

The Paradox of Federalism

Does Self-Rule Accommodate or
Exacerbate Ethnic Divisions?

Edited by
**Jan Erk and
Lawrence M. Anderson**

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The Paradox of Federalism

The paradox of federalism is about whether self-rule accommodates or exacerbates ethnic divisions. A federal arrangement which formally recognizes ethno-linguistic diversity to help manage divisions can also pave the way for eventual disintegration. The case studies in this book cover a wide geographical basis (Canada, Scotland, Spain, Belgium, Bosnia, Kosovo, Russia, India, and Iraq) and seek to outline under what conditions federalism can deliver its promise of resolving ethnic conflict.

The book aims to bridge those who study federalism and decentralization in the developed world and those who study the politics of ethnic divisions in the developing world. We also wanted to bridge the scholarship from the two sides of the Atlantic, as well as the subfields of Comparative Politics, International Relations, and Constitutional Politics.

The scope of the volume is wide – historically, methodologically, and geographically; and has relevance for the applied side as well as the theoretical literature. Consequently, this is a timely collection on the high profile topic of Ethnic Conflict/Conflict Resolution.

This book was based on a special issue of *Regional and Federal Studies*.

Jan Erk teaches at the University of Leiden. He has research interests in various areas of Comparative Politics, including federalism. His work has appeared in the journals *Comparative Politics*, *Comparative Political Studies*, *Publius: The Journal of Federalism*, *Journal of Common Market Studies*, *Nations and Nationalism*, *West European Politics*, *Regional and Federal Studies*, *Canadian Journal of Political Science*, *Journal of Public Policy*, *Nationalism and Ethnic Politics* among others.

Lawrence M. Anderson teaches at the University of Wisconsin-Whitewater. His current research interest focuses on the link between federalism and secessionism. He is currently completing a book manuscript on federalism and secessionism in the antebellum American South. His work has appeared in the following journals: *Regional and Federal Studies*, *Publius: The Journal of Federalism*, *Nationalism and Ethnic Politics*, *Theory and Society*, and others.

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Jan Erk teaches at the University of Leiden. He has research interests in various areas of comparative politics, including federalism. His work has appeared in the journals *Comparative Politics*, *Comparative Political Studies*, *Publius: the Journal of Federalism*, *Journal of Common Market Studies*, *Nations and Nationalism*, *West European Politics*, *Regional and Federal Studies*, *Canadian Journal of Political Science*, *Journal of Public Policy*, *Nationalism and Ethnic Politics*, among others.

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Abstracts

The Paradox of Federalism: Does Self-Rule Accommodate or Exacerbate Ethnic Divisions?

JAN ERK & LAWRENCE ANDERSON

The paradox of federalism is about whether self-rule accommodates or exacerbates ethnic divisions. A federal arrangement that formally recognizes ethno-linguistic diversity to help manage divisions can also pave the way for eventual disintegration. In this introductory piece, the editors of this book highlight a number of common reference points for the study of the secession-inducing and secession-preventing features of federalism: First, the political will of the secessionists and their capacity to mobilize to this end; secondly, the characteristics of federal institutional/constitutional design; and, thirdly, economic and sociological uncoded factors that have a bearing upon these questions.

Ethnofederalism and the Mismanagement of Conflicting Nationalisms

PHILIP G. ROEDER

Recent discussions of federal solutions to ethnic conflict have focused on ethnofederal arrangements; in these the constituent units are homelands for ethnic minorities. Like autonomy arrangements in non-federal states, these institutional arrangements structure subsequent politics in ways that increase the likelihood of escalating conflict that results in nation-state crises. Tinkering with the institutional details of these arrangements is unlikely to exorcise these problems.

The Political Dynamics of Secession and Institutional Accommodation

HUDSON MEADWELL

Although not at the core of the history of ideas, federalism has a distinguished pedigree in political theory. This paper does not turn directly to federalism, however, and to the question of whether its institutional arrangements can be fine-tuned so as to reconcile territorial integrity and cultural heterogeneity. I propose instead a focus on the political dynamics of secession. This focus reveals the sensitivity of institutional accommodation to degrees of heterogeneity, showing that stable accommodation may depend on imposition rather than self-limiting behaviour or mutual enforcement.

