



Federalism in Post-Conflict Environments

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- * Federalism has been key to bringing political stability to a number of deeply divided societies
- * However it has proven difficult to introduce federalism in many post-conflict situations
- * The political context at the end of a conflict as well as the design of a federation can affect its prospects for success



Key Messages

- * At least 2 orders of government: one for whole country, other for regions
- * Written constitution
- * Some genuine autonomy for each order
- * Usually some arrangement for representation of regions in central government (upper house)
- * Courts or some other umpire (referendum; upper house) to rule on constitutional disputes
- * Usually more devolved than “unitary” regimes



Defining features of federations

- * Origins: “coming together” “holding together”
- * End of WW2, only US, Switz, Canada, Australia
- * Now some 28, with 40% of world’s people
- * Driven by democratization (Latin America, Germany, Austria, Spain), de-colonization (India, Pakistan, Malaysia, Nigeria), collapse of USSR (Russia), identity politics (Belgium)
- * Federalism most appropriate in countries with large land mass, population, or very distinct regional populations—but requires balance of loyalties



Federalism in the World

- * Several federations have failed: West Indies ('62), Rhodesia and Nyasaland ('63), Yugoslavia and USSR ('91), Czechoslovakia ('92) Serbia and Montenegro ('06)
- * Pakistan split ('71), Singapore expelled from Malaysia ('65)
- * Typically these were either federations emerging from dictatorship or young federations with little history of unity.
- * Recently there have been attempts to design federal systems in post-conflict environments, which has prove difficult

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Pathology of federations

- * Very large and very small countries; rich and poor; homogenous and very diverse
- * Some long-established democracies, others more recent or troubled history
- * Elements of design: number of units, presidential/congressional vs. parliamentary, PR or first past post electoral regimes, “water tight compartments” vs. “integrated federalism”, extent of devolved powers, regional/group representation at the centre, fiscal federalism

* Variations in federal systems

- * Number of units is critical: 2 or 3 very hard to manage (Pakistan, Belgium): example of Nigeria, 3 in 1958, 36 now. Fewer units tend to be more powerful; more empower centre.
- * Parliamentary regimes tend to “executive federalism”, while Presidential/Congressional involve weaker executive links and stronger legislative role
- * Electoral regimes can influence how political cleavages get translated into seats: first-past-the post can emphasize regional differences; PR may produce weaker governments but broader coalitions



Elements of design: 1

- * Classic federalism often thought to involve “water tight compartments”, with each order of government legislating in distinct areas.
- * However, some federations are designed with an “integrated” model: extensive concurrency and constituent units administer federal laws. Issue of their influence on federal laws.
- * In practice, all federations have overlap. Concurrency, but also overlapping heads of power. Spending power in most federations and it can be very important because of conditionality



Elements of design: 2

- * Federations vary greatly in extent of devolved legislative powers. “Subsidiarity” is culturally influenced. There are classic central powers (defence, money) and local powers (municipal government, local services), but no pattern on many items. Thus: high centralization vs. extensive devolution.
- * Federations accommodate different populations by “building out” and “building in”:
 - * Out: through devolution
 - * In: electoral laws, upper house, “representative” civil service, army, courts, etc.



Elements of design: 3

- * Most federations emerged peacefully either through “coming together” or “holding together”. Federal stability requires due loyalty.
- * Swiss federalism followed brief civil war (1848), US federalism survived terrible civil war as did Nigeria.
- * Wounds remained open long after US and Nigerian conflicts: Reconstruction and Jim Crow in states; Military in Nigeria.
- * More recently attempts to use federalism in post-conflict situations include Bosnia, South Africa, Ethiopia, Sudan, Cyprus, Iraq, Nepal, Sri Lanka, Somalia

* Federations and Conflict

- * Country divided between Muslim north and Christian/Animist south. Also major tribal tensions.
- * Post-colonial federal architecture deeply flawed: 3 states, Northern majority. Part of south rebelled (Iboland).
- * After war, situation greatly stabilized by move to more states (now 36); all imposed during military regimes. Abuja as capital. Dominant party emerged with attention to power sharing and alternance.
- * “Federal character” doctrine problematic.
- * Terrible corruption with oil and lack of transparency and accountability, especially at state level. Deep fiscal inequalities.



