

Sequences and timing, institutional complementarities, and hegemonic discourse coalitions: the growth of intergovernmental federalism and unitary federalism in Germany

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Abstract

In recent political controversies, the federal structure of Germany was increasingly regarded as a serious institutional obstacle to political reform, in particular of the welfare state. Most political actors agreed that the complex structures of the federal system should somehow be disentangled. But consensus was restricted to a rather narrow set of institutional choices. As I will point out, the limits of this set of choices were defined by path dependence.

As I will show, this path was one of several possible solutions for an institutional dilemma resulting from the discrepancies in timing between two phases of the German state-building process, namely, the formation of the modern bureaucratic state on the one hand, the formation of a German nation-state. Around the mid 19th century, there were two rival discourses for solving this dilemma, "federative nationalism" on the one hand, "federal unitarism" on the other. The establishment of the intellectual hegemony of the unitarist discourse resulted in a "critical juncture" which determined the further path of institutional development.

This path, however, unfolded over several stages of the state-building sequence ("executive federalism" since 1849, "intergovernmental federalism" since 1867/71, integrated public finance since 1919.). The institutional architecture consisting of these three basic building blocks of German federalism proved extraordinarily resilient to reform efforts, in particular when in 1946-49 the Allied occupation (under strong American influence) attempted to remodel German federalism. The Allied attempt (contrary to a view found in the American literature) ended in complete failure because the German actors succeeded in adapting the traditional architecture to the external changes introduced by the occupation. Such institutional resilience can to a large degree be explained by the "institutional complementarity" of those three building blocks. (Cf. the concept of "institutional complementarity" developed recently in comparative political economy.)

The case of German federalism shows that conceptualizations of "path dependence" that either emphasize "stickiness" or "punctuated equilibria" are too simplistic, and that the relationship of institutional stability and change has to be understood with the aid of a more complex analytical framework.

Recent controversies about German federalism

It was not long ago that federalism was widely considered as one of the most remarkable achievements of institution-building in post-WW II Germany. This mood has changed during the 1990's. After unification, Germany was experiencing major economic difficulties, and in the ensuing discussion on institutional failures, federalism was increasingly singled out as one of the main causes of the new German malaise and as a major obstacle to political reform.

There was a remarkably wide agreement within German public opinion and across party lines why this was the case:

1. The interlocking of federal and state levels, so characteristic of German federalism, had become so intricate and so complicated that consensus-building – in particular about major structural changes – had become extremely laborious and was often threatened by deadlock of decision processes.
2. On the one hand, German federalism is “unitarian” in the sense that few autonomous scope is left to state policies. On the other hand state governments exert substantial influence over federal policy-making, and this has resulted in considerably raising the thresholds for consensus-building.
3. Electoral volatility has increased strongly since the 1980's, and thus electoral outcomes have become increasingly uncertain in a mid-term perspective. Party strongholds have eroded, and this contributes to increasing the importance of the electoral calculus in decision (or non-decision-) making of federal and state governments – all the more since in the German federal system you have elections somewhere several times a year. So it had become quite common that majorities in the Federal parliament at in the Federal Council were at loggerheads, regardless of which party assumed the leadership of the Federal government.

In the end most political actors agreed that the complex structures of the federal system should somehow be simplified. In scientific discussions, the most radical proposals emanated from the specialists of federalism in public finance. They tended to recommend a strict separation of the two levels of governments, in the sense of a dual federalism which they conceived of as an idealized version of American federalism. Most politicians considered this as unrealistic. Their idea was rather not to change the basic architecture of German federalism but to seek changes at the margins - first, by relaxing somewhat the strong interlocking of the two levels and thus making the system more flexible, and second, by giving more autonomy to the states. Longtime the main obstacle to agreement was that, not surprisingly, federal actors preferred centralizing solutions while some powerful state actors (in particular in the more wealthy states) preferred decentralizing changes. But finally a sort of bargain took shape where the states should exchange part of their veto power in the Federal Council against devolution of important policy domains back into the exclusive jurisdiction of states. That has meanwhile been done.

