EXETER STUDIES IN ETHNO POLITICS

Federal Solutions to Ethnic Problems

Accommodating Diversity

Liam D. Anderson

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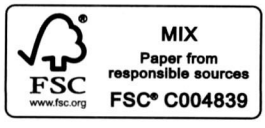

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Federal Solutions to Ethnic Problems

Exploring five distinct models of federal arrangement, this book evaluates the relative merits of each model as a mechanism for managing relations in ethnically divided societies. Two broad approaches to this issue, accommodation and denial, are identified, and from this five distinct models of federal arrangement are derived. The models – ethnic, anti-ethnic, territorial, ethno-territorial, and federacy – are defined and then located within their broader theoretical tradition.

Detailed case studies are used to evaluate the strengths and weaknesses of each model and to highlight patterns in the success and failure rates of the universe of post-1945 federal arrangements. From this it is clear that two forms of ethnically defined federal arrangement – federacy and ethno-territorial federalism – are associated with low failure rates, while ethnic federalism has experienced a far higher rate of failure. The reasons for this are examined and the implications of this for the design of federal systems in ethnically divided societies are assessed.

Federal Solutions to Ethnic Problems advances a new argument within the field of comparative politics, namely that certain forms of federal arrangement are systematically more successful than others in ameliorating ethnically conflicted societies.

Liam D. Anderson is a Professor of Political Science at Wright State University where he teaches classes in International Relations and Comparative Politics. He has authored several books and numerous articles and book chapters dealing with issues of federalism and constitutional design, particularly in the context of Iraq.

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To Hope

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Abbreviations

Abkhaz ASSR	Autonomous republic within Georgia
AC	Autonomous community
ADMK	Anna Dravida Munnetra Kazhagam
AFC	Alliance for Change
AFSPA	Armed Forces Special Powers Act
AG	Action Group
AIADMK	All Indian Anna Dravida Munnetra Kazhagam
AISSF	All India Sikh Students Federation
ANC	African National Congress
ANPP	All Nigeria People's Party
AP	People's Alliance
ARC	Autonomous Republic of Crimea
AV	Alternative vote (electoral system)
BAC	Bodo Autonomous Council
BC	Bloc Québécois
BHV	Brussels-Halle-Vilvoorde
BiH	Bosnia and Herzegovina
BJP	Bharatiya Janata Party
BNA	British North America Act
BNG	Galician Nationalist Bloc
BTC	Bodo Territorial Council
CAF	Central African Federation
CDC	Democratic Convergence of Catalonia
CiU	Convergence and Union
CM	Chief Minister
CPCP	Congress for Progessive Change
CPI	Indian Communist Party
CPI(M)	Communist Party of India (Marxist) party
CPT	Comprehensive Peace Treaty
D3M	Democracia 3 Milliones
DAPM	Democratic Agrarian Party of Moldova
DCM	Deputy Chief Minister
DK	Dravidar Kazhagam

DMK	Dravidian Progressive Federation
DPA	Dayton Peace Agreement
EA	Estado de las Autonomias
EHAK	Communist Party of the Basque Homelands
ERC	Esquerra Republicana de Catalunya
ETA	Euskadi Ta Askatasuna
FBiH	Federation of Bosnia and Herzegovina
FWI	Federation of the West Indies
GSSR	Gagauz Soviet Socialist Republic
HDZ	Croatian Democratic Union
HDZ 1990	Croatian Democratic Union 1990
HOP	House of Peoples
HOR	House of Representatives
HR	High Representative
IC-V	Initiative for Catalonia Greens
ICJ	International Court of Justice
IEBL	Inter-Entity Boundary Line
INC	Indian National Congress party
INC-I	Indian Congress Party – Indira Gandhi faction
INC-U	Indian Congress Party – D. Devaraj Urs faction
INL	Indian National League
JAP	Joint Action Plan
LDF	Left Democratic Front
LOAPA	Organic Law on Harmonizing the Autonomic Process
LTTE	Liberation Tigers of Tamil Eelam
MAR	Minorities at Risk
MLNV	Movement of National Liberation
NCNC	National Council of Nigerian Citizens
NDFB	National Democratic Front of Bodoland
NDI	National Democratic Institute
NNC	Naga National Council
NPC	Northern Peoples' Congress
NPN	National Party of Nigeria
NPP	Nigerian People's Party
NSCN	National Socialist Council of Nagaland
NSCN-IM	National Socialist Council of Nagaland – Isak-Muivah
NSCN-K	National Socialist Council of Nagaland – Khaplang
NSS	Nair Service Society
OBC	Other Backward Classes
OSCE	Organization for Security and Cooperation in Europe
PDP	People's Democratic Party
PFM	Popular Front of Moldova
PG	Partido Galeguista
PIC	Peace Implementation Council
PMSSR	Pridnestrovian Moldavian Soviet Socialist Republic

