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Beyond the Federal-Unitary Dichotomy

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Working paper

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1. Multilevel systems of government: how to classify them?

The analytical distinction between federal and unitary systems has lost its ability to describe and classify the complex and differentiated phenomenology of multi-level systems of government.¹ In the past twenty years the federal-unitary dichotomy has been extensively challenged by new political developments and institutional arrangements.

The first challenge has been the institutionalization of regionalism (Italy, Spain, Belgium, France), a form of territorial distribution of power which has never been clearly classified either as an incomplete type of federal system or an evolutionary type of unitary system. The difficulty in classifying regionalism has been mainly due to the fact that regional systems have developed very different institutions, unable to portray a universal type. The process of federalization that some regional systems (Belgium, Spain) have recently experienced has made the attempt to classify regionalism even more problematic. As a matter of fact the distinction between regionalism and federalism has lost clearness.

The second challenge has been the claim for devolution that most unitary systems have faced in the past decade. Devolution has led to new forms of territorial distribution of power, which combine decentralization with asymmetrical federal arrangements, and are very difficult to classify. Spain is quite emblematic as a case of asymmetrical federalism: a process of devolutionary federalization is developing, but it does not apply to all of the regions yet. Part of the territory is already organized as a federal system, but the rest of it is still regional. Also the case of the United Kingdom is very interesting: devolution to Scotland and Wales can be defined as federal arrangements even though a real process of federalization, able to transform the United Kingdom into a federation, is far from developing (Keating, 1998). The case of Italy portrays another peculiar phenomenon: the claim for federalism promoted by the regional party Lega Nord has led to a process of innovative decentralization which has devolved more power to local and regional governments. The puzzling aspect is that, despite the fact it has been mainly a process of decentralization, it is still called federalism

The third challenge has been the evolution of public policy (with particular reference to welfarism)² which has made federal and unitary systems more and more similar to each other in terms of intergovernmental relations and centralizing dynamics. The concentration of power that federal systems have experienced in some policy

¹ This paper takes a domestic perspective, focusing just on territorial distribution of power within nation-states, and specifically Western countries. However, the analytical framework can apply also to the process of European integration.

² Welfare policies are typically nation-wide policies which pressure the center to deliver benefits and services throughout the territory, pursuing uniformity and equality. See, Rose, 1985.

sectors has shown similarities to center-periphery dynamics of unitary systems. The awareness that when it comes to public policy the federal-unitary dichotomy loses complete effectiveness has become widely accepted among scholars, though agreement on this point is not universal (Krane, 1987). One aspect of convergence has been the development of intergovernmental relations based on cooperation and power sharing. Central, regional and local agencies have become more and more interrelated in the policy-making process in terms of collaboration and bargaining. Intergovernmentalism has broken the idea of order, that of “nestedness” and clear allocation of policy responsibility among levels of government, which is implicit in both the federal and unitary ideal types (Caporaso, 1996; Rose, 1985). This growing interdependence and multilayered dynamics, on the one hand, has flattened the hierarchical relationship between the center and the periphery within unitary systems, making the center less “center” and the periphery less “periphery”; on the other hand, they have threatened the autonomy of subnational governments within federal systems, making the intervention of federal government more and more invasive.³

The fourth challenge is not a new one, even though the most recent processes of devolution and federalization experienced by unitary systems have strengthened it. It refers to the existing variety of federalism and federal arrangements. Federal systems are institutionally and constitutionally very different one from the other, and the search of common characteristics, able to qualify them and differentiate them from other institutional types, has become a difficult task.

The evolution and complex variety of multi-level systems of government has made the federal-unitary dichotomy increasingly useless for the purpose of classification. Both unitary and federal systems portray today a broader range of institutional and constitutional arrangements, and both of them have developed growing interdependence among levels of government, showing policy convergences. Unitary systems have experienced processes of regionalization, federalization and devolution which have weakened the distinction with federal systems, making their territorial diversity come through. In synthesis, new institutional arrangements and multilayered policy-making have made the federal-unitary dichotomy losing its ability to describe the empirical reality.

Given all these evolutions, the analysis and classification of multilevel systems of government has to move beyond the federal-unitary distinction, abandoning the idea of a dichotomy. In order to identify different types and classify the complex variety of multilevel government, old criteria of classification have to be revised, and new criteria have to be developed. More specifically, new analytical dimensions have to be added to the oversimplified scheme of federal-unitary systems, able to grasp new convergences and differences.

³ The development of “cooperative federalism” has come along with an increasing federal intervention. See Anton, 1989; Hesse, 1987; Kincaid, 1993; O’Toole 1993.

This paper develops a classificatory scheme for comparative research on territorial distribution of power in western countries. The scheme is based on two analytical dimensions, conceptually separated: federalism and decentralization. The first expresses the *nature* of the relationship between levels of government, and more specifically between the center and the sub-units, on the basis of constitutional, institutional and political variables; the second, instead, expresses the *actual distribution of power* among levels of government with reference to the policy-making process: decision-making competences, administrative and fiscal resources. Both analytical dimensions are conceptualized not in terms of dichotomy but in those of continuum (degree). This is quite intuitive in the case of decentralization, which can be assessed on the basis of quantitative variables; but it is counter-intuitive in the case of federalism, given the federal-unitary dichotomy bias. The conceptualization of federalism by degree is one of the goals of this paper. On the basis of the proposed classificatory scheme - which will guide future comparative research - some initial hypotheses on institutional types of territorial distribution of power will be developed.

