When federalism is not enough? Paths to cooperation in Federal democracies

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Abstract

This paper explores an overlooked issue in the literature on federations and federalism: the relationship between federalism and democracy. Starting from the assumption that federalism per se is not enough to guarantee cooperative intergovernmental dynamics between different levels of governments, this article analyzes how democracy reinforces cooperative intergovernmental relations under a federal design. Drawing from empirical evidence of federations in the making – Brazil, India, Malaysia, Mexico, South Africa and Spain – this article shows that in countries where the federal design was built under democratization, namely Brazil, Spain and South Africa, intergovernmental dynamics evolved under an increasingly cooperative mode of interaction.

1. Introduction

The paper elaborates on the evolution of intergovernmental dynamics in six federal countries—Brazil, India, Malaysia, Mexico, South Africa and Spain. It argues that democracy plays a critical role in creating federal cooperative dynamics.

The argument that democracy enhances federal institutions is built around the observation that countries with federal institutional designs do not necessarily tend to have cooperative intergovernmental dynamics. Based on this observation, the ultimate goal of this paper is to identify conditions and factors leading to the establishment of robust intergovernmental relations between national and subnational politicians. This is an important initial contribution to a field that is known for its lack of a theory of federalism (e.g. Bednar 1998, Feely and Rubin 2008). In this regard, the paper will specifically contribute by elucidating the following points: the influence of democratization in creating federal institutions that enable constant negotiation among political elites; the institutional incentives for the empowerment of subnational political elites; and the mechanisms that keep federal pacts alive.

In the attempt to explicate the relationship between cooperative intergovernmental dynamics and democracy, the paper compares six federal democracies in two different ways. First, it will make a comparison based on two groups of countries: the Periphery-Enabling Federal Democracies (PE), namely Brazil, South Africa and Spain, and the Center-Enhancing Federal Democracies (CE), namely Mexico, South Africa and India. Then, based on this initial comparison, the paper engages in a pairwise comparison. The three pairs: Brazil and Mexico, South Africa and India, and Spain and Malaysia. In each pair there is a country that created a decentralized cooperative mode of intergovernmental relations—e.g. Brazil, South Africa and Spain—, and a country that promoted a centralized and conflictive mode of intergovernmental relations—e.g. India, Malaysia and Mexico. This multilayered comparison will help to identify the democratic institutional conditions necessary for the development of cooperative intergovernmental dynamics under federalism.
Two main questions will guide this comparison: First, why did the first group of countries follow one path towards federalization while the other group pursued a different path? Second, how did these different paths impact on the form taken by intergovernmental relations in these countries? In order to answer these questions, it is necessary to look at several elements such as (i) the political interaction between the national and subnational elites in each country, (ii) the type of federal institutions mediating intergovernmental relations, and (iii) the party system in place.

This paper is divided into four sections. The first section reviews the literature on intergovernmental relations in light of the underexplored relationship between federalism and democracy. The second section discusses the selection of cases. Section three identifies the four core propositions of the research. The following section engages a general comparison between a pair-wise comparison among the different cases. The final section concludes by summarizing the main propositions of the research specifying conditions under which federal democracies foster intergovernmental cooperation.

2. Federalism, Democracy and Intergovernmental Cooperation: A Literature Review

The relationship between federalism and democracy has been understudied. A possible cause of this neglect can be identified in the notion that countries that adopted a federal design have already embraced in principle a core value of federalism, namely shared-rule. Furthermore, behind this assumption there exists the notion that a country’s adoption of a federal design is enough to maintain federalism in practice. However, as several studies on federalism began to point out that the likelihood of transgression of rules is very high in federations (e.g. Bednar 2009, Fillipov at al. 2004), it became more evident that the maintenance of federalism is not inimical to the institutional design of federalism per se. Analysts started to indicate that additional new aspects of federal systems—institutional incentives for federal governments to fulfill their constitutional obligations (De Figueiredo and Weingast 2005), respect for the rule of law (De Figueiredo et al. 2007), existence of a process of judicial review (Devins 2004), competitive party system (Chandler 1987), establishment of a preventative democracy (Roust and Shvetsova 2007)—should be looked at in order to understand the functioning of federalism.