The results of the reform have, however, remained controversial, and it is also significant that from the outset consensus was restricted to a rather narrow set of

institutional choices. As I will point out, the limits of this set of choices were defined by history: Behind the skepticism of political actors regarding more radical solutions was an instinctive insight into what political scientists might call the path dependence of German federalism.

I will argue indeed that the institutional development of German federalism was a path-dependent process that spread over (approximately) 70 years, from 1849 to 1919. It resulted in an institutional architecture consisting of three building blocks that date back to three “critical junctures”:

1. executive federalism (1849)
2. intergovernmental federalism (1867-1871)
3. integrated public finance (1919).

None of these building-blocks is seriously challenged in the present discussions, and it seems highly unlikely that they will ever be. This resilience of this architecture is moreover strengthened by institutional complementarities between the three building-blocks. These institutional complementarities, which are quite comparable to those recently discovered in the literature on “varieties of capitalism” (Hall/Soskice 2001a, 16),¹ reinforce the path-dependent nature of German federalism.

State building and the path dependence of federal systems

I am thus analyzing German federalism in a “historical-institutionalist” perspective. My approach is much inspired by recent advances in political science theorizing of the concept path dependence as they have recently been developed by political scientists and sociologists (Mahoney 2000; Pierson 2000; 2004; Thelen 1999; 2000; 2003; 2004). But it takes also important cues from the work of Otto Hintze and of Stein Rokkan. In his essay “State building and constitutional development” (Hintze 1962, first published in 1902), Hintze contended that “constitutional forms” can causally be traced back to the state-building process, and he exemplified this approach with reference to federal constitutions. In a comparison of older federal systems (the Republic of the United Dutch Provinces, the pre-1798 Swiss Confederation, the United States of America, and the German Confederation of 1815) he argued that „federation and confederation appear as products of a historically determined process of state-building, and not of a voluntarily concluded combination of states (*Staatenverbindung*) in the sense of international law. The state of imperfect union in which these states found themselves when the monarchical power ceased to exist was perpetuated in federative constitutional forms which changed not much of the internal organization of the member states” (Hintze 1962, 47). Implicit in Hintze’s approach was the notion of “development sequences” (as defined by Sidney Verba 1971, 286-288) or of “trajectories” as it was later introduced by Stein Rokkan (Flora 1999, 14). And Hintze’s suggestion that a specific stage of development may become “perpetuated” (*verewigt*) anticipated Rokkan’s well-known “freezing” metaphor (Flora 1999, 7; Lipset and Rokkan 1967, 50-54).

¹ „One set of institutions is complementary to another when its presence raises the returns available from the other” (Hall/Gingerich 2001).

Hintze wrote this as a constitutional historian before he became interested in the work of Max Weber, his contemporary, and then explicitly turned to social science. In 1902 he still largely devoted his attention to “constitutions”, i.e. formal institutional arrangements. Rokkan, on the other hand, adopted a broader social-scientific approach with the analytical distinction of different, but parallel sequences of institutional development, and with the corresponding concept of “sequential interaction”. And as he pointed out, timing is a key variable in the interaction of parallel development sequences. Arguments of this type have recently gained considerable importance in comparative institutional analysis (Pierson 2004).²

Development sequences in Germany: A deviant trajectory

This approach to state-building opens the way for a conceptual differentiation which is essential for understanding the peculiarities of German federalism. The formation of the “modern” bureaucratic state in Western Europe was one phase of the sequence of the building of the nation state. In countries such as England, France or Sweden this sequence began – sometimes quite early – in the middle ages when the center overwhelmed the periphery, and at a later point in time, this state became “modernized” in the Weberian sense. The prevailing trajectory of western European state-building was hence the emergence of the bureaucratic state with a “rational” administrative system (the “modern” state in the sense of Max Weber) as one particular phase in the formation of nation-states since the middle ages. The creation of a rational administration was one of the most important instruments of the center for finally achieving the assimilation of the periphery and forging a modern nation.