2. Federalism by degree

2.1. Federalism, federation and federalization

“Using the federal principle does not necessarily mean establishing a federal system in the conventional sense of a modern federal state. The essence of federalism is not to be found in a particular set of institutions but in the institutionalization of particular relationships among the participants in political life” (Elazar, 1987, 11)

In order to understand federalism by degree it is fundamental to accept the distinction between federalism and federation which has become quite consolidated within the literature.⁴ Federation is the most complete institutional expression of the federal principle; federalism is that principle in itself. A principle which can be conceived in both normative and institutional terms.

As a normative principle, federalism recognizes and promotes “diversity in unity” within the overall of a society.⁵ According to Livingston (1968, 22), “the essence of federalism lies not in the constitutional or in institutional structure but in the society itself”. Varying degrees of societal diversity produce varying degrees of demand of self-expression, and those varying degrees make the structure of the society more or less federal.⁶ The societal diversities that produce federalism may be of many kinds, but economy, religion, and nationality (which implies culture, language, and ethnicity) are the deepest cleavages. “The more diversified the society, the greater is the necessity of

⁴ See, Burgess and Gagnon (eds.), 1993; King, 1982.

⁵ For the conceptualization of federalism as normative principle, see King, 1982; Livingston, 1968; Malandrino, 1998.

⁶ For a definition of “social federalism”, see also Wildavsky, 1967.

providing some means for articulating the diversities (...) they demand and require means of self-expression” (Livingston, 1968, 26). Federalism is first of all the normative principle to recognize and protect territorial diversities within the unity of the society. But it is also the institutional principle to make the structure of government able to articulate and express those diversities.

In institutional terms, federalism is an organizing principle for territorial distribution of power, which qualifies itself as “self-rule plus shared rule” (Elazar 1987a, 12). More specifically, it is an institutional principle that “unites separate polities within a more comprehensive political system in such a way as to allow each to maintain its fundamental political integrity” (Elazar, 1995,1). Riker (1975, 101) defines federalism as a mode of political organization in which the activities of government are divided between regional governments and a central government “in such a way that each kind of government has some activities on which it makes final decisions”. Similarly, according to Lijphart (1984, 169) “federalism means a constitutionally guaranteed division of power between the central government and the governments of the component units”. So, what qualifies federalism is, first of all, the presence of separate polities (political entities territorially based with governing institutions able to “self-rule”) within a comprehensive structure of government (“shared rule”); secondly, a “guaranteed” distribution of power between the comprehensive government and the constituent polities, in order to protect the existence and the authority of both. In this regard, a relationship between levels of government is “federal” when it is based on a condition of equality which recognizes them the same status and gives them the same guarantees of preservation. In federalism, "no matter how certain powers may be shared by the general and constituent governments at any particular time, the authority to participate in exercising them cannot be taken away from either without their mutual consent” (Elazar, 1987a, 166). In other words, no level of government can subordinate the other, none can concentrate or disperse power unilaterally. Therefore, federalism as an institutional principle reveals itself as antithetical to “centralism”, and its essence becomes that of “non-centralism”:⁷ federalism denies the existence of just one “center” able to centralize or decentralize power, and it develops, instead, a multi-centered and non-centralized structure of government, where each center is given a guaranteed portion of power which can not be removed by the others.

Both in normative and institutional terms, federalism can be conceived by degree. In the first case, it refers to the degree of diversity present in the society, its claim and recognition within the structure of values of that society. In the second case (which is the main focus of this paper), it refers to the degree of non-centralism portrayed by the structure of government or, in other words, to what extent the

⁷ Federalism develops historically as a rejection of the modern ideal-type of state based on absolute sovereignty and centralism. For the relationship between the concepts of federalism and centralism, as developed since the French Revolution, see Malandrino, 1998. The essence of federalism as principle of “non-centralization” is conceptualized by Daniel Elazar (1987a).

territorial distribution of power is guaranteed. Federations are the most complete institutional expression of federalism: the distribution of power between the federal government and the constituent polities is constitutionally entrenched and fully guaranteed as non-centralized. Yet, as shown by empirical reality and recent evolutions, federalism can develop in absence of federation; and federations can be institutionally very different one from the other, portraying different degrees of non-centralism.

Friedrich's analysis of "federalization" explains how federalism can develop in absence of federation. According to Friedrich (1968,7), "federalism is also and perhaps primarily the process of federalizing a political community, that is to say, the process by which a number of separate political communities enter into arrangements for working out solutions, adopting joint policies, and making joint decisions on joint problems, and, conversely, also the process by which a unitary political community becomes differentiated into a federally organized whole". Federalization is in itself expression of federalism, and it is a process that develops by degree. Along this process, the conditions for a non-centralized distribution of power are progressively built through a sequence of federal arrangements which develop over time. During this process, federalism is increasingly present, but federation (as full constitutional recognition of the federal organization) is still absent. Federalization can develop either by the "integration" of pre-existing polities into a new federal polity ("coming-together" type) or by the "disaggregation" of a unitary polity into a federally whole of territorial polities ("holding-together" type)⁸. An example of federalization by disaggregation is that of Belgium, where the federalizing process has developed along a period of almost thirty years, moving progressively from a unitary polity to a regional system at first, then to a complete federation (with the 1993 constitutional reform). An example of "coming-together" federalization is that of the European integration. This is a very interesting case because it shows how the relationship between federalism and federation can be very ambiguous. As a matter of fact, even though the process of European integration has developed through federal arrangements of different kinds, it is still unclear if it will ever lead to a complete form of federation. This means that federalism develops in absence of federation, but not always federation will follow.⁹ Federalism is a "genus" of political organization, where federation is one "species" within this genus (Elazar, 1987a). Other institutional arrangements can develop within this genus, and not always as complete or constitutionally defined as federations.¹⁰ According to Sbragia (1992),

⁸ For the distinction between "coming-together" and "holding-together" types of federation, see Stepan, 1987.