Federalism in a Unitary State: a Paradox too Far?

STEPHEN TIERNEY

This paper takes the devolution settlements in the UK as a model of accommodation of territorial diversity, with a focus mainly upon devolution to Scotland. It is argued that

the Scotland Act 1998, while in many ways a coherent attempt to meet the demands of national diversity, may also, paradoxically, contain elements that in the long run have the potential to destabilize the UK. We address the non-federal model that has been used to manage the plurinational UK, highlighting certain elements of this *ad hoc* arrangement which seem useful to the management of pluralism and others which seem to exacerbate the risk of secessionism.

The Partisan Logic of Decentralization in Europe

JASON SORENS

Since the 1970s, a decentralizing trend has gathered pace in several Western European countries. Governments in Spain, Italy, Belgium and the United Kingdom have moved to bestow significant powers on certain regions, while France and Portugal have made more limited reforms. The fact that countries facing nationalist challenges in the periphery have been more likely to decentralize poses a puzzle, because research shows that greater autonomy does not necessarily decrease secessionist sentiment and may even increase some forms of nationalist agitation. Why then do governments decentralize? This paper argues that the explanation lies in partisan political calculations, which can also explain the timing and character of devolution.

The Paradox of Ethnic Partition: Lessons from *de facto* Partition in Bosnia and Kosovo

ERIN K. JENNE

This article argues that ethnic partition, rather than resolving ethnic security dilemmas endemic to ethnic civil wars, has the paradoxical effect of reproducing wartime ethnic cleavages in the post-war period. This is because segregating combatant groups into militarily defensible self-governing territories tends to undermine the central government, ensures successive electoral victories of ultra-nationalists, and puts state resources in the hands of ethnic militia leaders who have incentives to perpetuate the conflict. This argument is illustrated in the cases of post-war Bosnia and Kosovo, which show that the unwillingness of the international community to implement the integrationist elements of the peace arrangements has amplified the challenge of rebuilding peaceful state societies today.

State, Society and Separatism in Punjab

KRISTIN M. BAKKE

Why do decentralized states differ in their capacity to preserve peace within their borders? This is the question motivating this study, which maintains that an understanding of decentralization's divergent effect on intrastate conflicts calls for a consideration of how these institutions are embedded in the societies they govern. In particular, this article suggests that the impacts of policy and fiscal decentralization are conditioned by any given region's ethnic make-up and wealth. The argument is anchored in a case study of separatism in Punjab in India.

The Paradox of Federalism: Some Practical Reflections

DAVID CAMERON

This paper explores the promise and paradox of federalism in Iraq, Sri Lanka and Quebec and Canada. The author has doubts as to whether the paradox can be effectively resolved with institutional fine-tuning. Rather, for him, questions of political justice prevail when exploring whether federalism leads to or calms secessionism. The challenge then is not institutional but pre-institutional—things that must be agreed upon before normal politics can operate. While it is comparatively easy to adjust institutions, it is more difficult to adjust—let alone bring about—these pre-institutional features. Despite the risks inherent in the institutional set-up of federalism, there might be little else on the table to keep divided societies together in a liberal democratic system that respects the basic demands of justice.

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The Paradox of Federalism: Does Self-Rule Accommodate or Exacerbate Ethnic Divisions?

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Introduction

In the last few years, the study of federalism has come to enjoy a new-found prominence (Erk, 2006, 2007). From the European integration process to the World Bank policies in the industrializing world, the boom in the study of federalism is accompanied by growth in its applied side. One particular area where federalism is increasingly prescribed is in the accommodation of territorial divisions and the management of ethno-linguistic conflict. It is especially marketed as a palliative to secessionist conflict. That is, federalism has come to be seen as a way to accommodate territorially based ethnic, cultural and linguistic differences in divided societies, while maintaining the territorial integrity of existing states. Here, however, we have a paradox that puzzles students of federalism.