The way of governing a polity, whether it is based on a democratic mandate or not, provides important hints on how federal dynamics work in practice. Burgess and Gagnon (2010) precisely refer to a greater interconnectedness that exists between the functioning of federalism and the principles of liberal democracy. A critical aspect of this intricate relationship concerns constitutionalism. As democracies favor the rule of law, federations must respect a critical principal of federalism, namely shared rule (Watts 2010). Henceforth, it is expected that federal democracies have greater incentive to implement constitutional provisions than federal autocracies. Examples of the propensity of federal democracies to abide by institutionalized rules of governing are numerous. Federal democracies are more likely to respect minority rights (Stepan 1999), the horizontal division of power among branches of government (Waingast 1995), the arbitrage of a court in litigations between levels of government (Bednar 2009), and competition among political parties (Filippov et al. 2004).
In addition to incentives to abide by the constitutional principal of shared rule, the mode of governing has a deep influence on how political interaction among politicians will develop. Indeed, a critical element in understanding the influence of democracy on federal relations is the form of interaction between national and subnational politicians. However, understanding intergovernmental relations as the result of political bargaining is not new. The novelty lies in the consolidated notion that the way in which politicians bargain in the intergovernmental arena affects the balance of power (Falleti 2010, Do Vale 2010). From such a perspective, political competition under democracy creates different incentives for a cooperative mode of center-subnational relations. More specifically, Bolleyer (2006, 2009) observes that the formation of either a majoritarian or a coalition government at the central and/or substate level influence the type of cooperation among levels of government. Party integration seems to be crucial in this development. Ştefuriuc (2009) uses several countries in Western Europe to explain how the distribution of veto players determines the connection between national and subnational party systems in multi-level setting. Bedner (2009:11-116) observes that the connectedness between parties at the national and subnational levels increases the possibilities of distribution of authority through cooperation.

Several other institutional factors intrinsic to the process of democratic deepening influence the intergovernmental dynamics in a federation. Democratic deepening in a federation, among many other practices, increases the opportunities for political interaction (Filippov 2010, Trench 2006) and creates new veto players as well as several new opportunities for political organization (Gibson 2004). For example, it is possible to construe that under bargained interaction decentralizing reform empowers subnational government by reassuring and creating new instruments for the pursuit of their goals. It is worth mentioning that institutions can be interpreted as being created to help political actors to pursue their particular goals (Héritier 1996. As such, under bargaining interaction the decentralization process helps to set up institutions that can in principle enhance the goals of actors belonging to the different levels of government. In contrast, under a non-bargained decentralization reform the new institutional set up is created in order to help the central government to enhance their own goals. Following this train of thought, Gonzalez (2008) shows how the degree of administrative and fiscal decentralization is higher in federal countries, where there are more bargaining between levels of governments, than in centralized countries.

Furthermore, following Bednar’s (2009) notion of political safeguards to prevent the bridging of federal rules, it could well be that democracy works as an insurance mechanism against possible attempts to transgress the practice of shared rule between different levels of government. This happens as politicians become committed to abiding by the rules of political competition. Similarly, Weingast (2002, 2008) predicts that stability and survival of states as well as the maintenance of a constitutional order rests respectively on the ability of institutions to be self-reinforcing and their ability to avoid transgression of political leaders. By delimiting the power of different levels of government while working as a safeguard against any bridging of power, democratic institutions create higher incentives for cooperation. That said, it is not surprising that increasingly the literature on federations and federalism has been calling for a more refined analysis of the relationship between
federalism and democracy (e.g. Linz 1997, Filippov 2005, Burgess and Gagnon 2010).

A critical element in building a connection between federal systems with democratic regimes is the type of intergovernmental relations. Intergovernmental relations evolve differently and transform into diverse forms across federal countries. Roughly speaking, the relationship between levels of government in federal countries can be divided into cooperative and conflictive. Although intergovernmental relations in any country are not static, therefore, showing important variations over time, it is possible to suggest that core elements defining the terms of intergovernmental interaction persist through out time. In terms of intergovernmental cooperation, these core elements are: the reliance of the different levels of government on the process of decision-making; the existence of coordination instrument to engage the levels of government in codecision-making; and the bargaining over decisions concerning more than one level of government. The lack of these elements characterizes a conflictive intergovernmental dynamic.