⁹ As pointed out by Burgess (1986, 220), "the distinction between federalism and federation can be useful for analytical purposes (especially comparative analyses and empirical studies) but the relationship between the two concepts is not clear".

¹⁰ A classification of different "species" within the "genus" of federalism has been developed by Elazar (1987a), and it includes federations, confederations, associated statehood, unions, leagues, condominiums. For a federal analysis of the process of European integration, see Elazar, 1998; Sbragia, 1992.

“federalism is an exercise in institutional creativity and is not necessarily a replication of existing institutional designs”.

Federations vary significantly in how they organize the power between the central government and the constituent units. All of them possess a constitutionally guaranteed distribution of power, but the extension of those guarantees might differ from one to the other. This means they can portray varying degrees of non-centralism or, in other words, varying degrees of implementation of the federal principle. In order to understand better how federalism can develop by degree it becomes necessary to analyze more in depth which are the institutional mechanisms which guarantee a non-centralized distribution of power.

2.2. Federalism as center-constraining

As we have seen, what qualifies a federal distribution of power is its non-centralized nature. Federalism is antithetical to centralism: the exercise of power by the “center” (central government) is constrained by the guaranteed presence of other centers (the constituent polities) which share the exercise of power. Therefore, federalism is based on institutional mechanisms which can be defined “center-constraining”:¹¹ they constrain the capability of the center to perform “centralistically” (concentrate or devolve power unilaterally), structuring instead a non-centralized or multi-centered structure of government, where no single center is able to perform as such.

The center-constraining mechanisms which qualify federalism, and allow for a guaranteed and non-centralized distribution of power, are: 1) constitutional allocation of power; 2) territorial representation.

A constitutionally entrenched distribution of power between the central government and the component units is fundamental in order to have guarantees of non-centralism. According to Lijphart (1984), a center-regional constitutional division of power is the primary federal principle; in other words, the first center-constraining federal mechanism. Robert Dahl’s definition of federalism takes this point a step further. According to Dahl (1983), federalism exists when “competences of subunits are constitutionally beyond the scope of the authority of the national government, and other matters are constitutionally outside the scope of the authority of the smaller units”. Federalism is center-constraining because neither the center nor the constituent units can exercise control on the overall agenda of government. Decision-making competences are exclusively subtracted from the agenda of one level of government and guaranteed to the agenda of the other. This means that the central government does not always have the authority to impose nation-wide policies or, in other words, that “a national majority cannot always prevail over a minority on questions of policy, if that

¹¹ This definition refers to Al Stepan’s conceptualization of federalism in terms of demos-enabling and demos-constraining continuum (Stepan, 1987).

minority happens to constitute a majority in a local unit with a constitutionally protected agenda” (Dahl, 1983). The center-constraining nature of federalism overcomes the majoritarian rule of the democratic process, and allow for a different form of representation, based not just on *population* (representation of the overall *demos* on the basis of the principle “one person, one vote”), but on *territory* as well.

According to Whitaker (1992, 167) , “modern federalism is an institutionalization of the formal limitation of the national majority will as the legitimate ground for legislation. Any functioning federal system denies by its very processes that the national majority is the efficient expression of the sovereignty of the people: a federation replaces this majority with a more diffuse definition of sovereignty. It does this not by denying the democratic principle, as such, but by advancing a more complex political expression and representation in dual manifestations which may even be contradictory and antagonist.” Federalism constrains the principle of national majority as the only expression of the sovereign *demos*,¹² and it introduces the principle of territorial representation of the constituent polities. This means it represents the sovereign *demos* both as a single entity and as a plurality of territorial entities. The two logics of representation, population and territory, are tightly interconnected: “the voter views the political world from two perspectives, one shaped by social pluralism of the general government, the other shaped by territorial pluralism of state governments” (Beer, 1978).

Territorial representation is a full center-constraining mechanism when it is expressed at the national level. In that case, the constituent units are guaranteed that the allocation of power will not change against their will. Without representation in the central decision-making process, they would be vulnerable to “the changing whims of the overarching center” (Burgess, 1986, 13) . The more institutionalized such representation, the more guaranteed the distribution of power. According to King (1993, 94), what qualifies a federation and distinguish it from other institutional types is that “its structure is grounded in the representation of the regional governments within the national or central legislature on some constitutionally entrenched basis”.¹³ Territorial representation within the national legislature give to the constituent units the opportunity to participate not only to the national law-making process but also the process of amending the constitution; this is the most center-constraining mechanism.

Both constitutional allocation of power and territorial representation can vary in degree: varying degrees of power can be constitutionally guaranteed, and varying

¹² For an analysis of federalism as *demos*-constraining, see Stepan, 1987.

¹³ According to King (1993), a division of labour between center and periphery with some constitutional basis can be found also in other systems of government, not just federations. Territorial representation and participation in the national policy-making is the federal qualifying institutional arrangement. Also Lijphart (1984), emphasizes the participation and representation of the constituent units in the national law-making process as one of the essential characteristics of federations.

degrees of representation of the constituent units within the central decision-making can be allowed. Therefore, these institutional arrangements can have a lower or higher center-constraining potential, portraying different degrees of implementation of the federal principle.