In Germany, however, the relative timing of state-building and nation-building was rather different. Here state-building and nation-building are more fruitfully treated as analytically distinct sequences of development independent from each other. In the “old” German Empire (then also called “the Holy Roman Empire”) an overwhelming of the periphery by a center never happened because there was no center in the strict sense.³ And the Empire never developed a rational administration and a bureaucracy. Rather, these processes took place within the larger “territories” of the Empire, i.e. on the sub-national level: Bureaucratic administrations emerged in the monarchies of Prussia, Austria, Saxony, and so on. This sub-national state-building process began in the early modern period (formerly called “absolutism”) and was completed in the post-Napoleonic period. Around 1850 the larger German monarchies (Austria, Prussia, Bavaria, Saxony, Württemberg, Baden ...) were all fully developed modern states, just like other medium-sized or smaller states such as Sweden, Denmark or the Netherlands. They had well-organized and efficient bureaucracies, the beginning of representative parliamentarism and party systems,

² The “genetic” model underlying this case study of German federalism might also be employed for the comparative study of federalism. It seems to work quite well, for example, to compare some important aspects of German, Swiss and Austrian federalism .

³ The Reich had no capital city. The emperor had its residence in his own territory thus in Vienna during the centuries when the emperors came from the Habsburg dynasty of Austria. But the emperor used to be crowned in Frankfort, the two Imperial courts were located at Wetzlar (in Hesse) and Vienna, and the Imperial Diet, which until the 16th century had been ambulating from one city to another, from 1662 took its permanent seat in the Imperial city of Regensburg.

and an emerging civil society with policy networks linking the administration and societal organizations at the sub-national level.

The institutional dilemma in German nation-building and the emergence of rival discourse coalitions

This temporal lead of state-building over nation-building presented the emerging national movement with a significant institutional dilemma: When this national movement gained increasing societal support it found the “political space” of the “modern” administrative state already occupied by sub-national governments and bureaucracies eager to defend their organizational domain. This institutional dilemma was apparent since the birth of the German national movement after the end of Napoleonic rule. It was especially the legal profession which was most influential in framing the problem, namely in terms of “legal unity” (*Rechtseinheit*): Influential legal scholars pleaded for a codification covering whole Germany and independent from the “arbitrariness” of individual state governments (Thibaut 1814, 6).

As a consequence, the building of the German nation-state took a course quite different from the formation of the nation-state in Italy (Ziblatt 2002). There, Cavour’s Piedmont was powerful enough to overwhelm the other, much less developed and not well-administered territories of the Italian peninsula,⁴ and his successors could choose to impose a nation-state patterned after the French Unitarian model. In Germany the major sub-national states were much more modernized and stronger than their counterparts in Italy, and Bismarck’s Prussia felt not powerful enough to annex and assimilate strong states like Bavaria. Bismarck thus had no choice but to bargain with them for establishing a federal solution.

During the 19th century this dilemma led to the emergence of rival discourses about the institutional options for nation-building and to the formation of corresponding discourse coalitions. By “discourse” I understand a communicative process based on a set of conceptually articulated and logically coherent beliefs. Actors who share interpretations of the political universe and normative expectations taking the form of discourses may then join together in “discourse coalitions” (Wittrock, Wagner, and Wollmann 1991, 76). And different discourse coalitions may rival for intellectual hegemony in a given society. I contend that the hegemony of a dominant discourse coalition may be important for understanding the formation of a specific development path (Lehmbruch 2001).

The discourses which I have in mind in the context of the present inquiry were contrasting sets of values and ideas about nation-building in Germany. I distinguish the discourse of “federative nationalism” prevailing in the first half of the century, from the discourse of “*federal unitarism*” which achieved intellectual hegemony in its latter half.⁵ The term “federative nationalism” was coined by the historian Dieter Langewiesche (2000) to design a discourse which aimed to achieve national unity in

⁴ Lombardia and Venetia were quite well-administered but under Austrian rule.