Territorial recognition of minorities through the adoption (or strengthening) of federalism may intuitively seem to be the best way to manage ethno-linguistic conflict

but, in the long run, such recognition perpetuates and strengthens the differences between groups and provides minority nationalists with the institutional tools for eventual secession. Further, federalism provides opportunities for conflict between regions and centres that might otherwise not exist. The fundamental question, then, is whether federalism provides a stable, long-lasting solution to the management of conflict in divided societies or is, instead, a temporary stop on a continuum leading to secession and independence. A federal arrangement that formally recognizes ethno-linguistic diversity to help manage the political system can also set this newly—or increasingly—federal state on a path to eventual disintegration. Here, in a nutshell, is the paradox: federalism has features that are both secession inducing and secession preventing.

While forms of collective representation are generally seen to be a positive measure for stability in divided societies, there are also significant risks. The paradox is, in many ways, part of the broader question of recognition of diversity: Institutions, policies and practices that are designed to manage (ethnic, racial, social, linguistic, religious and economic) divisions may also ensure the perpetuation of these very divisions. Self-rule tends to reinforce and strengthen the divisions by institutionally ‘freezing’ them in various forms. Measures designed to guarantee minority representation and thereby bring inclusion can also act as a base for further separation—both in physical form and in mentality. This “dilemma of recognition” is inherent in all forms of group rights (de Zwart, 2005). Group recognition ensures the perpetuation of the differences and provides minority elites with a vested interest in the continuation of the divided system. Recognition also means that collective groups will have the institutional tools to strengthen their internal cohesion, heightening the ‘us vs. them’ mindset. The paradox of collective representation is that it perpetuates the very divisions it aims to manage. Furthermore, it provides the tools that reduce the costs of secession, thereby making it a realistic option.

Ethnic conflicts are often rooted in a desire for increased autonomy from the central state (Gurr, 2000: 195). Group demands may range from a minor devolution of political authority to complete formal independence. These demands are often rooted in the belief that the group’s social, economic or cultural survival is threatened by the actions or inactions of the central state, or the group may simply chafe at the perceived efforts of the central state to interfere with issues that are considered exclusively regional concerns. Given the region’s desire for increased independence and the presence of international law that privileges the ambiguous norm of national self-determination—not to mention the norm of maintaining the territorial integrity of the state—it should come as no surprise that one mechanism of conflict reduction explored by social scientists includes the creation (or strengthening) of regional political structures of self-rule. Federalism is one of the most important tools of collective representation, providing autonomy to the constituent regional political structures. Of course, self-rule for constituent groups co-exists with federal shared-rule (Elazar, 1987). A defining feature of federalism is that self-rule and shared-rule are constitutionally (or otherwise) enshrined (Riker, 1964). Decentralization, ethnic partition and devolution are other forms of self-rule designed to give groups collective representation.

While they are marketed as mechanisms of conflict management, tools of collective representation have features that might exacerbate divisions under certain

circumstances. The very same institutions that appear able to calm secessionism, reduce or eliminate the possibility of conflict and manage diversity might actually work in the opposite intended direction. These institutions might freeze identities that are meant to be fluid, provide incentives to mobilize in favour of separation and, most alarmingly, provide institutions that can be used to overcome the collective action problem and accomplish secession. These institutions hold over into independence, thereby reducing the fairly significant costs of secession. Self-rule, then, might actually promote secessionism rather than resolve it.

Ethnic Conflict and Federalism

Students of ethnic conflict and federalism often acknowledge the paradoxical characteristics inherent in self-rule and have tried to find ways to reconcile the secession-inducing and secession-preventing features inherent in federalism, yet quests to resolve the paradox have so far fallen short of a clear consensus.

In her analysis of federalism and unitarism in divided societies, Nancy Bermeo (2002) stated that she expected to find that federalism exacerbated ethnic conflict. Instead, Bermeo (2002: 97) found that “federal institutions promote successful accommodation”. According to her analysis, this conclusion is borne out both in advanced democracies in which “federalism has helped to keep states unified and democratic in the face of possible secession by territorially based minorities” and in less developed countries, which “have all evinced the positive effects of federal structures” (Bermeo, 2002: 98). Bermeo (2002: 108) claimed that “no violent separatist movement has ever succeeded in a federal democracy”, painting federalism as an unmitigated success as a method of ethnic conflict resolution. Other advocates of self-rule tend to offer more nuanced endorsements of federalism. In their analysis of ethnic conflict regulation, John McGarry and Brendan O’Leary (1993: 4) identified federalization (or cantonization) as a “macro-method” of “managing differences”. Federalization “can be used to manage ethnic differences in ways which are fully compatible with liberal democratic norms” (McGarry and O’Leary, 1993: 30). Federalism, however, is unlikely to satisfy groups that have not achieved a critical mass of demographic dominance within the constituent political unit in question. Although confident in employing federalism as a method of conflict regulation, McGarry and O’Leary noted that “democratic federations have broken down throughout Asia and Africa”, but they still consider “genuine democratic federalism” an “attractive way to regulate ethnic conflict” (McGarry and O’Leary, 1993: 34, 35).