2.3. Operationalizing federalism

In order to analyze degrees of federalism in multilevel systems of government, it is necessary to operationalize the concept of federalism, and define which variables should be taken into consideration in comparative research.

Given the largely constitutional bases of federalism, constitutional variables are the first ones which have to be analyzed. Among western countries, federations are easily recognizable by their constitutions which define them as federal, and most federal arrangements do develop through constitutional reforms. Therefore, constitutions can be comparatively analyzed in order to find out their center-constraining potential. Yet, the constitutional design most of the time is too static to account adequately for the dynamic of federal practice. As a matter of fact, federal arrangements can develop also paraconstitutionally. There are at least two paraconstitutional variables which should be taken into consideration in order to understand the nature of territorial distribution of power: intergovernmental relations and party system.

2.3.1. Constitutional variables

The constitutional variables able to express the presence and degree of federalism are those referring to the allocation of power between the central government and the sub-units, and the territorial representation within the Second Chamber. Constitutional allocation of power can be operationalized as: a) distribution of law-making competences; b) residual powers; c) criteria for the allocation of competences (jurisdictional / functional); d) territorial diffusion (symmetry / asymmetry).¹⁴ The representation in the Second Chamber can be operationalized as: a) the extension of the territorial representation within the Chamber (exclusive /partial); b) the policy scope (in relation to the First Chamber); c) degree of overrepresentation (number of representatives in relation to the size of the sub-units); d) method of selection of representatives (direct or indirect election by citizens; appointment by subnational executives).

The more law-making competences or residual powers that are allocated to the sub-units, the more the center is constrained. However, criteria and territorial diffusion

¹⁴ Among other constitutional variables which could be taken into consideration there is the organization of the judicial systems, as well as the presence of a Constitutional or Supreme Court acting as an independent institution to preserve the constitutional distribution of power, and solve interjurisdictional conflicts.

can make a difference. There are two basic criteria for the distribution of competences: “jurisdictional” and “functional”. A “jurisdictional” distribution is based on independence: each level of government perform its competences independently from the other. Jurisdictions are clearly defined, exclusive or competitive.¹⁵ This kind of distribution has a high center-constraining potential: what is subtracted from the national agenda can not be affected by the central government. A functional distribution, instead, is based on interdependence: the two levels of government are tied together, either by joint decision-making (cooperative distribution) or by the articulation of policy-making in a way that sub-units have implementation responsibilities for central decision-making.¹⁶ This kind of distribution has a lower center-constraining potential because it is less guaranteed from the influence of the central government. With reference to territorial diffusion, the allocation of power can be symmetrical or asymmetrical. Symmetrical distribution is more center-constraining than asymmetrical distribution because it refers to the whole of the territory: there is symmetry when all the territorial sub-units are given the same powers; asymmetry when powers are given just to some territorial sub-units.¹⁷

The more extended the territorial representation within the Second Chamber, and the greater its policy scope, the higher the potential to constrain the majority expressed by the First Chamber that represents the entire population (Stepan, 1987). Similarly, the greater the overrepresentation of the smaller sub-units,¹⁸ the more eroded the principle of equality of citizens, the greater the center-constraining potential of the territorial chamber. With reference to the method of selection of representatives, it has to be observed that it can change the nature of territorial representation. In case of appointment by subnational executives (i.e. Germany), the governmental institutions of the sub-units are represented (governmental representation); in case of direct or indirect election (i.e. USA), the citizens are represented (electoral representation). Governmental representation has a higher center-constraining potential, because it makes the national law-making process dependent on the executive branches of subnational governments, developing strong ties for the stable incorporation of selected territorial interests and policies within the central decision-making.¹⁹

¹⁵ In case of competitive jurisdictions, there is still independence but the policy domains overlap. See Baldi, 1997.

¹⁶ The distinction between jurisdictional and functional allocation of power simplifies the four basic criteria for distribution of competences among levels of government: dual, competitive, cooperative and functional. See Baldi, 1997.

¹⁷ For the concept of asymmetry in federalism, see Tarlton, 1965.

¹⁸ This is the case of equal number of representatives regardless the size of the constituent units, which is one of the main features of the U.S. federal prototype.

¹⁹ In case of governmental representation, there is a strong interconnection between the legislative and the executive branches, which is likely to broaden intergovernmental bargaining. Moreover, the representatives within the Second Chamber are more independent from national party dynamics and more likely to develop different majorities in relation to the First Chamber. However, the center-constraining potential of the Second Chamber in general, and particularly that of this variable (selection of representative), is difficult to be assessed because it depends on other variables like the parliamentary nature of the system, the regionalization of the party system, the kind of allocation of competences among

2.3.2. *Paraconstitutional variables*

Intergovernmental relations

Constitutions do not express the real functioning of multilevel systems of government, which evolves through complex patterns of intergovernmental relations, that go beyond the constitutional design. Intergovernmental relations can affect both the distribution of power among levels of government and the forms of territorial representation.

Through the development of intergovernmental relations, jurisdictional distribution of power, based on separation and independence, has been frequently substituted by functional distribution, based on intergovernmental policy-making (either joint decision-making or policy formulation / policy implementation linkages). This has been mainly true for residual powers, those which are not clearly listed and allocated by constitutions. As a result, in most policy areas the distribution of competences has lost nestedness, portraying intergovernmental partnerships and interdependence of different kinds. In terms of center-constraining potential, the impact of intergovernmentalism has been different depending on the constitutional nature of the system. In federations, where residual powers usually belong to the constituent units, the development of intergovernmental relations has portrayed growing leadership and increasing policy responsibility for the central government, reducing the center-constraining potential of the federal constitutions. Within the so-called unitary systems, where residual powers usually belong to the central government, the development of intergovernmental relations has produced the opposite effect: the center has become more constrained by regional and local governments, sharing with them an increasing part of its power.

