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Understanding Federalism and Devolution

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Introduction

Federalism and devolution are difficult concepts to understand. They have similarities in that both refer to a decentralization of authority over certain policies, but important distinctions remain. A simple definition of federalism is a system in which there is a constitutionally entrenched division of authority between a central level and a regional or subcentral level, for example, each of the 50 states in the United States. Devolution describes a decentralization process, even in a constitutionally unitary state, giving a greater degree of self-rule to subcentral units or self-identified communities, often ethnically based.

Defining Terms

One can envision the centralization of political authority within a recognized state in the international system (often mistakenly called "nations") as having three possibilities: confederation, federation, or unitary rule. Although not often discussed today, confederations -- such as the Articles of Confederation in the early United States, the Confederacy during the American Civil War, and perhaps contemporary Switzerland -- constitute jurisdictions in which authority resides predominantly at the lower level of government rather than at the center. The debate over how the European Union should develop (discussed below) can be conceptualized in these terms. Theoretically, federalism is supposed to have balanced authority, with neither level dominating in policy. A unitary state is the most centralized of the three, with the central government, even if democratically chosen and limited by a formal or informal constitution, having full authority over all policies within the competence of the regime. It may create lower levels of government for administrative or political convenience, and these may even have elected officials, but ultimately all constitutional authority belongs to the central government. It can alter, rearrange, or even abolish those lower levels without their consent because, unlike under federalism, those lower levels have no constitutional right to exist.

The classic distinction is between the United Kingdom of Great Britain and Northern Ireland as a unitary state and the United States as a federal one. Under the informal, "unwritten" British Constitution (actually much of the constitution is "written," in the form of ordinary statute law, rather than in a single document), all political authority belongs to Parliament and its creations, such as the executive cabinet. Under the doctrine of "parliamentary sovereignty," ultimately Parliament (Westminster) decides what is lawful, including constitutional issues, through ordinary legislation. In any disputes, a determined House of Commons, the popularly elected branch, can overrule the nonelected House of Lords. Thus a simple majority (50 percent + 1) of the House of Commons is the final authority on what is constitutional.

Yet the advent of devolution in the United Kingdom, especially since 1997, has complicated and confused matters. Devolution usually refers to the selective decentralization of authority in a constitutionally unitary state. Since it is not constitutionally entrenched, however, it is always subject to possible revocation by the central level, as has occurred in the United Kingdom with Northern Ireland (discussed below).

Federalism in Theory

Federalism normally has four features. First, as noted previously, the most important feature in federal regimes is the existence of a formal, constitutional division of authority between a central level and a regional level, with the latter variously called states, provinces, or republics. This is a vertical division of authority, not to be confused with a horizontal division among different branches of government at the same level, usually called separation of powers (for example, legislature, executive, judiciary). The exact allocation of authority over different dimensions of public policy usually changes over time, either formally or informally. Some federal systems are more decentralized than others, and evolution can occur in either direction. For example, the United States has become more centralized, while Canada has become less centralized. The amount of fiscal resources that each level controls is especially important. As policy issues among the different levels of government become increasingly intertwined, coordinating bodies for federalism increasingly have developed. Disputes over authority often occur, which the courts normally settle. A second principle of federalism is the generally uniform authority in all jurisdictions that are fully qualified as the second level. Other jurisdictions with lesser authority to deviate from the center may exist, often called territories, but usually these aspire to become fully fledged coequal states, provinces, or republics.

A third principle of federal systems is that the people within a jurisdiction choose and hold accountable the ultimate authority at the second level, like that at the first. Even the nominally federal systems under Communism, for example, held formal, if not competitive, elections at this level. Fourth, in federal systems, one house of a bicameral legislature at the central level usually represents, in some fashion, the second level. Thus the second level of government in a federal system has a formal voice at the central level as well.

Sometimes federalism is a nominal principle of government in an authoritarian (for example, the Soviet Union, sometimes Nigeria) or semiauthoritarian (for example, Mexico during the PRI-dominant era, Russia) regime. In such systems, federalism may be nominal only or allowed only insofar as provincial differences do not affect the overall centralized nature of the regime. Often a dominant political party overrides formal federal distinctions with a centralist agenda and loyalties even among provincial and local officials.

