theories of federalism, moreover, have neglected one aspect of democratic theory: the growing importance of the municipal level, sometimes restricted in its importance by its dependence on the federal states. Democracy has many levels - whereas federalism tends to isolate on aspect under the auspices of the legal state. Theories of federalism, moreover, have neglected one aspect of democratic theory: the growing importance of the municipal level, sometimes restricted in its importance by its dependence on the federal states. Democracy has many levels - whereas federalism tends to isolate on aspect under the auspices of the legal state. In Switzerland this dilemma has developed into a predicament. Decisions always need a “double majority” - in a two chamber-system and popular legislation via referenda. This system created “frozen majorities” - not very open for new groups and issues.

Regionalism moreover is hampered by migration and social change in the regions. New groups appear – without clear territorial limitation. Social mobility undermines the boundaries of ethnic and language districts even in Belgium or at the Swiss “*Röstigraben*” between German and French speaking citizens. Torchbearers of “*consociational democracy*” were more inclined than the identity politicians of “*new regionalism*” to discuss the old Austrian

design of a *non-territorial cultural autonomy*. They rather favour the revitalization of the “political space” (Keating/Louglin 1997: 11). The Austrian model seems to be universally applicable and does not create new governmental structures. It seems to be compatible with a unitary state. Territorialists are abhorred by the net-work phantasies of post-modern theories of “*governance*” as a loose form which substituted “government” in a traditional sense. In federations where the “first nations” and “aborigines” claim their share in autonomy and power, as in Canada, Australia or the USA, special relationships have developed which do not fit the design of “symmetric federalism”. The same is true in areas where homelands of ethnic minorities - as the Hungarians in Romania and Slovakia – built up a kind of “*fuzzy citizenship*” between home states and kin states. Territoriality in the light of post-modern theories is a comparatively late phenomenon, fostered by the rise of nationalism. Johannes Althusius (1614, 1961: 3) in his fight against absolutist reign developed already a model in which the “*symbiotici*” were organized in an organic hierarchy of functional and territorial groups. Especially in Canada this tradition has been rediscovered.

Conclusion

Conflict management in the age of globalisation and regionalisation is done with a variety of instruments - from genocide to separation (Smith 1995: 300). Federalism as an instrument is typical for middle of the road measures. But federalism does not guarantee *per se* permanent social peace. Belgium, Canada, Spain, Nigeria and India had to live with this experience in a permanent crisis. Social dynamics cannot be regulated in the long run. Switzerland and Belgium went farthest in a detailed regulation of ethnic school districts and language requirements in the administration. The conflict is easier to handle when the conflict has dyadic structures as in Belgium, Canada and to some extent in Switzerland. In mixed ethnic areas, as in Brussels, Bosnia-Herzegovina or in many East European countries the balance found via constitutional engineering remained always precarious and unstable.

More important than the search for “eternal solutions” in fighting asymmetric rights of the subunits of federalism is the degree in which civil society is internalised and the amount of protection for minorities in society (Knop et al. 1994: 7). Migrations in the age of globalisation will undermine any artificially stabilised borders and legal arrangements. The rational dream of classical modernism for symmetry is permanently under attack by new post-modern *de facto* asymmetries. Rational instruments of accommodation are precarious because pre-modern remainders of feelings of identity are not easily outmanoeuvred by rational options for political actions (Evers 1994: 64).

The European Union has tried to escape this dilemma by launching the notion of “*subsidiarity*” instead of the term federalism. This notion stems from the debate on functional interest groups in the social doctrines of the Catholic church and entered Calvinist political thought in the theories of Althusius. Europe has territorialized this term, but the European parliament made it clear in a majority decision the “subsidiarity” in a case of doubt meant “federalism” – not preferred by bigger centralised national states such as France and Britain. The discussion for the appropriate form of federalism in Europe is continuing. New terms create every year new “epitheta-federalisms”: such as “interlaced” or “subsidiary federalism”, “differentiating” or “participatory federalism” etc. The semantic struggles are the more intensive as they reach a normative level, e.g. the question which form of federalism is appropriate for the European Union (Sidjanski 2001: 73).

“Conflict management” and “conflict solution” have been differentiated in this debate (Burgess/Gagnon 1993: 18). Conflict solutions are rare, but they exist in so far as they guarantee the further existence of systems with centrifugal tendencies such as Belgium or Canada. In most other cases only “conflict management” seems to be possible. An important

contribution to conflict management is the capacity of federal systems not only to act as a brake on nation-wide innovation but on experimenting with innovations on a regional level. Hawaii's health care-system had considerable influence on the medicare-solution in the USA in 1971 (Burgess/Gress 1999: 188). Innovations in the budgeting system have been tried first on the state level. Justice Louis Brandeis in a dissenting vote in 1932 called the states "a laboratory for new social and economic experiments" (New York Ice Co. v. Liebermann 285 U.S. 262.311). Saskatchewan in the 1960s in Canada was a pioneer in comprehensive health care with a system of hospitals. The "Medical Services Act" of 1966 extended this solution to Canada (Bakvis/Skogstad 2002: 13). A cost-benefit analysis of federalism by no means remains as critical as Riker's thought (1964: 145, 153). He called federalism as a principle which is essentially anti-innovative. It can, however, hardly be denied that federalism occasionally promotes the "tyranny of minorities". It was Riker's historical achievement to have analysed who are the actors that get most of the benefits from the federation. He found the Whites in the Southern States of the USA, Québec in Canada, the landlords in the underdeveloped areas of India, and the non-Prussian Southwest in Germany. Even in the Australian context where no individual beneficiary could be named, trade interests were privileged because via federal veto group politics they were able to avoid central equalising policies. Leftists have always blamed federal autonomy as an instrument in the hand of rich veto groups. In the meantime Europeanisation and globalisation led to a situation in which interest of capital owners do no longer need federalism. On the contrary the small basis of autonomous regional decisions is detrimental to their goals, exceeding regions and national states. This predicament contains the hope that numerical democracy of a political system will co-exist with identity policies of regional and functional special interests and serve as a protection for grass-roots democracies in smaller units.

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