PNV	Basque National Party
PP	People's Party
PPdeG	People's Party of Galicia
PQ	Parti Québécois
PR	Proportional representation
PRA	People's Regional Assembly
PSC	Catalan Socialist Party
PsdeG	Socialist Party of Galicia
PSOE	Spanish Socialist Workers' Party
PSP	Praja Socialist Party
RS	Republiika Srpska
SAA	Stabilization and Association Agreement
SBiH	Party for BiH
SDA	Party of Democratic Action
SDP	Social Democrats
SDS	Serbian Democratic Party
SGR	Sint-Genesius-Rode
SI	Catalan Solidarity for Independence Party
SNDP Yogam	Sree Narayana Dharma Paripalana Yogam
SNSD	Alliance of Independent Social Democrats
SPLA/M	Sudanese People's Liberation Army/Movement
SRC	States Reorganization Commission
SRSJ	Alliance of Reform Forces
SSP	Samyutka Socialist party
SSR	Soviet Socialist Republic
SVP	South Tyrolean People's Party
UCD	Union of the Democratic Center
UDC	Democratic Union of Catalonia
UDF	United Democratic Front
VLD	Open Flemish Liberals and Democrats
VOPP	Vance-Owen Peace Plan
VRA	Voting Rights Act 1965
WASPs	White Anglo-Saxon Protestants

Contents

Illustrations

Figures

Tables

Introduction

> The essence of good political institutions is that they make political idiocy more difficult (but not impossible) to achieve.
>
> Hammel (1993: 40)

The end of the Cold War and the attendant collapse of the complex bipolar security architecture has shifted the locus of violence and the focus of attention from the international to the domestic level of analysis. Where once the threat was of large-scale interstate wars, the post-Cold War world has been characterized by bloody, seemingly intractable *intrastate* wars, often fueled by intense ethnopolitical animosities. The international community appears ill equipped to offer a coherent and consistent response to the problem of intrastate ethnic conflict; thus, attention has shifted to the domestic level. The question that continues to animate scholars of comparative politics is whether domestic political institutions can be crafted in such a way as to prevent or ameliorate conflict in deeply divided societies, and if so, how? The various "waves" of democratization that have swept the globe over the last twenty years have provided a living laboratory for scholars of comparative constitutional design to perfect their art, and there has been no shortage of comparativists willing to offer "lessons" for newly democratizing countries – often based, it should be noted, on the empirical study of stable and highly developed democracies. Cosociationalism, centripetalism, control, power-dividing – the menu of institutional choices is long and growing. The adoption of a federal system of government, that divides power among different levels of government, is among the more frequently advocated solutions to the problem of managing conflict in divided societies, but there is little in the way of consensus on how to structure a federation to achieve this goal. A debate that has aroused considerable controversy concerns how to define the subunits of a federation geographically. Should the boundary lines of subunits be drawn specially to accommodate the interests of territorially concentrated ethnic groups, or should they be deliberately crafted to maximize ethnic heterogeneity? Or, is a compromise possible between these two extremes – a "middle-way" that avoids the problems associated with both? The following chapters provide a comparative assessment

of various possible models of federal system, each of which offers a different perspective on the issue of subunit boundary delineation.