Federalism in Practice

Since the fall of Communism, Russia has been a federal system composed of 21 republics, plus other jurisdictions, amounting to 88 in all. The second house of the bicameral federal legislature, representing Russian federal units, is called the Federation Council. In September 2004 in the aftermath of a terrorist attack on a grade school, Vladimir Putin proposed giving the president the authority to appoint republic presidents (regional governors) rather than having their populations elect them. In 2005, the Russian Duma approved this constitutional change. The West roundly condemned this, along with other parts of Putin's centralizing "reform" agenda, as antidemocratic. Yet even in democratic federal systems, conflicts may arise over the capacity of states to deviate from central laws and regulations.

Federalism and devolution based on strong ethnonationalist identities may fuel rather than alleviate pressures for secession by such a group, especially if they can gain control of the regional government. This is what has occurred in Canada, where Francophones largely reside in one province, Quebec. The separatists within this population have at times governed the province through a party dedicated to independence (the Parti Quebecois), although they have never managed to pass a secessionist referendum. In 1995, they came within 1 percent of getting a majority vote in a referendum on secession in Quebec. Under Communism, the formally federal systems were all based on ethnonational distinctions. Three of those regimes -- the Soviet Union, Czechoslovakia, and Yugoslavia -- have divided into more than one state since the Communist dictatorship of the central state was replaced. Devolution in a unitary state usually occurs because of ethnonationalist pressures for autonomy, as described below in the discussion of the United Kingdom. Greater self-governance is supposed to cure the problem of ethnic unrest, but in practice the results have been mixed.

Other federal regimes include Mexico and Nigeria. Both of these countries follow the four principles of federalism -- constitutional division of authority, uniformity of powers, regionally elected officials, and the upper house of the central legislature being based on representation of regional jurisdictions. In both states, the upper house of government is called the senate. As Mexico has moved from semiauthoritarianism to democracy in recent years, the strengthening of federalism through decentralization has been one component. Through fair implementation of electoral laws, opposition parties are now allowed to win elections and to hold regional governorships, and in some policy areas Mexican states have assumed a stronger role in a more complex society. Nevertheless, because of central government authority over tax revenue (fiscal centralization) and the power of the president to remove regional governors where "law and order has collapsed," Mexican federalism is still relatively centralized.

Nigerian federalism shows both the problems of an ethnic basis for jurisdictions and the importance of fiscal federalism, exacerbated by several dictatorships and the issue of an equitable division of oil revenue generated by certain regions of the country. After independence in 1960, an attempted secession by Biafra was suppressed in a civil war from 1967 to 1970. Subsequently, the then three federal states have been divided into 36 states, plus one territory. This was designed to empower the demands of smaller ethnic groups at the expense of larger ones, but it has not been entirely successful. Since 1969 all oil revenue, a major source of income, has gone to the central government, which in 1999 adopted a formula with the goal of ensuring a fair distribution of that revenue to the states. Thus a struggle for preferment from the central government coexists with serious ethnic tensions in a poor country with uncertain democratic prospects.

Devolution in the United Kingdom

The United Kingdom as a state in international law consists of four constituent parts (not states, provinces, or republics) -- England, Scotland, Wales, and Northern Ireland -- all under the authority of the Queen in Parliament in London. The four parts are very unbalanced in various ways, with England dominating demographically, economically, and politically. England has 55 percent of the land area, Scotland 32 percent, Wales 9 percent, and Northern Ireland 4 percent. In population, England has 81 percent, Scotland 9, Wales 6, and Northern Ireland 3. London, England, is not only the political capital of the country but also the financial and entertainment center as well, combining the major elements of Washington, New York, and Hollywood.

Officially the United Kingdom (Britain) remains a unitary state, with all constitutional authority belonging to the central (Westminster) government, rather than a federal state with a formal division of powers between the center and lower levels of government. Some commentators argue that Britain should be considered a "union-state," since the relationship of the four parts to the central government has never been uniform. Each of the smaller three entered into union with England under different circumstances and legislative acts. Under the terms of union, Scotland retained its own church, educational system, and legal system. While most central legislation covered England and Wales, separate bills were often necessary for Scotland

and Northern Ireland, depending on the subject.