Donald Horowitz’s *Ethnic Groups in Conflict* (1985) continues to be a central text in the study of ethnic and regional conflict. In it, Horowitz (1985: 602) noted that the “skillful division of authority between regions or states and a centre has the potential to reduce conflict”, but he did not exhibit the overconfidence that is common among more recent advocates of self-rule. He warned that federalism may be little more than a resting point on the road to secession. His case study of Nigeria showed that “federalism can either exacerbate or mitigate ethnic conflict” (Horowitz, 1985: 603). He wrote: “the most potent way to assure that federalism or regional autonomy will not become just a step to secession is to reinforce those specific interests that groups have in the undivided state” (Horowitz, 1985: 628). In other words, would-be secessionists need

to be convinced of the continued benefit of remaining within the extant state. Among the benefits of membership that can be stressed or strengthened are the security umbrella provided by the state and central state-supplied social policies that benefit the group (Bartkus, 1999). Regardless of the potential for problems, Horowitz (1985: 619) was confident that "federalism or at least some devolution has conflict-reducing possibilities for many more countries than have so far contemplated it". Ted Robert Gurr (2000: 195) asserted that most "of the ethnic wars of the last half century have been fought over issues of group autonomy and independence". "Negotiated autonomy", he stated, "has proved to be an effective antidote for ethnonational wars of secession in Western and Third World states" (Gurr, 2000: 366). Gurr advocated "preventive diplomacy", which may include supporting negotiations for the pre-emptive granting of autonomy for territorially concentrated substate groups whose goal is independent statehood. Like other supporters of self-rule, Gurr recognized that this method of conflict resolution has its drawbacks: States may not be willing to devolve power to the regional unit.

For those concerned with resolving ethno-linguistic conflict, Yash Ghai (2000: 483) advocated exploring "the potential of autonomy". Like Horowitz, however, Ghai's confidence in self-rule is tempered by the concern that federalism may freeze and entrench what would otherwise be a fluidly forming and reforming of group identity (Ghai, 2000:499). Ghai (2000: 501) also warned that federalism may serve as a "springboard to secession". Despite these concerns, he is confident that autonomy "can play an important constructive role in mediating relations between different communities in multiethnic states". It is, he wrote, a "valuable option, notwithstanding its own difficulties" (Ghai, 2000: 524). For Ghai, self-rule is a tool of conflict reduction because it promotes integration, not disintegration; it provides a basis for interaction between the region and the centre that is satisfactory to both. He concluded (Ghai, 2000: 525), "Autonomy should be chosen not because of some notion of preserving sovereignty but in order to enable different groups to live together, to define a common public space". This is the essence of the "shared rule" side of federalism, of course.

Others have been less enthusiastic about the palliative potential of federalism. While a great deal of recent political science literature sings the praises of self-rule as a method of conflict resolution, some social scientists have recently begun to question the enthusiasm with which it has traditionally been put forward as a solution. In his examination of minority ethnic mobilization in the Russian Federation, Dmitry Gorenburg (2003: 25) found that "ethnic mobilization is most likely to occur in countries that combine an ethnically based federal state structure with efforts to assimilate minority groups". Philip Roeder (1991:199) made a similar claim about the antecedent Soviet federalism: "Autonomous homelands provide essential resources for the collective mobilization of ethnic communities". Others have found a similar dynamic operating in other former communist systems. Jack Snyder (2000) wrote, "While ethnofederalism does not always produce ethnic violence in late-developing, transitional societies, it does create strong incentives for their elites to mobilize mass support around ethnic themes. When other factors are favorable for intense nationalist mobilization, the legacy of ethnofederalism heightens the likelihood of conflict" (Snyder, 2000: 202). Snyder argued that ethnofederalism in Yugoslavia helped to weaken the central state and fuel nationalism (Snyder, 2000: 210). Those who have expressed concerns about

the effectiveness of self-rule as a method of conflict resolution tend to be those who study the consequences of autonomy in the context of former communist states (Brubaker, 1994; Dorff, 1994; Treisman, 1997; Bunce, 1999; Leff, 1999; Cornell, 2002).

