

Federalism and the Future of Democracy

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Abstract:

Recent years have brought new challenges to contemporary democratic societies, which seem to be submerged in a crisis widely acknowledged. Our paper aims to consider potential solutions to these problems, reassessing the benefits of federalism in diverse matters, such as the control of abuses of power, the promotion of popular involvement in the decision-making process, the reappraisal of the notion of citizenship, the reorganization of parties, the protection of minorities and adaptation to globalization.

Keywords: Federalism, democracy, political philosophy.

1. The challenges to contemporary democracy

The concept of modern democracy has its roots in the great liberal revolutions of the 18th century and it is linked to a set of principles today widely recognized, including the existence of free elections, political representation, a multiparty system, a limited government, the rule of law (as the expression of popular will), separation of powers (with independent courts), the separation of Church and State and the protection of several individual rights.

Although indispensable to the maintenance of present democracies (and still pertinent in areas of the globe where such principles are only partially practiced), these elements have nevertheless been insufficient to fully cope with the new challenges posed by contemporary democratic societies, namely in western countries where such principles are respected, but the democratic aspirations of the people still seem in several ways somewhat unanswered. Despite the broad nature of such challenges, we can identify some of the most important ones:

i) *Globalization*. The birth of modern democracy occurred concomitantly with the rise of the nation-state. Therefore, the institutional framework of the first modern democratic experiences created mainly uniform legal guidelines to sustain a central administration, necessary to guarantee solid foundations to the democratic state. However, the recent emergence of political realities that require a strong cooperation between states (such as massive migrations, intensive international trade, shared monetary policies, environmental problems, etc.), clearly demand new types of institutional relationships, notably some form of supra-national connections, which modern democracies seem unprepared to deal with due to their *unitary* original nature.

ii) *The rise of minorities*. Almost inexistent when the first modern democratic experiences took place, religious and ethnic minorities currently represent a considerable and growing population amidst democratic societies. Nevertheless, since democracies are essentially based in the principle of the *ruling majority*, such minorities have been repeatedly excluded from the most important political organs as well as the decision-making process altogether. To find a place for minorities in the democratic compound remains one of the hardest and yet most urgent challenges of contemporary politics.

iii) *The unchecked growth of economic powers*. Indispensable to the common functioning of modern democracies, economic agents (taken in a broad sense, and therefore including banks, corporations, markets, investors, etc.) have grown fast in the past century—strongly benefiting from deregulation and ambiguous laws—to the point that the hardcore of political activity is now highly subordinated to economic powers. Since such powers frequently exist outside the institutional framework, and/or exercise their influence through channels exempt (or simply out of reach) from any political or legal control, they pose a substantial threat to present-day democracies.

iv) *The predominance of political party “machines” in the public sphere*. Although the existence of political parties has been long recognized as a distinctive mark of a sound democracy, the peculiar mode in which parties intervene nowadays in the political process generates several problems to democracy, the most relevant of which is the way they limit the participation of common people in politics. By transforming themselves in the only *effective* intermediary between society at large and the political practice, parties erected an almost insurmountable barrier to the citizens who wish to join the decision-making processes, without belonging to such parties.

v) *The persistent abuses of power*. Phenomena such as corruption, nepotism and political patronage have always been present in the democratic experience. Nonetheless, their recurrence—and perhaps even increase—in recent years have notoriously damage democracy’s efficiency. If taken together with one of the worse effects of the dominance of *party machines* in present democracies (the decrease of political actors’ accountability, who seem to answer more directly to party leaderships than to the people who elect them), such forms of political malpractice have contributed to the increase of negative views on democracy in the public opinion.

These and other factors have led to a progressive weakening of current democracies, controlled by incapable political elites and marked by a growing distance between the citizens and the political deliberation process. Our paper aims to consider potential solutions to these problems, reassessing particularly the benefits of federalism in promoting democratic principles.