⁵ The term was coined in 1907 by an influential scholar of constitutional law, Heinrich Triepel.

the framework of a loose confederation. As Langewiesche has shown, influential proponents of this discourse could be found in the very popular organizations of choral unions and of gymnastic associations, but as another important example German Protestantism might be singled out.⁶ In 1828 the basic tenets of the discourse were formulated by Goethe in a conversation with his secretary Eckermann which soon became famous and can be considered the *locus classicus* of federative nationalism:

I am not afraid that Germany will not be united; our excellent roads and future railroads will do their own. Above all, however, Germany should be united in mutual love, and it should always be united against foreign enemies. It should be united with the German Taler and Groschen having the same value throughout the whole Empire, and my suitcase should pass through all thirty-six states without being opened. The travel documents of a citizen of Weimar should not be regarded as inferior to the passports of the citizens of foreigners. With regard to the German states, there should no longer be distinguished between domestic and foreign lands. Furthermore, Germany should be united in the areas of weights and measures, in commerce and dealings, and a hundred similar things which I neither can nor care to mention.

One would be mistaken, however, to expect Germany's unity from the existence of one great capital city for this large Empire, and that this single great city might benefit the large masses of the people in the same way as it could benefit the development of a few outstanding individuals.

What makes Germany great is her admirable popular culture, which has penetrated all parts of the Empire evenly. And is it not the many different princely residences from whence this culture springs and which are its bearers and curators? Just assume that for centuries only the two capitals of Vienna and Berlin had existed in Germany, or even only a single one. Then, I am wondering, what would have happened to the German culture and the widespread prosperity that goes hand in hand with culture.

Germany has twenty universities strewn out across the entire Empire, more than one hundred public libraries, and a similar number of art collections and natural museums; for every prince wanted to attract such beauty and good. Gymnasia, and technical and industrial schools exist in abundance; indeed, there is hardly a German village without its own school. How is it in this regard in France!

Then think about cities such as Dresden, Munich, Stuttgart, Kassel, Braunschweig, Hannover, and similar ones; think about the energy that these cities represent; think about the effect they have on neighboring provinces, and ask yourself, if all of this would exist if such cities had not been the residences of princes for a long time.

Frankfurt, Bremen, Hamburg, Lübeck are large and brilliant, and their impact on the prosperity of Germany is incalculable. Yet, would they remain what they are if they were to lose their independence and be incorporated as provincial cities into one great German Empire? I have reason to doubt this."

Goethe, as chief minister of one of the smaller German states, was not particularly concerned with how to cope with the institutional dilemma sketched out above. It was different with the early proponents of this discourse from the legal profession: They expected legal unity to be achieved by compacts between the state governments (Thibaut 1814, loc.cit.), and in the latter phase of the German Confederation (1815 - 1866) its authorities indeed attempted to gradually arrive at legal harmonization. But

⁶ This I show in a still unpublished paper.

these attempts progressed much too slowly, and with the revival of German nationalism since 1840 Goethe's expectation that a loosely confederated Germany might be "united against foreign enemies" appeared less and less realistic. So the pendulum swung in favor of the rival discourse of "unitary federalism" which expected the promotion of legal unity from a strong national legislator and government.⁷

The root of the "federal-unitarist" discourse can be sought in the idea that Germany, as a nation-state, should be able to match the power of the rival Western European nation-states with centralized unitarist structures. To be sure, Germany was prevented from adopting outright centralization because of the institutional dilemma described above. It had to find a federal solution. But although the "federal unitarists" adopted federalism they were not eager to preserve social and cultural diversity. Their goal was rather the establishment of a federal architecture that allowed to emulate the unitary policy output of neighbors (and rivals) like France. Since the core concept was legal unity, the legal profession in its majority became the influential protagonist of unitarist thinking (Oeter 1998). The proponents of this discourse gained the upper hand after the revolution of 1848, and their ideas triumphed in the draft constitution voted in 1849 by the Constituent Assembly that had been convened at Frankfort.