In terms of the structure guiding interactions in the intergovernmental arena, it is possible to identify cooperative intergovernmental relations by the type of hierarchy among the different levels of government. Treib et al. (2005) interpret non-hierarchical polities as different layers of rule coexisting under a multiplicity of actors. Lack of hierarchy also entails that there are multiple sources of authority in a polity. In contrast, conflictive dynamics are associated with the attempt to impose a hierarchical relationship and the source of authority mainly rests at one level of government. As an example of how hierarchies influence the type of intergovernmental dynamics, Bakvis and Brown (2010) show comparatively that Canada, which developed non-hierarchical intergovernmental institutions, presents a more cooperative relationship among different levels of government than the United States, which possesses a relatively more defined hierarchy.

The critical element defining cooperative and conflictive intergovernmental relations is the degree of presence of an intergovernmental hierarchy. As such, it is possible to assume that under democracy intergovernmental relations will be more cooperative than under democracy. De Figueiredo et al. (2007) puts forward the argument that federal democracies that have the ability to impose limits on the central and subnational governments can strike a balance between dangers of over empowering the center and limiting subnational autonomy. This occurs because in democracies the number of political actors is greater, government institutions are more transparent while being inclined to abide by pre-established rules, and politicians can veto the approval and the implementation of key decisions. These characteristics are less likely to be present in non-democracies. These factors contribute greatly to the creation of

1 There are other ways to classify intergovernmental relations. For example, Döring and Schnellenbach (2011) make a distinction between competitive and cooperative federalism. According to them, while the former is based on an overlap of power between levels of government, the latter is based on a constitutional vertical redistribution of functions.

2 This does not mean that there is no conflict in intergovernmental relations in federal democracies. In effect, Elazar (1990) has coined the expression “coercive cooperation” to refer to the growing dependence of states’ funding from the central government in a cooperative context.
robust intergovernmental relations. \(^3\) Put differently, there are several factors that foster the development of cooperative intergovernmental relations in federal democracies. Yet, the relationship between federalism and democracy in a period of transition remains largely unresolved (Filippov and Shvetsova 2010).

3. Case Selection

As the identification of conditions and factors leading to the establishment of robust intergovernmental relations will be based on a comparison between cases, it is important to explain why Brazil, India, Malaysia, Mexico, South Africa and Spain were selected.

The selection of these cases is based on four initial easily-identifiable criteria: countries that adopted or reformulated federal-like institutional design at a historical critical juncture (e.g. regime change through revolutions, democratic transitions and independence); the existence of centrifugal pressures for power decentralization coming from subnational politicians at the time of the critical juncture; the enactment of a constitution recognizing the right of existence of at least one level of government; and the establishment of limitations on the power of each level of government in the exercise of shared rule. In spite of these common criteria, a host of differences among these selected cases allows the identification of two groups within these six federal countries: one group of countries made up of Brazil, Spain and South Africa, and another group of countries constituted by India, Malaysia and Mexico (See Table 1).

Brazil, Spain and South Africa are grouped together for two main reasons: in their recent history they have each experienced a critical juncture in which a negotiated transition to democracy was made, and which led to a process of re-democratization with the involvement of subnational political elites; they have both displayed, after the transition to democracy, a systematic transformation of federal rules and institutions due to subnational pressure.

In these three countries, the transitions to democracy occurred through negotiated agreements. The passage to democracy through these methods has granted national and subnational political elites the opportunity to be engaged in continued negotiations over federal and intergovernmental rules. This happened because these elites were endowed with legitimacy and authority to bargain after the establishment of the rules of the game. In other words, during and after the consolidation of democracy the political elites were engaged in intergovernmental negotiation over institutional changes.

The main argument for grouping together India, Malaysia and Mexico, meanwhile, is because they are each highly centralized federations that experienced critical junctures (i.e. Indian Independence in 1947, the Mexican Revolution of 1910 and Malaysian Independence, 1957) yet they failed to include the subnational political

\(^3\) Robustness refers to the level of institutionalization of intergovernmental institutions (Bolleyer 2009). Robustness creates complementary institutions that while adding flexibility to a federal regime it also helps to avoid transgression of federal rules (Bednar 2009).
elites in the negotiations leading to the promulgation of their federal constitutions and in the implementation of their constitutional provisions.

All three countries share a further commonality: the existence of a ruling hegemonic party that governed the country for most of their post-constitutional history, embracing, with reluctance, organizational principles of federalism. This phenomenon finds its origins, as I argue here, in the promulgation of the federal constitutions of the countries in question without the engagement of subnational political elites in the negotiations.