2. The nature of federalism

To evaluate the prospective benefits of federalism to democracy, we need initially to clarify its true meaning, widely misrepresented both in the academic and political fields, which have persistently confounded federalism with the process leading to a centralization of political power, binding several states into a *superstate* (in the deceitful words of Margaret Thatcher¹), that would swallow all the political authorities into one giant vortex, a solitary political construction wholly controlled by an all-powerful central government. Such misleading characterization of federalism is still reproduced nowadays, especially by political actors very critical of European integration, and pervades occasionally even the scholarly debate over the kind of system federalism entangles².

These portrayals of federalism are unsustainable as we dig into a full account of its true meaning. Deriving from the Latin words *fides* (trust) and *foedus* (pact, agreement), the concept of federalism implies a cooperative relation between several entities with common goals, which leads to a political union with a central government that coexist side-by-side with concurrent power structures inherent to the members that form such union. In a federal association, the political decisions don't emanate therefore from one single superstructure, but occur within a matrix of concomitant power entities that are permanently connected to each other. In the words of Daniel Elazar, one of the leading scholars of federalism in the 20th century,

Federal principles are concerned with the combination of self-rule and shared rule. [...] As a political principle, federalism has to do with the constitutional diffusion of power so that the constituting elements in a federal arrangement share in the processes of common policy making and administration by right, while the activities of the common government are conducted in such a way as to maintain their respective integrities³.

As a *compound arrangement*, federalism doesn't imply a consolidation of the constituent parts in a *sole structure* and surely doesn't involve the inevitable transformation of a set of states in a one-dimensional political organization. Federal systems are based exactly in the opposite idea: an agreement between political entities that maintain an identical formal standing, although they are bound in a common whole. Such union must have a gravity center (that holds them together), but it contains a wide field of complementary powers. Although particular organs have paramount authority in specific matters, federalism is by nature polyarchical. Its *modus operandi* is based in the collaboration between various political units, which are not subsumed under a unique authority, but instead preserved as constituent parts of a multiform building.

¹ Thatcher, Margareth, *Speech to the College of Europe (Bruges, 20/09/1988)*, URL <<http://www.margareththatcher.org/document/107332>>

² See, for instance, Galloway, David, *The Treaty of Nice and Beyond*, Sheffield Academic Press, 2001; and also Szczerbiak, Aleks and Taggart, Paul, *Opposing Europe?*, Oxford University Press, 2008.

³ Elazar, Daniel, *Exploring Federalism*, The University of Alabama Press, 1987, pp. 5-6.

In a clear contrast with unitarian forms of government –typically set in a fixed hierarchy, with political processes occurring mainly across vertical decision axes’ (where a highly centralized government acts directly upon the whole territory under its supervision), federalist associations chiefly depend on horizontal connections and shared decisions between different political authorities. Even if it creates a *central government* (for purposes of efficiency in the pursuit of mutual objectives), federalism permanently relies upon an inter-institutional communication between various equidistant power organizations, which are encouraged to act together in the pursuit of common solutions to common problems, within the scope of their competences.

3. The benefits of federalism to democracy

With the proper meaning of *federalism* clarified, we can concentrate on the reasons why we believe it may contribute to the promotion of democratic values (nowadays endangered by the challenges previously enumerated).

3.1. Checks and balances

A first relevant aspect of federalism is the fact that it represents one of the most efficient *checks and balances* of political action, as it multiplies the vigilance mechanisms of a democratic system. By creating additional levels of government –enshrined in the main political structure– federalism not only divides power among several organisms (thereby avoiding the concentration of authority in a single distant and potentially abusive branch), but also stimulates the various power structures to oversee each other. Relying on the wariness nature of authority, federalism promotes a zealous caution between political actors, as they try to avoid encroachments on their specific prerogatives, which tends therefore to maintain the political action within a realm of restricted competences. As it increases the number of players in the political system, federalism creates thus an indispensable safeguard against an abuse of power that could endanger democracy:

[...] federalism is politically sound because of its compound features [...]; by providing for a constitutional diffusion of power, federalism enables “ambition to counteract ambition” for the good of the body politic and prevents the consolidation of ambition to the latter’s detriment⁴.