The Frankfort constitution (1849) and the invention of executive federalism

The core innovation of the Constituent Assembly at Frankfort in 1849 to resolve the institutional dilemma of German nation-building was the institution of a strong and active central legislator. The draft constitution provided for an Imperial parliament with strong legislative authority: Its laws would have precedence over state legislation. However, the executive authority for implementing these federal laws should (with some exceptions) be left to the member states. Thus the overriding powers of the federal legislator would be compatible with safeguarding the organizational domain of state bureaucracies. This was the basic federal bargain, and because of the powerful position of the administrations of member states I call it (following the Swiss usage) "executive federalism" (*Vollzugsföderalismus*).⁸ It was to become the first building block of the federal architecture.

To be sure, the Frankfort draft constitution was never enacted because of the resistance of Prussia and Austria. But its institutional innovation, the system of executive federalism with a strong central legislator, remained prominent in the future, and Bismarck was foremost among the political leaders who recognized its virtues in solving the institutional dilemma. When in 1867 he drafted the constitution

⁷ The term "federal unitarism" was coined in 1907 by an influential scholar of constitutional law, Heinrich Triepel.

⁸ The concept of *Vollzugsföderalismus* is of central importance in present discussions on Swiss federalism Battaglini, Monica and Olivier Giraud. 2003. "Policy styles and the Swiss executive federalism: comparing diverging styles of cantonal implementation of the federal law on unemployment." *Swiss Political Science Review* 9:285-308, Germann, Raimund E. 1976. "Vollzugsföderalismus in der Schweiz als Forschungsobjekt." *Die Verwaltung*:223, Kissling-Näf, Ingrid and Sonja Wälti. 1999. "Der Vollzug öffentlicher Politiken." Pp. 652-689 in *Handbuch der Schweizer Politik*, edited by U. Klöti. Zürich: NZZ Verlag.. Its French and English equivalents are, respectively, *fédéralisme exécutif* and "executive federalism". This usage diverges from that in Canada and other federations (see below).

of the North German Confederation (the main provisions of which were taken over in 1871 in the constitution of the new *Reich*) he adopted the solution found at Frankfort eighteen years earlier.

In one important respect, however, he departed from the federal system of Frankfort, namely the participation of member states in the legislative process. The constitution-makers at Frankfort were strongly influenced by the model of US federalism made popular in Europe by Tocqueville's "De la démocratie en Amérique". Among others, they considered emulating the US senate, just as the Swiss constituent assembly had successfully done when in 1848 it established the modern Swiss federal system. The difficulty, however, was that elected senators might jeopardize the organizational domain of state bureaucracies if they pretended to represent state interests. Hence, the Frankfort assembly devised a compromise, namely an upper chamber (*Staatenhaus*) composed at equal parts by elected representatives from state parliaments and by delegates from the state governments. This hybrid solution was obviously impractical, and so Bismarck dismissed the model of the U.S. senate.

Bismarck and intergovernmental federalism (1867-71)

In the constitution drafted by Bismarck the *Staatenhaus* was replaced by a Federal Council (*Bundesrat*) composed of delegates from the state governments. The *Bundesrat* was the key institution of that building block of the federal architecture which I call "intergovernmental federalism".⁹

The *Bundesrat* was not a completely novel invention. Rather, it was patterned after the *Bundestag*, the Diet of the German Confederation (1815-1866), which itself was a successor of the Diet of the old German Empire (until 1806), the *Immerwährende Reichstag* at Regensburg. Similar to these predecessors, Bismarck's *Bundesrat* was a conference of ambassadors representing the monarchs of the member states and voting upon instructions from their home governments. And from these predecessors it also inherited the principle of asymmetrical representation of the member states. Bismarck himself was familiar with the confederate *Bundestag* at Frankfurt where he had begun his diplomatic career as Prussian ambassador. Intergovernmental federalism is thus a legacy of the German Confederation of 1815-1866.