As the cases of India, Malaysia and Mexico show, the constitutional bias towards the centre has weakened and/or eliminated altogether the bargaining power of the subnational political elites to tilt the intergovernmental power balance towards subnational governments. As the constitutions of the countries in question are federal in character, the reduced role that subnational political elites performed in the drafting of their constitutions can be seen as a factor that contributed to the implementation of minimalist intergovernmental relations. In these cases, national political dynamics are inimical to the development of robust intergovernmental relations, as the different levels of government have failed to create mechanisms that ensure against power encroachment. As such, it can be expected that in the case of India, Mexico and Malaysia, the limited involvement of subnational political elites will result in reduced intergovernmental bargaining.

One should not ignore the fact that the critical junctures that gave birth to the federal constitutions in India, Malaysia and Mexico occurred at least half a century ago. This implies that the historical circumstances under which these countries drafted their constitutions were different from those in which the drafting of the Brazilian, Spanish and South African constitutions took place. In the particular cases of India and Malaysia, new nations were being built by independence movements. Although this is not the case of Mexico, the country’s civil war found its origins in the question of land ownership and its distribution, which are issues that are easily traced back to Mexican independence.

Another difference worth drawing attention to is the lack of any international wave of events that the Indian, Malaysian and Mexican experienced at the time of their critical junctures. Whereas in Brazil, Spain and South Africa their critical junctures can be placed against the background of an international event, namely Huntington’s (2001) ‘third-wave democratization’, the Indian and Malaysian fights for independence and the Mexican revolutionary movement for land distribution, although based on certain universal values, were intrinsically idiosyncratic.

Table 1: General Information on Six Democratic Federations

<table>
<thead>
<tr>
<th></th>
<th>Critical Juncture</th>
<th>Year of Enactment of Constitution</th>
<th>Type of Intergovernmental Relations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brazil</td>
<td>1985 Transition to Democracy</td>
<td>1988</td>
<td>Cooperative</td>
</tr>
<tr>
<td>Spain</td>
<td>1975 Transition to Democracy</td>
<td>1978</td>
<td>Cooperative</td>
</tr>
</tbody>
</table>
4. Exploring the Relationship Between Federalism and Democracy: Main Propositions

Federations can follow different trajectories in terms of the evolution of federal dynamics. As advanced in this paper, these trajectories are determined to a great extent by the type of political regime. One of the trajectories concerns the process of federalization that occurs under a democratizing context, in which national and subnational political elites interact in a robust intergovernmental arena. In this regard, the paper advances four propositions to be tested.

- First Proposition

Incentives for bargaining between national and subnational political elites exist in a federal context where an all-encompassing constitution does not produce clear winners. In such a context, the number of actors that can potentially block the implementation of constitutional provisions is high. For example, Elster (1989:135) predicts that when complex agreements are reached, the implementation of such agreements is difficult and, as a consequence, bargaining among the different parts is the natural choice.

Considering the empowerment of several actors following a critical juncture, it is possible to hypothesize that whenever a critical juncture (e.g. enactment of a constitution) does not produce a clear political winner (whether it is a political party and an ethnic or territorial group), the constitutional pact will be implemented under a constant negotiation between national and subnational political elites.

- Second Proposition

The interaction among central and subnational political elites can create either conflict or cooperation. Regardless of the type of intergovernmental relations, it is possible to suggest that the intense bargaining among intergovernmental political elites can create deadlocks. Scharpf (2006) for instance talks about the ‘joint-decision trap’, which suggests that in federal polities all actors become inevitably involved in decision processes. This involvement of federal actors calls for greater coordination and mediation, which, in turn, requires institutional building at the intergovernmental level. Hence, the higher the bargaining interaction between intergovernmental actors (e.g., national and subnational politicians), the higher the need of institutions to intermediate intergovernmental interaction.
- Third Proposition

The political empowerment of subnational political actors as a result of democratic elections has been pointed out by several analysts (e.g. Cai and Treisman 2006; Grindle 2007). This empowerment has not only legitimized the rule of subnational politicians but also, given their mandate, has allowed subnational governments to pursue policy choices that can antagonize the central government. Taking into account the potential of democratic elections to increase the leverage power of subnational governments, it is possible to hypothesize that when subnational political elites are democratically elected, the higher their leverage power vis-à-vis the central governments.