In between the advocates and opponents of self-rule as a way to accommodate ethnic divisions are those who have ventured to propose ways to determine under what conditions federalism's potential can be realized. Henry Hale, for example, attempted to resolve the paradox by focusing exclusively on demographic institutional structures in ethno-federal states, arguing that states with core regions (defined as a "single ethnic federal region that enjoys dramatic superiority in population") are more likely to be vulnerable to secessionist pressures than states without core regions (Hale, 2004: 166; see also Levy, 2007). Michael Hechter (2001: 146) has also tackled the paradox "Whereas [federalism] may provide cultural minorities with greater resources to engage in collective action, leading to a rise in protest events, at the same time it may erode the demand for sovereignty". This reduction in the demand for sovereignty ought to reduce the incidence of secessionism. Thus, while decentralization enhances protest events, it does so in a way that curtails secessionism. However, Hechter also argued that the relationship between federalism and secession is highly dependent upon the specific context in question. A decentralized environment that is able to contain secessionist conflict may, thanks to exogenous forces, end up facilitating secessionism. For Hechter, resolving the paradox of federalism requires taking exogenous factors into account. Lustick *et al.* (2004: 223) explored the impact of power sharing on secessionism and found that such institutions "seem to inhibit secessionism". They accounted for the paradox by suggesting that power-sharing institutions, such as federalism, may decrease the chances of secession, but that they increase the likelihood of mobilization along ethnic lines; that is, analysts of federalism and secessionism who see groups mobilizing along ethnic lines have mistakenly identified mere ethnic mobilization as secessionism. From this point of view, the paradox is simply a case of mistaken identity (see also Snyder, 2000). Dawn Brancati (2006) looked at regional political parties as an intervening variable that resolves that paradox. While decentralization might reduce the chance of secessionism, it can increase the chances that regional parties will develop. Thus, the federal bulwark against secessionism obtains when regional political parties are absent; it does not obtain when parties are present (for more on the importance of political parties for federal stability, see Filippov *et al.*, 2004). Allen Buchanan's (1995: 55) solution to the paradox is legalistic one: "if international law unambiguously rejects the principle that an existing federal unit may secede if there is a plebiscite in that unit in favor of secession". However, to what extent international law could have averted the Yugoslav civil war is open to different interpretations. So why are some federations beset by strong secessionist pressures, while others are virtually free of such forces? When and under what circumstances is federalism secession inducing or secession calming? In short, can the paradox of federalism be resolved?

The literature on ethnic conflict and federalism does not seem to provide us with an unambiguous verdict on the paradox. In some cases, federalism does seem to work as advertised: satisfying groups that are or might be in conflict with the centre or with one another and managing diversity within a single state, all the while keeping international boundaries intact. In other cases, federalism works as feared: freezing

identities, creating incentives and opportunities to pursue secession rather than other strategies and creating institutions through which secession can be pursued—with fewer costs than if federal institutions were not in place.

Secession-inducing or Secession-preventing Factors

While no magic formula for resolving the paradox is yet unearthed, there are nevertheless useful paths to explore. Certain factors might tip the federal balance in the secession-inducing or secession-preventing direction. In a quest to put the spotlight on these factors, we propose to highlight three dimensions: (1) the political will of the subunits and their institutional and societal capacity; (2) federal institutional design codified in the constitution; (3) uncoded economic and social factors.