Managing ethnic difference

Ethnicity is a notoriously slippery concept. For current purposes, Van Dyke's definition is as useful a starting point as any. According to Van Dyke, an "ethnic community" is "a group of persons, predominantly of common descent, who think of themselves as collectively possessing a separate identity based on race or shared cultural characteristics, usually language or religion" (1977: 344). The debate over the nature of ethnicity and, indeed, whether it is even a meaningful concept will be engaged more fully in Chapters 1 and 2; for now, this basic but plausible working definition hints at some of the reasons why ethnicity is, perhaps, the most difficult of societal divisions for democracy to manage. Ethnic conflicts are inherently less amenable to compromise than, say, conflicts over the distribution of material resources.[1] Distributive conflicts, the basic issues of "who gets what, when, and how," are obviously important, but are normally susceptible to a multitude of possible bargaining outcomes. There may be many ways to divide up the economic pie to the satisfaction of all. Ethnic conflicts are intrinsically less malleable because "ethnicity taps cultural and symbolic issues – basic notions of identity and the self, of individual and group worth and entitlement" (Diamond and Plattner 1994: xviii). At heart, because "ethnic conflicts revolve around exclusive symbols and conceptions of legitimacy, they are characterized by competing demands that cannot be easily broken down into bargainable increments" (ibid.). Or, as Horowitz puts it (1985: 224), "How does a policymaker divide up the 'glorification' of the national language?"

Divisions of ethnicity also tend to be deeper and more permanent than other social cleavages. Unlike other divisions, of social class, for example, individuals cannot easily change, or modify their ethnic attributes. There are consequently no "in-between" groups, or "floating voters" to bridge ethnic divides. Democratic elections under standard majoritarian rules may, therefore, "take on the character of a 'census' and constitute a zero-sum game" (Diamond and Plattner 1994: xviii). The losers, presumably the demographic minority, may legitimately fear permanent exclusion from power. Democracy as a mechanism to resolve conflicts peacefully is only accepted as legitimate to the extent that today's losers stand some chance of being tomorrow's winners. Losers have few incentives to abide by the rules of a game that is stacked against them by design.

The problem then is not just about resolving ethnic conflict – this can be achieved through a variety of coercive techniques, from the forcible suppression of ethnicity to the elimination of entire ethnic groups; the problem is how to do this within a peaceful democratic framework. More precisely, the problem for political scientists is how to craft *democratic* political institutions that can alleviate rather than exacerbate ethnic divisions. Many scholars flatly reject the possibility that stable democratic institutions are compatible with deep ethnic divisions. Rabushka and Shepsle (1972: 86), for example, state with admirable bluntness,

"democracy...is simply not viable in an environment of intense ethnic preferences." Others emphasize the importance of national identity as an indispensable precondition for the emergence of stable democracy. As Rustow (1970: 350) notes, "the vast majority of citizens in a democracy-to-be must have no doubt or mental reservations as to which political community they belong to."

More often than not, ethnically divided societies come into conflict precisely over the issue of national versus group identity. Even Elazar, an otherwise staunch advocate of federal systems as a means of transcending social cleavages, has concluded that federalism may have little to offer in terms of a solution to the problem of ethnic divisions. According to Elazar, "Ethnic nationalism is the most ego-centric of all nationalisms, and the most difficult basis on which to erect a system of constitutionalized power-sharing; the essence of federalism" (Elazar 1993: 194). Hence his conclusion that "ethnic nationalism is probably the strongest force against federalism" (ibid). Unfortunately, this means that in precisely those contexts in which federalism is most needed, it may be the most difficult to sustain. In the face of such pessimism, it is important to remember that while democratic solutions to ethnic conflicts are undoubtedly difficult to engineer, the non-democratic alternatives (forced assimilation, or genocide, for example) are almost always far worse.