Devolution in Northern Ireland

Historically Northern Ireland has had the greatest amount of self-rule. The union of England with overwhelmingly Roman Catholic Ireland was dissolved in 1921. As part of that agreement, six counties in the northern part of the island of Ireland, composed of a mixed population of two-thirds Protestants and one-third Roman Catholics, remained within the United Kingdom. The UK granted Northern Ireland devolution (or self-rule) on most domestic matters, which meant that these issues could not be discussed on the central parliamentary agenda. Many Irish Catholics, north and south, continued to argue for a united Ireland, viewing the Northern Ireland government as discriminating against Catholics.

The fundamental division between Protestants and Catholics over sovereignty led to organized violence between (Protestant) Unionists and (Catholic) Nationalists in the late 1960s. Accordingly, in 1972 the Westminster parliament, acting on a proposal from the British Cabinet, removed devolution from Northern Ireland. Its right to do so stems from the doctrine of "parliamentary sovereignty," in which Parliament decides what is lawful, including constitutional issues, through ordinary legislation. The central government thus assumed authority over domestic affairs in Northern Ireland.

More recently the central government has tried to reestablish devolution in Northern Ireland, with mixed results. The Good Friday peace accord of 1998 promised a different future for Northern Ireland through new institutions. In 1999, devolution of power from the Westminster parliament to the local seat of government at Stormont Castle ushered in a period of what the British call "power sharing" or "consensus democracy." The main element of this agreement was shared authority over internal matters on the part of both Protestants (Unionists) and Catholics (Nationalists), to be accomplished through a Northern Ireland assembly and executive containing elements of both main religious communities and requiring supermajorities for the enactment of legislation.

Devolved government in Northern Ireland has proven difficult to sustain, as one might expect with longstanding, armed adversaries in conflict over a fundamental constitutional question. In 2002 the British government suspended the Northern Ireland assembly and government for the fourth time in three years, and direct rule from the central government replaced the power-sharing executive. Choosing the personnel of a new Northern Ireland executive coalition based on power-sharing stalled because of the deep cleavages and lack of trust among the parties. The latest attempt at restoring devolved government to Northern Ireland, the St. Andrews Agreement, has recently restored (as of this writing) the power-sharing executive. Despite progress in making peace, "normal politics" has not emerged in this abnormal part of the United Kingdom.

Devolution Elsewhere in the UK

Meanwhile, the Labour government elected in 1997 brought forward its devolution agenda in other parts of the United Kingdom. After approval through referenda in each particular region (but not subject to a referendum across the United Kingdom as a whole), the government established decentralized authority in Scotland and Wales. The Scottish parliament has more authority, covering nearly all domestic policy as well as limited taxation powers. The Welsh Assembly is responsible for secondary legislation, amending and implementing some legislation after primary bills have passed through the Westminster House of Commons; however, the assembly has no taxation powers.

Perhaps surprisingly, no major disagreements over the constitutional allocation of powers have occurred. The Welsh Labour Party has advocated greater authority for the assembly, stopping short of taxation, and the central Labour government is sponsoring such a bill. Until devolution, Scotland was overrepresented by population in the House of Commons, but the government has since corrected this. Nevertheless, what is called the "West Lothian question" -- the fact that members of Parliament from Scotland still can vote on legislation affecting England and other parts of the United Kingdom, even though the devolved Scottish parliament has authority over the same issue there -- has not been addressed legislatively. Thus an imbalance of power exists between Scottish MPs and others at Westminster. If the Welsh Assembly had similar powers to the Scottish parliament, the problem would be that much more complex. The Conservative Party has vowed to change Westminster parliamentary procedures to allow for "English votes on English questions," but Labour sees this as divisive. Although no party won an overall majority in the 2007 election for the Scottish parliament, the Scottish National Party's strong showing gave it a formidable foundation to continue its advocacy of an eventual referendum on complete independence for Scotland.

In the United Kingdom, however, 80 percent of the population lives in England, which has been treated as a residual consideration in the plans for devolution. The Labour government has promised to form devolved governments in English regions "with strong identities of their own." However, when the government offered the North East, the region showing the greatest amount of interest, limited devolution in 2004, a referendum in the area rejected the plan overwhelmingly. Nevertheless, with encouragement from the regional aid policies of the European Union, the North East does have a considerable amount of administrative devolution to implement policies, even if it lacks the capacity to choose policies and set taxes.