Nigeria

- * Often called a two entity federation, including the Bosnian-Croat “federation within a federation”. It adapts elements from Swiss collective presidency and Belgian communitarianism in an extreme “ethnic federalism”. There is little place for normal citizenship, a dysfunctional mix of direct and indirect elections, and numerous veto points, which have led to frequent paralysis. Paradoxically, some of its communitarian protections have been circumvented by political parties.
- * Its fragility was recognized by the creation of the High Representative, with plenipotentiary powers, which have been extensively used thus overriding the “democratic” structures.
- * Question whether any regime could have produced stability, but this model stands as a caution against extreme ethnic federalism. Has peace been largely imposed from outside?

* **Bosnia Herzegovinia**

- * While ANC was wedded to “democratic centralist” Marxist tradition, white and coloured minorities, as well as Inkatha Freedom Party, pushed for federal structure.
- * Compromise was a centralized federalism (though word not used) based heavily on German model (though with heavy emphasis on municipal/local level). Some interesting innovations in federal decision (including fiscal responsibility provisions).
- * ANC dominated electoral politics at all levels because of its broad democratic base, so federalism constrained by decisions within party. But Cape province now opposition.
- * Serious weaknesses in effecting transition to federalism as staff from Bantustans and old Apartheid regime integrated at provincial and municipal levels. Needed far more attention to capacity building.



South Africa

- * Civil war won by EPRLF, which was a coalition of four regionally based liberation armies, committed to “ethnic federalism” for Ethiopia. It drew some inspiration from Leninist doctrine.
- * Victors successfully effected transition, created a federal constitution (even with a right to secession). Impressive regional capacity building, with improvements in economy and human development.
- * Relatively free elections in 2005 produced shock of opposition victory in Addis and boycott of Parliament. Government cracked down and increased political controls and constraints on democracy. 2010 elections not credible.
- * EPRLF accomplishment was to bring order, devolved development, new culture of multinational inclusion, and federal framework. Test for longer-term will be real liberalization.



Ethiopia

- * The Comprehensive Peace Agreement depended heavily on the promise of a referendum on independence after 5 years for the South and oil sharing in the interim (for the North).
- * There was a unique “federal” constitution with a federation-within-the-federation in the South and power-sharing in Khartoum. The South would only ever stay if the interim arrangement worked.
- * It did not. The Bashir regime excluded the South from real power-sharing, cheated on oil payments and various other commitments to the South, while maintaining an undemocratic regime in the North. The South had very weak governance capacity and made limited progress installing its federal structures.
- * Now separated, both countries claim to be federal (and should be) but are highly centralized, weakly democratic and thoroughly corrupt.

- * Cyprus emerged from colonialism with no shared national identity and a constitution which awkwardly combined majority and bi-communal rule.
- * The negotiations went through many stages, always with outside powers playing a strong role. A so-called federal structure proposed in the Annan plan. Like the 1960 constitution, it had a mix of (modified) majoritarian and bi-communal elements to which were added significant devolution and resolution of many contentious issues around security and land.
- * Overwhelming reject by Greek community for many reasons. History of 2 constituent unit federations is bleak. Ratio of 4:1 of Greeks:Turk made bi-communalism a doubtful idea for Greeks.
- * Issue whether there is any alternative to separation with weak links or joint structures.



Cyprus

- * Iraq had no history of federalism, but Kurds had effectively established an independent state before Saddam's end. Extreme autonomy within a "federal" system was their essential demand.
- * Deeply flawed constitution-making process (UN marginalized) and Kurdish tactics produced very poor federal constitution. No consensus on federalism.
- * In practice, Kurds have not accepted federal authority even for army, partly out of fear of Baghdad's intentions. Military tensions around Kirkuk. Baghdad has not devolved in Arab parts of country. Maliki opposes federalism. Major unresolved issues include oil and gas, revenue sharing, disputed territories and fundamental nature of federation.
- * Kurds playing long game, building up oil and gas economy and accepting money from Baghdad for now.
- * Will be difficult to find a viable long-term formula for a united Iraq that is not highly asymmetric and perhaps not federal.