Elazar’s reference to a famous James Madison’s expression (“ambition to counteract ambition”⁵) seems especially appropriate, given Madison’s reflection on the ability of federalism to protect the common good by taking advantage of the *negative traits* of human nature (as the thirst of power and control), which can be used in the proper institutional outline (that federalism aims to build) to reinforce mutual vigilance between political agents and structures. This happens precisely because the personal interest of politicians and institutions in the maintenance of their *jurisdiction* propels them to watch carefully against unlawful threats to it.

⁴ Elazar, Daniel, *op. cit.*, p. 29.

⁵ “Ambition must be made to counteract ambition. The interest of the man must be connected with the constitutional rights of the place. It may be a reflection on human nature, that such devices should be necessary to control the abuses of government.”, Madison, James, *The Federalist number 51, The Papers of James Madison, Congressional Series*, vol. 10, The University of Chicago Press, 1977, p. 477.

Contemporary analysis on the benefits of federalism also commonly resort to the *negativity of human nature* as they trace egotistical features that can nevertheless be used to favor public interest. A good example is the work of Nobel Laureate Roger Myerson, who has sustained in a recent paper that “the forces of democratic competition may be sharpened by the national ambitions of local leaders”⁶. Using theoretical models to evaluate the behavior of political leaders in federalist systems, Myerson found that the federal division of powers foments healthy and successful governance, since it creates an additional and strong incentive for provincial leaders, who wish to create a good reputation as they crave a future role at a national level. In a unitary system, ambitious politicians can easily taint public policy with their personal interest, but in a federal model that gives effective power at multiple levels, the fierce competition among political actors generates a motive and an opportunity to promote good democratic practices, channeling personal ambitions into the establishment of outstanding public careers⁷.

3.2. Popular participation

Moreover, since federalism upholds decentralization and the principle of subsidiarity (the idea that in a political complex organism, the superior structures should only act if the matters at hand cannot be efficiently executed by the subordinate units), the powers and rights of the governments nearest to the communities are reinforced. This can be very important to the promotion of democratic values for two reasons.

First, because it amplifies representation, by encouraging dynamics of proximity between the political actors and the common citizens, who can see their needs more quickly answered, due to the existence of significant units of decision closer to them. At the same time, the responsibility of the political agents in face of their constituents is increased, as the public decisions tend to be connected with familiar names, and no longer to distant and often unidentified political officers. Federalism thus emphasizes political accountability, creating stronger links between representatives and represented, allowing for a better communication among them and raising also the chances to punish (or reward) those who were more personally and directly incapable (or capable) to protect the common good and the interests of the people.

On the other hand, through decentralization federalism can maximize popular participation in political affairs. It does so by creating more government structures, and consequently more opportunities for citizens to influence the decision-making processes. Due to its natural predisposition to diffusive administrative patterns, federalism creates thus several stages for political organization, engagement and mobilization. Such provisions do not guarantee *per se* an increase of popular involvement in politics, but “they offer at least an additional and better chance of active participation”⁸, particularly compelling to the people because a large part of *substantive* policy-making takes place at a local level, which is more *accessible* to common citizens and where the effects of the political process are much more *visible*, as Mark Tushnet points out:

⁶ Myerson, Roger, “Federalism and Incentives for Success of Democracy”, *Quarterly Journal of Political Science*, 2006, 1, p. 5.

⁷ *Ibid.*, p. 5 *et passim*.

⁸ Hrbek, Rudolf, “Exploring Federalism: Europe and the Federal Experience. Reflections at the Beginning of the Nineties”, in Brown-John, C. Lloyd (ed.), *Federal-Type Solutions and European Integration*, University Press of America, 1995, pp. 556-567.

Federalism promotes participation because [...] people find it easier to engage in political action in smaller jurisdictions: the smaller the jurisdiction, the more likely it is that a person's political action will actually affect policy, and the clearer it will be to the voter that his or her participation actually made a difference⁹.