Intergovernmental relations have broadened the forms of territorial representation, opening channels for the participation of the sub-units in central policy-making. Intergovernmental committees have been developed and institutionalized within both unitary and federal system, working as joint decision-making arenas. In the case of Spain, the “conferencias sectoriales” (intergovernmental committees set up in the different policy sectors) and the “convenios” (intergovernmental policy agreements) have played an important role in the process of federalization, making the Autonomous Communities more and more incorporated within the central decision-making.²⁰ Intergovernmental relations portray, in general, a high center-constraining potential with reference to territorial representation, because they are able to open direct or indirect access to national decision-making for territorial sub-units. However, this potential is higher for those systems where territorial representation is not contemplated in the Second Chamber; in that case intergovernmental relations might provide the main channel for the representation of territorial interests.

levels of government (jurisdictional or functional). See, Chandler, 1987; Hueglin, 1987; Scharpf, 1995; Sharman, 1987.

²⁰ See, AA.VV., 1993; Agranoff, 1994, 1996; Pérez Calvo (ed.), 1997.

While for unitary systems intergovernmental relations have a high center-constraining potential, for federations their effect is much more controversial; actually, they can even reduce the potential of their constitutional design. Comparative research should analyze if intergovernmental relations have modified the nature of the distribution of power with reference to the main sectors of public policy (i.e. welfare, environment); and if their institutionalization has developed formal committees of joint decision making between levels of government.

Party system

Another paraconstitutional variable able to affect territorial representation is the structure of the party system and, more specifically, its regionalization. A high regionalization of national parties and/or the presence of regionally unique parties increase the possibility of territorially divergent majorities, and provide a political channel for the representation of territorial interests within the national Parliament.

The strength of this variable depends on the degree of societal diversity with reference to cleavages such as nationality (ethnicity, language), religion or economy. The deeper the cleavages, the more regional parties are likely to develop and able to represent territorial identities at the national level. A party system based on strong regional parties is more center constraining than one based on nation-wide parties: the territorial diversities can be broadly represented even within the First Chamber. This is the case of multi-national systems, where regional parties are often the main channel for territorial representation. Spain is quite emblematic in this regard: its process of federalization has been developing through the activism of regional parties,²¹ which have had their representatives in the national Parliament, regardless the fact that territorial representation within the Second Chamber is institutionally very limited.²² Regional parties have played an essential role also in the case of Belgium, where territorial representation within the Senate is very weak.²³ In synthesis, regional parties can open an alternative channel for territorial representation, able to overcome limits of the constitutional design.

Yet, the possibility for regional parties acting as center-constraining mechanism for the defense of territorial interests depends on the type of distribution of power among levels of government. Jurisdictional allocation encourages the articulation of party organization at regional level, and the antagonism between regional and national majorities. Since each level of government can act independently, conflictuality at the national level can be structured without high political costs. Functional distribution, instead, requires a stable pattern of coordination and consultation among levels of

²¹ Especially CiU and PNV (the catalan and basque parties). The development of the regional parties, the so-called PANE (Partidos de Ambito No-Estatal), has been a growing phenomenon in the democratic Spain, with a strong impact on the process of federalization. See Baldi, 1998; Moreno, 1997, Pallarés, 1995.

²² In regard to the Spanish Senate, see AA.VV. 1996.

²³ See De Winter, Türsan (eds.), 1998; Swenden, 1997.

government; consequently, antagonism and conflictuality could obstruct the process of policy-making. Moreover, in a functional distribution of power, the development of intergovernmental relations between the executives branches reduce the protagonism of political parties which is mainly expressed within the parliamentary arena (Chandler, 1987; Scharpf, 1995).

The regionalization of party systems is a variable to be taken into consideration in order to analyze the territorial representation developed in multilevel systems of government. However, this variable can vary in its center-constraining potential on the basis of both social diversity and type of distribution of power. Comparative research should collect data on the regionalization of party systems, and the electoral strength of regional parties, along with data on territorial diversities (cleavages) present in the society and reflected in the party system.

3. Decentralization by degree

3.1. Federalism and decentralization

The fact that federalism is usually accompanied by decentralized government might one to confuse the two phenomena, but they are very distinctive. According to Lijphart (1984), federalism is not a necessary condition for decentralization nor is decentralization a sufficient condition for federalism. We can have decentralization in absence of federalism, and federations, like unitary systems, can be classified as more or less decentralized (and even centralized). As pointed out by King (1982, 126), “there is no observed degree of centralization/decentralization which commonly and distinctly marks off federations from so-called unitary states.” Whereas federalism expresses a principle of equality on the basis of which no level of government can subordinate the other regardless the amount of power distributed, decentralization develops also in systems where the periphery is subordinated to the center. Decentralization expresses the actual distribution of power among levels of government regardless of the nature of the relationship between them.

It could be argued that decentralization is a center-constraining mechanism because it develops through the distribution of central power. Nevertheless, this is a misleading argument. When decentralization is present, but federalism absent, the local-regional powers are restricted to matters determined by the central authorities, and are subject to central supervision, restriction and even withdrawal (Elazar, 1968). In other words, the distribution of power is not guaranteed, and this means the center is not constrained: it is still free to behave “centralistically”, re-centralizing power whenever it is convenient.