Bismarck's *Bundesrat* was surrounded by more or less informal consultative bodies linking the Imperial and state governments. Among these, the most important was the conference of ministers of finance which, since Bismarck's time and up to the present, was consulted for most major changes in the system of federal finance.

⁹ My terminology differs from that employed, in particular, by Canadian students of federalism. In their usage, the term "executive federalism" refers to the "processes of intergovernmental negotiation which have been dominated by the executives of the different governments within the federal system" Watts, Ronald L. 1989. "Executive federalism: a comparative analysis." The Institute of Intergovernmental Relations, Queen's University, Kingston, ON.. In the German literature too, *Exekutivföderalismus* is most often employed in the same sense Dann, Philipp. 2004. *Parlamente im Exekutivföderalismus: eine Studie zum Verhältnis von föderaler Ordnung und parlamentarischer Demokratie in der Europäischen Union*. Berlin: Springer.. However, as pointed out above, I follow the Swiss usage for the definition of "executive federalism".

Bismarck himself was eager to preserve the characteristic diplomatic style of intergovernmental relations cultivated in the confederate *Bundestag* in order to ease the integration of the member states into the *Reich*. As a consequence, German federalism was always characterised by strong elements of bargaining and quasi-diplomatic accommodation at the executive level, and decisions were taken after lengthy negotiations and bargaining (Kaufmann 1917 was the first to point this out). Although Prussia was in a position to exert a hegemonic influence on the *Reich* administration and, together with some small satellite states, might always have mustered a majority in the *Bundesrat*, Bismarck and his successors developed a practice of seeking the preliminary agreement of the major states for all major initiatives (Binder 1971, pp.142ff.; Rauh 1973; Weber 1921, p.273f). The chancellors took particular care to consult with Bavaria (which was sometimes considered as “co-hegemon” of the Empire). In this way, a tradition of intergovernmental bargaining developed which has been maintained to the present day.

As is often stressed, the prerogatives of the *Bundesrat* were used by Bismarck and his Imperial successors to keep the *Reichstag* out of the intergovernmental arena. But a crucial premise of this strategy was the undemocratic character of state governments who were not responsible to state parliaments – the latter moreover being elected by census suffrage. This became obsolete after 1918, with the introduction of parliamentary government and the democratisation of state parliaments. Nevertheless the *Bundesrat* (called *Reichsrat* under the Weimar constitution) continued to safeguard the participation of state administrations in the political process. Since Bismarck we thus observe a relationship of institutional complementarity between the two building blocks of the federal system, executive federalism on the one hand, intergovernmental federalism on the other: Since in most policy domains the federal government does not dispose of its own field administration, it cannot avoid to closely consult with state administrators for drafting legislation, and the participation of the *Bundesrat* in the legislative process serves precisely that purpose. Moreover, the *Bundesrat* has increasingly become the institutional linchpin that guarantees the coordination between party politics on the federal and state levels. It is hence not surprising that attempts (undertaken in 1918 as well as in 1948/49) to replace that body by a U.S.-style senate were abortive. Such a major institutional innovation would have had considerable side-effects for other elements of the federal system, in particular by strongly diluting the traditional influence of state governments on federal politics, but in both instances powerful state party leaders succeeded in preventing fundamental changes.