- * Nepal's domination by royals and strong caste politics created conditions for Maoist insurrection. Maoists used idea of "ethnic federalism" (Leninist) to rally support of marginalized populations.
- * Peace and elections produced surprising Maoist emergence as largest party. Federalism pushed in constituent assembly, but resisted by traditional parties. Nepalese politics was constant struggle over control of government, with periodic attention to integration of Maoist militias and constitution. Dysfunctional constituent assembly.
- * Never real consensus on federalism. No historic internal boundaries or clear territorial separation of different populations. Disagreement over "ethnic" vs. "territorial" federalism. Repeated failure to meet constitutional deadlines led to disbandment of constituent assembly.
- * Not obvious federalism can work in Nepal. Huge capacity challenges as well as political problems. Elections might clarify situation.



Nepal

- * Sri Lanka has good potential to be federal in that there are relatively clear regions with distinct populations. Moderate Tamils and Muslims, as did more liberal Sinhalese, including many in Government. Many foreign experts and conferences.
- * However LTTE adamantly opposed, though eventually political side showed an opening, too little, too late. Buddhists largely opposed.
- * Rajapaksas played Sinhalese nationalist card, put an end to peace process, and went for military victory.
- * After military victory, Rajapaksas showed no conciliation and repression remains severe. Opportunity for federalism lost.



Sri Lanka

- * Exceptionally difficult process of constitution-making with unelected Parliament and most of country under Shebab.
- * Country had no history of federalism. It was adopted as preferred option because Puntland had an effective regional government and the hope of enticing Somaliland to return.
- * Difficulty determining what new regions should be.
- * UN influenced draft dealt with some federalism issues, but these were almost completely dropped in final version though idea of federalism remains, like Cheshire cat's grin. Puntland has ceded no authority under this constitution and is free to determine what powers it transfers to Mogadishu.
- * Somali society based on clans, more than regions, but hard to structure a clan based government. Next step should be to try to develop more normal political dialogue as country is reunited.



Somalia

- * Democratic Republic of Congo's constitution reads like a form of federalism.
- * Other prospects: Myanmar, Indonesia, Columbia, Peru, Bolivia, Yemen, Libya.
- * Eventually, China (where there is a good deal of interest in fiscal federalism)?
- * Others???

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Other Cases?

- * Transitions to democracy are usually difficult after conflicts. Trying to create federalism can help in some transitions, but can also make them more difficult.
- * Introducing federalism goes best in an environment of consensus or at least when the winning or leading party supports it or has the ability to control situation (Nigeria, South Africa, Ethiopia). Of course, some victors reject federalism, even when it should be tried (Sri Lanka)
- * Very often, international community promotes peace when the underlying conflict remains unresolved. Introducing federalism in such cases can be perilous.
- * Federalism works best when there are clear regions and where it can be based on “territorial” principles, not ethnic ones. Of course, the territories can be ethnically distinct and the federal design needs to deal with the ethnic dimension.

* Some Conclusions: 1

- * Federalism also works best in societies where there can be several territorial states. Bi-communalism is especially difficult to manage because it leads to demands for each community to have a veto.
- * Federalism does not require a society to be rich or politically mature. India was desperately poor 1948, but it has a coherent dominant party (which controlled both the national and all state governments) to steer the early phases of independence. Nigeria's current federal structure is clearly essential to the country's stability, despite the challenges.
- * Need attention to capacity building, especially when creating new political units. Takes time and may mean phased approaches.

* Some Conclusions: 2

- * Need to avoid imposing any particular model. Room for great flexibility but too often advisors are wedded to their preferred model.
- * Need to avoid ideological purity, such as classic water-tight compartments. One of major weaknesses of federalism in developing countries has been poor fiscal management, often especially at state level. Room for non-classical approaches to audit, accountability and transparency.
- * There will continue to be pressures, especially from the international community, to try federal arrangements as a way to bring peace, even in situations where it will be difficult.

*** Some conclusions: 3**