‘The Paradox of Federalism: Does Self-Rule Accommodate or Exacerbate Ethnic Divisions?’ aims to unpack the conditions under which self-rule induces or prevents secession. From devolution in the UK to federalism in Iraq (Anderson, 2007), the expected returns from trying to resolve the paradox are not only academic. Ranging from Sri Lanka to Bosnia-Herzegovina there are ongoing federal experiments seeking to create secure and stable democracies in deeply divided societies. But the paradox confounds the study of federalism and real-world efforts to design stable institutions: the same institutions that seem to be able to resolve differences, acknowledge diversity and prevent states from breaking apart along various fault-lines seem to encourage conflict, harden divisions, facilitate the break-up of states. A central question is whether it is possible to design federal solutions in ethnically divided societies, which are stable over time. The applied side of federalism thus has immediate contemporary relevance. We believe that focusing on three dimensions could lead toward a fuller understanding of the paradox

Will and Capacity

The twin factors of will and capacity together form a dimension that focuses on the internal politics of the subunits. There is a complex relationship between the two. While the will to secede might be high in a unitary setting where minority groups have no option for self-government other than separation, they often lack the capacity to bring this about. While the capacity of the subunits to secede increases in a federal system, there is often less of a political will to do so. However, things are unfortunately not this simple. The will to secede can increase if self-rule proves to be a success. Or the opposite can happen, i.e. the unacceptably high costs of secession in a unitary system can dampen the will to secede. The two are, therefore, closely interlinked.

Secession is unlikely without it being sought by at least some subset of a population. Where does this will to secede come from? How does it develop? What is its link to the background conditions in which the state was formed and the present conditions of the state itself? In the existing literature, the presence of the will to secede is grounded (typically) in some dissatisfaction or grievance with the status quo. This dissatisfaction might take the form of retrospective displeasure with policy governed by the centre, or it might be prospective hope for better policies and more economic growth.

Self-rule brings with it a number of institutional and societal tools for the management of territorial diversity and even conflict reduction, but these very tools of self-rule can then be the bases that make secession possible. What role is played by the institutions of self-government and autonomy in the development of secessionism? How much government is there at the regional level? What role does more autonomy (or less) play in secessionism? The will to secede can be expressed through these self-governing institutions. Capacity, then, is a critical element of the paradox. Capacity is precisely what is sought by groups seeking increased autonomy from the centre—including groups seeking outright independence. Depending upon other factors (e.g. a will to secede), capacity can contribute to secessionism, but increased capacity might also satisfy an aggrieved group short of independence. While will and capacity are factors internal to the subunit where secessionist tendencies exist, the overall institutional structure of the federal system in question has immediate consequences for the paradox.

Institutional Design

The federal institutional design codified in the constitution is often the first dimension that attracts scholarly attention. This dimension includes questions such as drawing subunit boundaries, the number of subunits, constitutional division of powers, representation in central institutions, integration of markets and legal systems, constitutional amending formulae, shared vs. separated jurisdictions, and secession clauses in constitutions. Some of these questions are primarily about finding a proper distribution of authority between the centre and subunits, but others have an indirect impact on the secession-reducing and secession-inducing features of federalism. At the end of the day, the core concern is whether there are elements of federal institutional design that make one federation more prone to secession (or secessionism) than another.

The number (and size) of constituent subunits plays an important role in reducing or exacerbating conflict between the subunits and the central government as well as between the subunits themselves. The general observation seems to be that federalism tends to be more stable with multiple constitutional units rather than two or three large units or a single dominant one. A federal system defined by multiple units produces more room for shifting alliances and reduces an ‘us vs. them’ mindset. At the same time, when only a handful or one of the subunits is ethno-culturally distinct (Spain, Canada), subunits of the minority culture(s) might feel overpowered by the rest of the subunits representing the majority culture.

Although not formally part of the federal institutional design, electoral systems have indirect influence on the workings of the federal system and are thus part of the overall institutional structure. The number and nature of political parties are immediately linked to the electoral system in place; and parties, in turn, play a critical role in how a federal system functions. Proportional electoral systems provide incentives for political actors to reinforce their bonds with core homogeneous groups of supporters, while majoritarian electoral systems reward parties that bridge appeals to heterogeneous groups (Norris, 2004: 4). While majoritarian electoral systems can help weaken the divisiveness of group identities, they provide little protection to distinct minorities that resist co-optation into majoritarian politics.