Citizens formed a voluntary English Constitutional Convention to press for self-governing powers in that part of the United Kingdom. Others, however, fear that establishment of English self-rule would lead to the breakup of the country, because of uneven distribution of population and economic resources in four devolved legislatures.

Nevertheless, institutional rearrangements often have unanticipated consequences. Although recent Labour legislation on

constitutional matters claims not to disturb the principle of parliamentary sovereignty, this constitutional convention has already been compromised. Congruent with the process of decentralization in other European countries, devolution is likely to be entrenched de facto if not de jure. Although each devolved government has specific powers, disputes over which level has authority over certain policies are likely to arise, especially if different parties lead the governments. This is normal in a federal system but not in a unitary one. The outcome of these disputes will help determine where authority over certain policies really resides.

Formally, however, the United Kingdom is not a federal system. Not only do the devolved institutions lack uniformity of authority across the United Kingdom, they also lack formal representation in the second house of the central bicameral legislature. Most importantly, those devolved units do not have an entrenched constitutional right to exist. Official constitutional supremacy still resides with the central government at Westminster, especially the House of Commons, which could revoke any grants of devolution through a simple majority of legislators.

The European Union: Confederation or Federalism?

Some analysts argue that the United Kingdom's membership in the European Union since 1973 has compromised parliamentary sovereignty and the unitary state, especially the government's approval of the Single European Act (1987) and the Maastricht Treaty (1993). Even though EU competence is limited to specific policies, especially economic ones, in those policies the EU is supreme. Almost one-half of the total annual legislation in the United Kingdom now comes from the European Union.

The institutional organization of the European Union is very complicated, with some centralizing elements, especially the European Commission (cabinet and bureaucracy) and the European Court of Justice (the ultimate constitutional authority on EU matters), and other institutions, especially the Council of Ministers and the European Council, having member states as members. Most EU decisions need "qualified majority voting" by the Council of Ministers and agreement by the directly elected European parliament. Qualified majority voting (QMV) means that passage requires a supermajority of weighted votes from member states representing a designated share of the EU population. The EU actually has encouraged decentralization of authority in member states, through its policies of regional economic aid and by having a Council of the Regions as a consultative body.

Although some refer to the existing EU as a federal system, in reality it resembles a confederation, with only limited authority for the center. In fact, those who advocate greater powers for the central EU government in Brussels, Belgium, are often referred to as "federalists." In discussions of EU matters, "state sovereigntists" or "Eurosceptics" advocating "subsidiarity" (the making of decisions at the lowest possible level of government within the EU) can be compared with the "antifederalists" at the time of the ratification process of the U.S. Constitution. Like Patrick Henry, they "smell a rat" and believe in maintaining ultimate authority at the level of the member states, closer to the people than the EU level. In contrast, European "federalists" or "supranationalists," like the authors of the U.S. *Federalist Papers*, believe in divided authority between the central (EU) and lower (member state) level, with the central level needing to be stronger than it has been to achieve common purposes. The U.S. Constitution, of course, provided for a stronger central authority than the previous governing document, the Articles of Confederation.

Conclusion

The past half century has seen a trend toward decentralization -- usually in the form of federalism or devolution -- in modern democracies. As governing becomes more complex, it becomes more difficult for the central government, even if democratically elected, to assert responsibility over every policy. Thus more regional governments with some authority to make policy choices have developed. Nevertheless, important distinctions remain between federal and unitary systems of government. The selective authority granted to some jurisdictions at a second level in a devolved, unitary system may be even greater than in some federal systems, but ultimately that authority is conditional because it is not constitutionally entrenched as it is in federal systems.

Online Resources

- [Devolution, Constitution Unit of University College, London](#)
- [European Union on the Web](#)
- [Forum on Federations](#)

Books

Graham, Lawrence S., et al. *The Politics of Governing: A Comparative Introduction*. Washington, D.C.: CQ Press, 2006.

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Lijphart, Arend. *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries*. New Haven: Yale University Press, 1999.

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