The increase of popular participation, even if it occurs initially only at a local level, can produce further benefits in the long term, due to its *pedagogic effects*. For such participation ensures character formation through discussion and deliberation, promotes the idea of a public and open society, and creates *more vigorous citizens*, who after the experience at the local level, will be more willing to participate in other stages of political action (namely in the state or national governments)¹⁰.

3.3. Citizenship revisited

By establishing a social and political network that rests upon a clear principle of civic intervention, federalism provides a return to the genuine meaning of *democracy*, as the “government of the people, by the people, and for the people” (in the famous words of Abraham Lincoln), because it celebrates the capacity (and the right) of each individual (or small communities) to assume a seminal participation in the decisions that affect directly their quotidian lives. Hence, federalism allows to reappraise the notion of citizenship, no longer understood merely as the individual right to the full dominion of his private actions (or to be free from State intervention), but primarily as his right (and, to some extent, *duty*) to actively take part in the collective decisions of the public realm.

Present in several contemporary theoretical works (namely by authors of the so-called “Communitarian School”¹¹), this idea has, in fact, always been an essential feature of the historical reflections on federalism and democracy. Let’s briefly recall, for instance, Thomas Jefferson’s observations on these matters. Having contributed directly in his early days to the triumph of democracy in the USA, Jefferson was later in life somewhat disappointed with the lack of popular participation in the political process. In his correspondence, he speaks of a proposal to address that problem, consisting in the creation of a large *system of wards* –small units of government that encouraged a direct public involvement in several political decisions of a specific local nature. More than mere electoral districts, the wards would have resembled the historical practice of town hall meetings, whereby every member of the local community voiced their opinions about shared subjects of interest. To Jefferson, wards would then represent genuine spaces of public discussion, allowing each individual to directly participate in the management of local affairs, making them the true bulwarks of a republican system:

Each ward would thus be a small republic within itself, and every man in the State would thus become an acting member of the common government, transacting in person a great portion of its rights and duties [...]. The wit of man cannot devise a more solid basis for a free, durable and well administered republic¹².

⁹ Tushnet, Mark, “Federalism as a Cure for Democracy’s Discontent?”, in Allen, Anita and Regan, Milton (Eds.), *Debating Democracy’s Discontent. Essays on American Politics, Law, and Public Philosophy*, Oxford University Press, 1998, p. 308.

¹⁰ *Ibid.*, p. 308.

¹¹ Cf. Wilfred McClay “Communitarianism and the Federal Idea”, in Lawler, Peter and McConkey, Dale (eds.), *Community and Political Thought Today*, Praeger, 1998, pp. 101-108; see also Sandel, Michael, *Public Philosophy: Essays on Morality in Politics*, Harvard University Press, 2005, especially pp. 9-34 and 156-173.

¹² Letter of Thomas Jefferson to John Cartwright, June 5, in Jefferson, Thomas, *Writings*, Library of America,

Jefferson's concept of *wards* seems to comprise a return to the idea of *polis* in Ancient Greece. His primary intent was to cultivate each individual's fulfilment through an active exercise of citizenship, which could only occur in the plural context of the commonwealth. The ward could have been (since it was never implemented) *the public space* that allowed each individual to act *as a citizen*, that is, as a singular participant that intervenes in a collective political decision process. The former highlights the right of each person to self-government, but only the latter *gives meaning to such right*, by incorporating it in the public life and the political practice of a larger community.

3.4. Changes in the party system

Federalism can also produce relevant democratic improvements in the way political parties operate, decentralizing their organization and their political platform. Through the powers they convey to political actors located at different points in the various government structures, federal systems can reshape the nature of party competition and the incentives for politicians, forcing a greater adaptation to regional and local necessities. On the other hand, the already mentioned model of proximity between representatives and constituents, typical of federalism, contributes to a larger accordance of political actions and the true interests of common citizens. In federal systems, parties are therefore more connected and dependable of popular opinion than in unitary countries, where party organizations –due to its wider and *national* facet– usually demand a stronger and rigid centralized leadership.