3.2. Operationalizing decentralization

Decentralization expresses the actual distribution of power and resources among levels of government. Therefore, it should not be difficult to conceive decentralization in terms of varying degrees, and find indicators able to assess it. Yet, it becomes important to define which power is to be taken into consideration, since different kinds of power can be more or less decentralized in policy-making and government. The most important powers to consider are: 1) law-making power; 2) administrative power; 3) financial (or fiscal) power.

Constitutions usually provide for the distribution of law-making power and their analysis can be a first assessment of the degree to which power is decentralized. However, legislation can perfect the constitutional distribution of competences. This is the case in Italy, where the law-making power of the Regions is largely defined by national laws. It is also the case of the German Federation, where the power of the Laender is limited by national legislation. The actual distribution of law competences among levels of government can be much more unclear and overlapping than the constitutional design portrays.

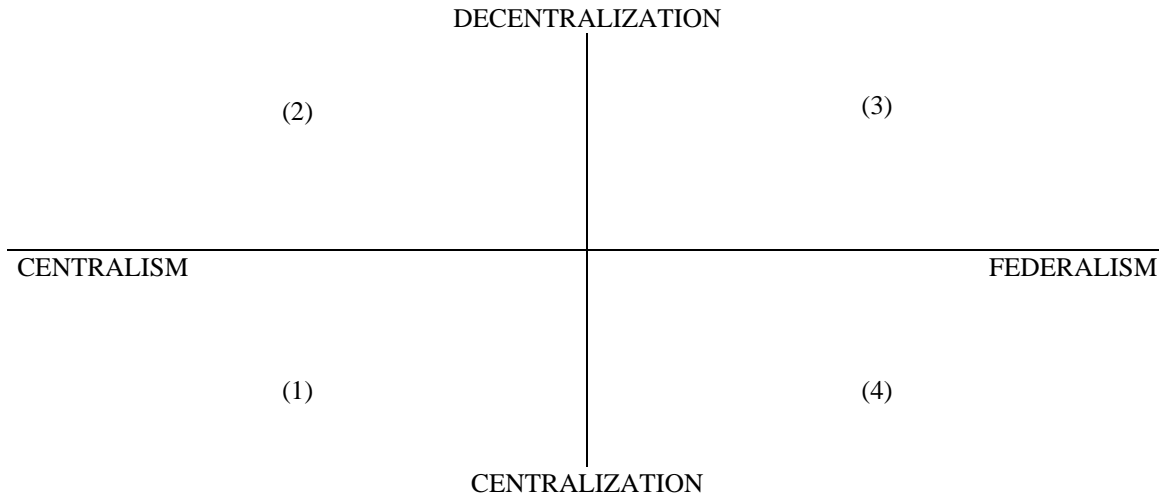
The administrative power is the most difficult to define and assess. It is a very broad concept, and the realm of intergovernmental relations whose dynamics can make decision-making competences shifting from one level of government to the other very easily. Given the fact that the dynamics of intergovernmental relations are highly incommensurable, it becomes very difficult to assess the actual distribution of administrative power; therefore, the legal allocation of functions among levels of government is the indicator which has to be used in order to assess administrative decentralization. Other important indicators are the size of administrative structures (public employment at each level as a percentage of the total) and the government expenditure (at each level as a percentage of the national expenditure).

Fiscal power is usually the least decentralized even within federations.²⁴ Its distribution can be analyzed with reference to central and non-central taxation. Central taxation refers to the taxes regulated and collected by the central government; non-central taxation, instead, is defined in terms of: a) regional and local taxes; b) central taxes collected by subnational government for their use; c) additional regional or local rates on central taxes. The relationship between expenditures and revenues per level of government is a frequent indicator of both the degree of fiscal autonomy and of general decentralization in government (Lijphart, 1984).

²⁴ The most remarkable case is that of Australia, where almost 70% of tax revenues is centralized. See, Castells, 1988.

4. A classificatory scheme

The proposed classificatory scheme of multilevel systems of government is organized along two continua, and can be visualized as follow.



Tab. 1 - The classificatory scheme

4.1. First continuum: centralism / federalism

The first continuum refers to the nature of the relationship between levels of government, and it goes from centralism to federalism. In centralism, the relationship is based on the existence of one “center” and subordination of the sub-units to that center. Along the continuum, the “center” becomes more and more constrained by the emergence of other “centers”: the sub-units qualify themselves as full polities (political entities territorially based with self-governing institutions), receive more and more guaranteed power (recognition of their existence in the constitution, constitutional allocation of power, exclusiveness of that power), become progressively represented within the national policy-making (incorporation in central decision-making process, representation in the Second Chamber, participation to the amendment of the constitution), until they reach a condition of equality with the original “center”, which is not able to perform as a single center anymore. In other words, along the continuum the relationship between levels of government becomes increasingly federal, moving from sub-ordination to equi-ordination. Federalism is conceived as center-constraining mechanism which develops by degree. The full expression of the federal principle is at the end of the continuum, where the distribution of power is completely non-centralized and the structure of government multicentered: instead of a single center able to centralize or decentralize power unilaterally, there is a multiplicity of guaranteed

centers, each of them is able to either constrain or contribute to the distribution of power.