Federalism

Most definitions of the term "federation" share common features – at least two levels of government (federal and regional/state), with separate powers or competencies allotted to each level via a written constitution (though powers may also be shared between levels). In meaningful federations the constitutional division of powers between levels cannot be altered unilaterally by either level of government and the consent of both levels is required, usually via constitutional amendment. Beyond this, there is little consensus regarding specifics; indeed almost every aspect of federalism is controversial.[2] The effectiveness (or otherwise) of federations as institutional arrangements for the successful management of ethnic conflict in divided societies continues to provoke heated scholarly debate. Many of the world's durably successful democratic federations – the US, Germany, and Australia, for example – have highly homogenous populations, dominated by a *Staatsvolk*.[3] In these societies, federal systems may be desirable for diverse reasons, but they are not *necessary* as a means of holding the state together. By contrast, in societies with histories of interethnic tensions or powerful secessionist sentiments, a federation may be the *only* way to sustain democracy while preserving the territorial integrity of the state.

Despite the large body of existing literature on federalism, issues relating to the character of subunits in federal systems – such as the implications of having fewer rather than more subunits – have been relatively neglected.[4] The geography of boundary delimitation in ethnically divided societies has been studied in greater detail, and from this body of work it is possible to synthesize two broad approaches to this issue.

McGarry and O'Leary (2005: 269–272) make a useful distinction between *Jacobin unitarism* on the one hand, and three approaches to federal subunit design on the other. *Federalism as nation building* involves drawing subunit boundary lines "to prevent ethnic minorities from becoming local provincial majorities"; *cosmopolitan federalism*, meanwhile, involves accommodating minority nationalism in the design of federal subunits, "but solely towards the limited end of building a socialist society"; finally, *multinational federalism* advocates drawing boundary lines to accommodate ethnic groups as a way to "express, institutionalize, and protect at least two national or ethnic cultures, on a durable and often permanent basis." Most critics of using federalism to accommodate ethnic groups collapse the latter two types into one overarching category of *ethnofederalism*, and, in the process, assume that the design of Canada's federation and that of the former Soviet Union are sufficiently similar, institutionally and functionally, to qualify for inclusion in the same broad category. There are reasons to be skeptical about the merits of this, as will become evident during the course of this book; for now, it is useful to start with a broad distinction and then move to a more nuanced categorization. There is a clear difference between systems in which boundary lines are drawn to *accommodate* territorially concentrated ethnic groups, and those in which they are drawn to *deny* accommodation.

Categories of federalism

Systems designed to accommodate ethnic groups are variously termed ethnic, plurinational, multinational, or ethnofederal. This latter term is generally preferred by critics, of which there are an increasing number. For critics such as Roeder (2009), Bunce (1999), Bunce and Watts (2005), Aitken (2007), Hale (2004), Snyder (2000), and Horowitz (2002), ethnically defined federal arrangements are prone to a variety of pathologies; they harden, rather than alleviate, ethnic identities; they empower extremist ethnic leaders; they foster a zero-sum political dynamic at the center; they elevate a "primitive" form of identity over more elevated, progressive identities; they generate periodic state crises because they are unable to achieve equilibrium; and, ultimately, they equip ethnic groups with the resources needed to challenge the territorial integrity of the common-state. Hence, ethnofederations are inherently vulnerable to the secession of one, or all, of the ethnically-defined subunits. The validity of these arguments will be examined in later chapters, especially Chapters 1 and 2, as will the counter-arguments of those more sympathetic to accommodative approaches.

For now, it is sufficient to highlight two common themes in the anti-accommodation literature. First, while many of the arguments against ethnically defined federal arrangements may be intuitively plausible, if no viable alternatives exist then they are also largely irrelevant. With a few notable exceptions, critics of ethnofederations are clear about what they do not like, and why, but rather less clear on what they propose as a replacement. Second, the types of federal arrangement that are included in the "ethnofederal" category vary considerably depending on the critic. To put this another way, there is no consensual definition