The American case illustrates the advantages of federalism in this matter. Due to the ample cultural, social and ideological differences of the states, the political parties are highly decentralized organizations, since they have to adapt themselves to the changing priorities of the electorate. Hence, the Democratic Party structures in the South are much more conservative than their counterparts in the Western Coast, for instance (the same is valid for the Republican Party). Besides, the complex features of the federal compound (with multiple decision-making devices) demand of parties great flexibility (in questions of ideology, but also of organization and composition), in a general landscape where exist “[...] plenty of scope for party-state dissonance regarding presidential, congressional, gubernatorial and local state elections and representation”¹³.

Since they dominate the vast majority of political organs at a national level, it may seem these two parties are in fact massive and centralized organizations. But, in truth, they are the result of a broad coalition of local and state structures, with different messages, political discourse or even electoral strategies, necessary to win votes in diverse regions of the federation. National parties in the USA are then quite fragile –partly because of weak party discipline and the *personalization* of politics– but mainly due to the *diversity* of their political views, which in this case favors democratic principles, as the parties search for popular approbation by accommodating themselves to the people's (different and wide) needs and aspirations¹⁴.

1984, pp. 1492-1493.

¹³ Burgess, Michael, *Comparative Federalism. Theory and Practice*, Routledge, 2006, p. 152.

¹⁴ Cf. Burgess, *op. cit.*, p. 152.

3.5 Pluralism, minorities and globalization

Another important aspect of federalism is how it fosters pluralism, a quintessential mark of democracy, by facilitating the access of minorities to the political process, as noted by Rudolf Hrbek:

Minorities [...] may have a stronghold at regional level which would give them better opportunities to promote their case within the national organization. [...] A federal structure makes it easier for minorities to gain ground, to grow up and to consolidate at a regional level. [...] A federal structure forbids to marginalize minorities¹⁵.

In a unitary political model, minorities find great difficulties to push their agenda, due to its *scarce relevance* when compared with *general* issues that concern the majority. On the contrary, a federal arrangement –which contains multiple levels of government, including a territorial division of power– widens the chances of specific groups to make their voice heard, especially if the demographic weight of those groups is, in a particular region, proportionally superior to their representation at a national level. In such cases, the existence of a specific political unit with reserved powers is indispensable to protect such minorities against *the superiority of the many*, allocated in the national bodies. That is the reason why many federal systems adopt special protection clauses to minority groups who wish to preserve their culture or language (see Belgium, Switzerland or Canada), endowing certain states (or regions) with significant autonomy or even a virtual veto power on relevant policy issues.

The idea that federalism can promote democratic values by protecting minority rights is a constant aspect in the treatment of these matters. We find it in James Madison's celebrated theory of the "extended republic", a defence of social and political diversity as the most adequate instrument to cope with the existence of *factions* (groups motivated by particular interests), which in a plural environment have fewer chances to constitute an abusive majority against the interests of smaller groups¹⁶. We see it in Arend Lijphart's works, where federalism is listed as one of the most effective mechanism in *consociational democracies*, protecting minorities against elected majorities through the creation of political subunits with substantial sovereignty, where an ethnic or cultural minority has a specific predominance¹⁷. And we find it also in Daniel Elazar's thought, who emphasizes the importance of "compounded majoritarianism" for democracy, i.e., the fact that political majorities should primarily be composed of several minorities or confederated groups (which would "govern by consensus"), and not of a *unique* cultural or ideological faction which gains institutional predominance¹⁸.

All these authors agree that federalism can be useful for minorities in a dual sense. For at the same time it can create for minorities an *immunity* barrier against abuses, federalism may also promote its *integration* in the national political process, because federal systems require a permanent cooperation between the several political structures that encompass a federal union, thus leading to concerted resolutions both on state and national issues.

¹⁵ Hrbek, Rudolf, "Exploring Federalism: Europe and the Federal Experience. Reflections at the Beginning of the Nineties", op. cit., p. 557.

¹⁶ Madison, James, *The Federalist number 10*, op. cit., pp. 263-270.

¹⁷ Lijphart, Arend, *Democracy in Plural Societies: A Comparative Exploration*, Yale University Press, 1977.

¹⁸ Elazar, Daniel, op. cit., p. 263.