If we take an evolutionary perspective, the continuum describes a process of federalization, where the conditions for a full expression of the federal principle are progressively built. Federalization can develop by disaggregation (“holding-together” type), when a unitary system federalizes itself through a process of internal differentiation which increasingly recognizes the emergence of subnational polities and devolve them power; or it can develop by integration of pre-existing polities into a new comprehensive polity (“coming-together” type). In this case, the polity which emerges and receives power is the comprehensive one, but the pre-existing polities need guarantees that it will not perform “centralistically”.

If we take a more static perspective, the continuum classifies multilevel systems of government on the basis of their center-constraining potential. In this respect, the continuum goes beyond the rigid federal-unitary dichotomy and portrays itself as able to grasp intermediate arrangements. At the beginning of the continuum, we find “unitary systems”, where local governments either do not qualify as full polities (they are mainly administrative entities), or their existence is not part of the constitutional design, or their powers are not constitutionally based (i.e. Republic of Ireland). Then, we find “regional systems”, where regions are polities recognized in the constitution, but either they do not have law-making power (i.e. France) or that power is not exclusive (i.e. Italy); and no territorial representation is usually in place. Further, we find a highly heterogeneous category which could be defined in terms of “regio-federal or federalizing systems”. Within this category federal arrangements are in place; but not enough to qualify the system as a federation, even though it might be federalizing. Sub-units are fully developed polities recognized by the constitution, they have exclusive law-making competences; but this arrangement might be asymmetrical, referring just to some territorial regions (i.e. Scotland). Territorial representation might be developed, but not fully constitutionalized in the Second Chamber (i.e. Spain). Finally, we have “federations” which meet all the constitutional requirements for a full expression of federalism (Lijphart, 1984): a federal constitution which defines the union of constituent polities covering the entire territory; exclusive competences at both levels of government; Second Chamber as territorial house; the right of the component units to be involved in the process of amending the federal constitution but to change their own statutes unilaterally (i.e. Switzerland, USA).

unitary systems	regional systems	regio-federal / federalizing systems	Federations
CENTRALISM			FEDERALISM

Tab. 2 - Classificatory categories

Within each category institutional differences can be found, and analyzed as more or less center-constraining, with reference to the constitutional and paraconstitutional variables which have been operationalized. Given these differences, it becomes difficult to draw clear borders among categories, as it is implicitly suggested by the idea of a continuum. Spain and the United Kingdom happen to be in the same category, but they are very different one from the other. Spain lies between a federalizing system and a federation, while the UK is far away from experiencing a process of federalization. Yet, devolution to Scotland, in its exclusive and not rescindable nature, is a federal arrangement, which does not fit in the category of regional systems.²⁵ Also within the category of federations there are differences that can be analyzed in terms of more or less center-constraining potential. Stepan (1987) classifies federations with reference to the policy scope and the degree of overrepresentation of their territorial chambers as well as the constitutional allocation of policy-making competences. According to his findings, the U.S. federation is much more center-constraining than the German one.

Center-constraining mechanisms become federal in nature, able to make a switch toward non-centralism, starting from the third category; yet, they are on their way before then. Italy is an interesting case from this point of view. Even though in the Italian constitutional design there are no federal arrangements,²⁶ the activism of the regional party Lega Nord has mobilized the northern part of the territory, developing territorial identities and claims for federalism, which have led to a constitutional reform process. At the same time, a recent institutional reform has set up intergovernmental committees (Conferenze Stato-Regioni) able to involve regional governments in the central decision-making process.²⁷ The two phenomena could make the system moving toward the third category.

4.2. Second continuum: centralization / decentralization

The second continuum can also be analyzed with a dynamic or more static perspective. In a static perspective, the continuum shows to what degree multilevel systems of government are centralized or decentralized in terms of decision-making competences, administrative and fiscal resources. This is an important finding that

²⁵ Scotland is a very interesting case. Even before devolution it already had special levels of autonomy and guarantees. Among them a disproportionate number of seats in the British Parliament. See, Elazar, 1994; Elcock-Keating (eds.), 1996; Rose, 1982.

²⁶ Actually the Italian constitution grants a special level of autonomy to five regions out of twenty. Special regions have more power (more competences), but its constitutional guarantees and center-constraining potential is not that different from the power of the other regions. The main difference is that the statutes of special regions have to be approved and can be revised with constitutional and not just ordinary law (requiring a special majority).

²⁷ It is the so-called "Bassanini Reform" which has led to decentralization and devolution of power from the State to regional and local governments. See Baldi, 1999.

could lead to an understanding of whether the nature of the relationship among levels of government makes a difference in terms of centralization / decentralization. In other words, it can provide an answer to the recurrent question “does federalism matter?” or, more specifically, “does the nature of the system of government (first continuum) make a difference in terms of distribution of resources and competences in public policy (second continuum)?”. Comparative research might find out that the two dimensions are not that correlated, portraying more similarities than differences. This means that regional systems might be as much decentralized as federations or, in some policy sectors, federations can be as much centralized as non-federal systems. Constitutions provide for an allocation of power among levels of government which might vary according to the nature of the system (first continuum). Yet, the evolution of public policy and intergovernmental relations continuously shape the distribution of competences and resources among governments, leading to possible similarities among the different multilevel systems. In this sense, a dynamic perspective can show the centralizing or decentralizing trends the multilevel systems might have experienced through time, moving along the continuum.