The movement toward integrated public finance

In Imperial Germany, fiscal federalism remained a highly controversial patchwork. The system established in 1871 was a provisional compromise solution because the actors were unable to agree and Bismarck himself renounced to play a leadership role. On paper, the rationale for that system was the separation of revenues, with direct taxes perceived by the states, customs and indirect taxes by the Empire. However this arrangement was largely due to political considerations: State parliaments were elected by plutocratic census suffrage, while the *Reichstag* was elected by universal and equal suffrage, and hence conservatives of all persuasions

were reluctant to grant the Imperial parliament any influence over direct taxes.¹⁰ Therefore the sharing of revenue was achieved by complex transfers of revenue between the levels of government which, for all practical purposes, increasingly undermined the rule of fiscal separation. The *Reichstag* in turn used these transfers (which needed its assent) to preserve some leverage over fiscal policy, Bismarck and his followers remaining reluctant to extend the budgetary rights of parliament. The system of fiscal federalism was thus highly politicized and devoid of any logic resembling even by far what later was dubbed the “principle of fiscal equivalence” (Olson 1969).

When since the turn of the 20th century the Imperial government entered a frenzied arms race, it was less and less able to raise the enormous costs from taxes, given the unwillingness of the states to cede jurisdiction over the direct taxes to the *Reich*. Hence the latter had increasingly recourse to borrowing, and it continued to do so for financing the First World War. At the end of the war large parts of public opinion – including the conservative bureaucracy of the treasury – had become convinced that the system of fiscal federalism was in tatters and needed a radical reform. The crisis of the German defeat in 1918 and the resulting collapse of the old system presented a window of opportunity for achieving that reform. In 1919 its architect, the new minister of finance Matthias Erzberger, succeeded in pushing through a profound reform of fiscal federalism that did away with the former fiscal autonomy of the states and created a system of integrated public finance. (It is highly significant that Erzberger was a South German from the catholic Center Party and former defender of states’ rights.): Most important direct and indirect taxes now fell under the federal jurisdiction, where states might exert their influence by their not unimportant veto powers in the *Reichsrat*.¹¹ The revenue was destined to satisfy the fiscal needs of both levels of government, and therefore a complex system of revenue-sharing was established, with as its core “vertical” revenue-sharing (*Finanzausgleich*) between the federal and state-levels. This was complemented by “horizontal” *Finanzausgleich* between rich and poor states. The formulas for revenue-sharing were fixed by law, but they were subject to frequent adjustments. Obviously, the architect of this system took for granted that *Reich* and state governments would bargain to keep the formula acceptable for both parts. Such a system could never have worked without the established practice of intergovernmental negotiations in the *Reichsrat* (the successor of the *Bundesrat*) and between the ministers of finance. Integrated public finance and intergovernmental federalism were hence again linked in a relationship of institutional complementarity.

The reform of revenue-sharing was followed by a thorough modernization and centralization of the fiscal administration, a measure that was highly popular because in a majority of states (including, before all, Prussia) the fiscal administration had been notoriously deficient. At the end of the Weimar Republic, a strong consensus had emerged among political and administrative elites that the new system was

¹⁰ Bismarck, who hated paying taxes and was himself a shameless tax evader, had not been particularly motivated to push for a modernization of the fiscal system.

¹¹ In the legislative process, a negative vote of the *Reichsrat* could only be overturned by a two-thirds majority of the *Reichstag* (or, at least in theory, by a popular referendum).

much superior to the fiscal chaos of Imperial Germany, and this explains that after World War II most German political leaders were strongly opposed to Allied demands to dismantle the Weimar system and succeeded in the long run to restore most of its basic principles.

However, this profound modernization of fiscal federalism could probably not have been achieved if in the meantime traditional beliefs in the virtues of federalism had not been profoundly discredited. The federal system of Imperial Germany had been perceived as shielding the privileges of the wealthy classes who controlled the state parliaments, while the *Reichstag* was then the only source of democratic legitimacy. This discredit contributed considerably to strengthen the appeal of the unitarist discourse. To be sure, in 1918 political parties had taken control of the state parliaments and state bureaucracies, and regional party leaders were united in defending the organizational domain inherited from the former monarchical rulers. But the belief that legal unity and administrative uniformity were indispensable attributes of a modern democratic state had been considerably strengthened by the bankruptcy of monarchical federalism. Apart from some dissenting voices in South Germany, unitarism had achieved an undisputed intellectual hegemony.