The ability of federal systems to promote collaboration between various entities in search of common goals –and to build reasonable consensus among multiple institutions with often divergent interests– is indeed perhaps the strongest asset of federalism, making it suitable to many situations in which diversity exists (whether of a cultural, social or political nature), and where nevertheless some sort of agreement and common effort needs to be found and developed. With its reliance in cooperation, free debate and institutional negotiation, federalism seems therefore appropriate not only to uphold democratic values *within* countries, but also *among* them. Preferring partnership and mutualism to subordination or external impositions, federalism is primordially a *dialogic political exercise*, and in this sense it can operate both at a micro (national) and a macro (supranational) level.

In the present international scene new linkages between states, governments and citizens are constantly appearing, rising diverse challenges that need *comprehensible answers*. Globalization has led to colossal progresses in science, technology, transportation, commerce and information, but still lacks innovative achievements in the political realm. Perhaps federalism could be particularly useful in this matter, because it can create the kind of institutional connections avidly solicited by the new global order, preserving and bolstering democratic principles inherently attached to its procedures, based on collaboration, open discussion and shared decisions¹⁹.

4. A few conclusive remarks

We have seen how federalism can promote democratic values in a wide range of matters, but despite such analysis it is important to state that such idea doesn't constitute a definitive solution to democracy's problems –only an instrument to tackle them. That is the case, first and obviously, because democracy is a reality too complex to be sustained in a single concept or political framework; but secondly, due to federalism's own imperfections, namely when considered as a potential mechanism to address democracy's deficiencies.

One of such flaws is the incapacity of federalism to effectively control the relevance of economic powers in modern democracies. This happens mainly because these powers usually circumvent the political framework, to which federal institutions are strictly attached. In practical terms, these can enhance cooperation between countries and supranational organisms, but even such instruments of superintendence are often incapable of properly oversee the *external* pressures of markets, banks, loan companies and other economic agents.

Federalism is also quite inefficient in dealing with political bureaucracy and the weight of the administrative processes-growing problems of contemporary democracies, which in fact are only enlarged by federalism. Federal systems are by definition polycentric, demanding a multiplication of agencies, institutions and offices in the political structure of a nation (or supranational configurations). The existence of this wide network of organisms and actors naturally brings with it an increase in bureaucracy, creating moreover so many layers of policy-making processes that both the outside observer and the agents belonging to that matrix find it hard to fully understand the several steps of political deliberation in such systems.

¹⁹ Cf. Burgess, Michael, *Comparative Federalism. Theory and Practice*, op. cit., especially the chapter "Federalism, democracy and the state in the era of globalization", pp. 251-268. See also Held, David, "The Transformation of Political Community: Rethinking Democracy in the Context of Globalization" in Ian Shapiro and Casiano Hacker-Corson (Eds.), *Democracy's Edge*, Cambridge University Press, 1999, pp. 84-111.

Finally, and perhaps more importantly, it must be noted that federalism doesn't have an *indisputable validity* or normative soundness that guarantee its efficiency, as Edward Gibson reminds us:

[...] federalism is not an outcome or end of the democratizing process, but a variable that interacts with democratization –strengthening democratization at some levels and inhibiting the operation of democratic government at others. Federalism and democracy are linked not ontologically, but via institutional mechanisms²⁰.

Since federalism does not have an ontological or moral intrinsic value, it can therefore only be seen as an *auxiliary mechanism*, and not as a panacea for democracies' problems. The great flexibility of federalism –for it can be adopted with several institutional nuances (various legal outlines, different types of distribution of powers, diverse composition of federal organs, etc.)– makes it a helpful instrument in a wide range of political, cultural and social circumstances. Nonetheless, in spite of its promising advantages, federalism remains still *only a political tool*. It's up to its users to *make the most of it*.

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²⁰ Gibson, Edward, "Federalism and Democracy in Latin America: Theoretical Connections and Cautionary Insights", in Gibson, Edward (ed.), *Federalism and Democracy in Latin America*, The Johns Hopkins University Press, 2004, p. 13.