A dynamic perspective can portray a bi-directional relationship among the two continua: the first continuum can not only affect the second, but the second can affect the first. The actual distribution of power (second continuum) structures intergovernmental relations, which in turn affect the first continuum. In this sense, the relationship between the two continua is circular: the constitutional distribution of power as well as the developing of intergovernmental relations (connected with the evolution of public policy) can affect the actual distribution of power (first continuum → second continuum); but such a distribution can affect intergovernmental relations and, consequently, the nature of the relationship among level of government (second continuum → first continuum). Intergovernmental relations represent the dynamic variable that creates a circular relationship between the two continua.²⁸

As an overall contribution, the classificatory scheme expresses the level of autonomy (“self-rule” potential) of sub-national governments, which is based on both the actual distribution of power (second continuum) and its guaranteed nature (first continuum). The most autonomous subnational governments would be represented by the third quadrant of the scheme, while the least autonomous ones would be represented by the first quadrant. The other two quadrants represent either a high “self-rule” potential which is not guaranteed (second quadrant) or a guaranteed potential which is limited in scope (fourth quadrant).

5. Looking for institutional types: some initial hypotheses

²⁸ However, it is very difficult to analyze the dynamic complexity of intergovernmental relations, where centralizing or decentralizing trends are likely to show high variation among the policy sectors. A dynamic perspective goes beyond this purpose of classification.

The classificatory scheme presented can guide comparative research on the territorial distribution of power, and lead to a classification of multilevel systems of government on the basis of their degree of decentralization and center-constraining potential. However, the multidimensionality of the scheme, based on variables which refer mainly to the constitutional framework but also to dynamics of public policy and party systems, might show some correlations able to identify institutional types. Some initial hypotheses, referring just to possible federal types (which means the right section of the first continuum according to the classificatory scheme) are developed in this paragraph. These hypotheses are still in progress and have to be tested by empirical research.

Dependent and independent variables

Federal types are analyzed with reference to the center-constraining mechanisms which express the federal principle, as previously operationalized: 1) constitutional allocation of power (which can be jurisdictional or functional; symmetrical or asymmetrical); 2) territorial representation (which is usually through the Second Chamber, but it can also develop through regional parties or intergovernmental relations).

The combination of these institutional arrangements is observed as strongly correlated with, or even dependent on, two independent variables: 1) the type of federalization; 2) the degree of societal diversity.

Federalization, as already said, can develop either by the integration of pre-existing polities (“coming-together” type) or by the disaggregation of a previous unitary polity (“holding-together” type). Anyhow, federalization is conceived as process which can be either potential (i.e. Italy), or still developing (i.e. Spain; EU), or already completed (having led to a federation - i.e. Belgium; USA).

Societal diversity is operationalized in terms of mono-national vs. multi-national systems, which means low diversity vs. high diversity. Multi-national systems are those which express the highest territorial diversity, having different nationalities (ethnic, linguistic and cultural diversities territorially based) which co-exist within a common structure of government.

Hypotheses

Federalization by integration (i.e. USA) is likely to develop strong center-constraining mechanisms, which means more guarantees for the constituent polities than for the comprehensive polity: the pre-existing polities are those which lead the process of federalization and have to give up to part of their power in order to set up the federal union. So, they want to be highly guaranteed the new center will not perform centralistically. These guarantees include a strong representation within the Second Chamber (to check and balance the power of the new-born central government), a condition of equality among the constituent polities (same number of representatives

within the Second Chamber; symmetrical distribution of power), and jurisdictional allocation of competences (to guarantee independence from the central government).

Federalization by disaggregation (i.e. Spain), instead, is likely to develop weak center-constraining mechanisms, which means less guarantees for the constituent polities: federalization is carried out by the central government, which is the one that has to give up to part of its power in order to let subnational polities come to existence. This means weak territorial representation within the Second Chamber and functional allocation of power are likely to be expected. Yet, a functional distribution of competences typically develops intergovernmental relations (IGR) that might provide an alternative channel for territorial representation.

A multi-national system (i.e. Belgium) needs to develop mechanisms able to balance the conflictual or centrifugal tensions it has to face given the deep societal cleavages. This means the territorial representation within the Second Chamber is likely to be weak (to facilitate the national law-making process, and the holding the nation together), while distribution of power tends to be jurisdictional (to let the high diversity express itself in terms of self-rule), and asymmetrical (sub-nationalities are not usually homogeneously spread out through the territory). Yet, given the high degree of societal diversity, a multi-national system is likely to develop sub-national party systems with strong regional parties, which can provide an alternative channel for territorial representation.

A mono-national system (i.e. Germany), instead, has a low societal diversity and no centrifugal tensions to be faced; therefore, it can pursue nation-wide policies, looking for policy uniformity and equality. This means it is likely to develop a functional distribution of power, and a strong territorial representation in the Senate (to balance the nation-wide policy orientation).

Crossing the operationalized variables on the basis of these initial hypotheses, four federal types of territorial distribution of power can be outlined, as visualized in the table below.

		<i>Mono-national system</i> (low societal diversity)	<i>Multi-national system</i> (high societal diversity)
<i>Federalization by integration</i> ("coming-together" type)	Allocation of power	(I) Jurisdictional allocation, likely to evolve functional Symmetrical	(II) Jurisdictional allocation Symmetrical (possible asymmetries)
	Territorial representation	Very strong (++) representation in Senate IGR i.e. USA	Strong (+-) Representation in Senate Regional parties I.e. Switzerland
<i>Federalization by disaggregation</i> ("holding-together" type)	Allocation of power	(III) Functional allocation Symmetrical	(IV) Jurisdictional allocation with functional arrangements Asymmetrical
	Territorial representation	Strong (-+) representation in Senate IGR i.e. Germany	Weak (--) Representation in Senate IGR Regional parties I.e. Belgium - Spain

Tab. 3 - Federal types of territorial distribution of power

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