The legacy of the Nazi period and the progress of the unitarist discourse

The Nazi regime abolished state autonomy and the federalist institutional framework. However, projects of territorial reorganization that had been developed in the late Weimar Republic were shelved (with the exception of some minor readjustments). The states were preserved as administrative entities, and the self-interest of regional party leaders (*Gauleiter*) who played a key role in the organization of the Nazi party pushed them to defend the survival of their fiefdoms and to strengthen regional identities. But there was now a strong trend toward legal centralization that met few objections. A unitarist discourse had meanwhile become so strong that quite a lot of these centralizing changes survived the end of the regime, even after the war and the restoration of state autonomies and intergovernmental federalism. Centralized regulations were even upheld, if necessary, by voluntary agreements between state governments.

The resilience of German federalism to Allied attempts at institutional engineering (1946-49)

Allied interventions in the post-WEW II process of constitution-making were before all directed against the integrated system of fiscal federalism established by the Weimar Republic. The Americans, in particular, wanted to introduce a system of separate finance whereas the majority of German experts in the constituent assembly (the *Parlamentarische Rat*) was convinced of the superiority of the system established since 1919. Given the strong resistance of the assembly (and the lukewarm support of the British for the American strategy) the Allied authorities finally settled on a compromise solution that proved to be no more than transitory (Renzsch 1991). Within two decades, by a series of constitutional amendments, the Federal Republic returned to a system of integrated public finance in which all major taxes are divided between the federation and the states, and states have practically lost all their taxing power. The only lasting success of the Allied interventions was the decentralization of fiscal administration. But, given the restoration of integrated public finance, the

unintended consequence of this decentralization is essentially to make the system more complex and cumbersome by increasing the need for inter-administrative coordination and consultation. The belief, quite frequently found in the American literature, that the allied powers achieved a major transformation of German federalism, is thus largely mistaken. As far as their manifest objectives were concerned, their attempts at institutional engineering ended with almost complete failure. The Allied interventions were an exogenous shock to which the Germans reacted with an adaptive reorganization of their federal system. This reorganization, however, kept intact the three institutional building blocks of the federal architecture – executive federalism, intergovernmental federalism and integrated public finance –, and in the long run it even reinforced their institutional complementarity.

However, one of the first major interventions of the occupation into the German federal structure, namely the dissolution of Prussia had lasting – and to a large degree unforeseen – consequences. The favorite justification for this intervention, the allegedly reactionary character of the Prussian state, was of course based on caricatural historical mythology, given that Prussia after the revolution of 1918 (and until chancellor Papen's authoritarian *coup d'Etat* in 1932) had been the most reliable stronghold of democracy among the German states (quite different from reactionary Bavaria and those small states like Thuringia and Brunswick where the Nazis made their first parliamentary inroads). However, the asymmetry of size in the German federal system had remained a serious problem, even after the formal abolition of Prussian hegemony in 1918. However, the superior power of Prussia within the federal system had almost of the time contributed to ease the needs for formal coordination implicit in a system of intergovernmental federalism. Present-day German federalism, with 16 states none of which can pretend at a leadership role, has of course a much increased need for formal and informal coordination by bargaining both between the federal and state governments ("vertical coordination") and among the latter ("horizontal coordination").

The hegemony of unitarist federalism in contemporary Germany

One of the most significant aspects of this need for coordination is the considerable growth of bodies for intergovernmental coordination, and in particular the enormous importance of the conferences of federal and state ministers in all major policy domains. Although it is often overlooked that they continue a practice that goes back to Bismarck it is undeniable that their number and importance has strongly increased after WWII. Most of these bureaucratic bodies work reasonably efficient, but they are subject to criticism not least because they contribute to make the federal system appear intransparent and as lacking democratic responsiveness. What critics tend to overlook most of the time is, however, that this quest for coordination is to a large degree a consequence of the undisputed intellectual hegemony of the unitarist discourse.

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