- Fourth Proposition

The notion that past actions affect future ones finds application in the mechanism of path dependence, and several scholars have pointed out that in political processes past decisions will influence the future choices and hence decisions (Pierson 2000; Capoccia and Kelemen 2007). The incentives for change in the trajectory of a process are small as long as the process in question benefits the actors involved. However, the incentives for the maintenance of ongoing process exist when a group of actors are being incrementally benefited (Knight 1992). The mechanism of path dependence helps to explain the trajectory of federalization. Under such a mechanism the empowerment of certain political actors during a critical juncture may affect the future development of intergovernmental relations. Hence, the higher the demands for further increase of power by subnational political elites, the higher the possibility of shift in the intergovernmental balance of power.

5. Comparing Cases

The comparison of the variation in the outcome of the federalization process across the six federal democracies explains why they developed different types of intergovernmental relations. Considering that the selection of the countries for comparison is based on the commonalities that these countries share at a critical junction (e.g. transitions to democracy), the focus of the comparison rests on the explanation of why Brazil, Spain and South Africa followed a different path of federalization from Indian, Malaysia and Mexico.4 It is possible, as previously mentioned, to divide these countries into two distinct groups, the Periphery-Enabling (PE) and the Center-Enhancing (CP) countries. In the three Periphery-Enabling (PE) countries, subnational governments have encountered throughout the democratization process institutional opportunities to exercise their influence in decision-making process at the center. Conversely, in the Center-Enhancing (CE) countries, the central government has limited throughout the long-lasting democratization process the

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4 A critical question guiding this comparison is the selection of cases by the common independent variables, while attempting to explain the variation in the dependent variable.
ability of subnational governments to exercise autonomy, while enhancing their ability to take decisions unilaterally.

The paper will proceed with this comparison by creating three pairs of cases containing a PE and a CE country. A pair-wise comparison is possible because for each country in the PE group there are institutional and structural similarities with a country in the CE group. In this instance, the pairs are the following: Brazil and Mexico, Spain and Malaysia, and South Africa and India (See Table 2).

Table 2: Pairs of Federations: India-South Africa, Spain-Malaysia, Mexico-Brazil

<table>
<thead>
<tr>
<th>Periphery-Enabling Federal Democracies</th>
<th>Monolithic Federations</th>
<th>Asymmetric Multi-ethnic Federations</th>
<th>Presidential Federations</th>
</tr>
</thead>
<tbody>
<tr>
<td>South Africa</td>
<td>Spain</td>
<td>Brazil</td>
<td></td>
</tr>
<tr>
<td>Center-Enhancing Federal Democracies</td>
<td>India</td>
<td>Malaysia</td>
<td>Mexico</td>
</tr>
</tbody>
</table>

5.1 Group Comparison

Three traits of the federal democracies in question—the party system, the type of intergovernmental federal institutions, and the political interaction—help to explain the different intergovernmental dynamics in the PE and CE countries (See Table 3).

The PE countries present a record of multiple party system, inclusive intergovernmental forums, and non-hierarchical political interaction. In the PE countries a multiplicity of parties have played a part in the process of constitution making. With the introduction of competitive elections at all levels of government, the multiparty aspect of the system has been transformed into a two-party system as in Spain and a more dominant party-system as in South Africa. The intergovernmental forums in PE countries vary in terms of number and frequency of meetings. In terms of political interaction between the different levels of government, there is a growing diffusion of power concerning decision-making in the PE countries. Yet it is possible to suggest that these forums are inclusive in the sense that when subnational governments are represented they are treated as equal partners in the deliberations. It is important to say that these characteristics have changed and have varied over time.

In Brazil, there is growing evidence that the central government now controls more financial resources, and regulates important policy areas that affect the delivery of services by subnational governments (Arretche 2009, Eaton and Dickovick 2004). In Spain there is growing evidence that the central government has been successful in regulating decentralized competencies (Maiz et al. 2010) while the intergovernmental institutions have been failing to produce the desired cooperation (Bolloyer 2007, Requejo 2007). In South Africa, there is evidence that the preferences of governing political elites at the national level have compromised the redistribution game agreed by the majority (Inman and Rubinfeld 2009).
The CE countries show in general characteristics of a dominant party system, non-inclusive intergovernmental forums, and hierarchical political interaction. For the most part, the party system in the CE countries works as a dominant party system. As far as the inclusiveness of intergovernmental forums is concerned, whenever these mechanisms were introduced they have been largely inoperative or they have served the purpose of co-opting the subnational governments. The political interaction between intergovernmental actors is dominated by a restrictive central strategy of limiting the exercise of subnational autonomy. Just like the other group of countries, these main characteristics vary over time. In India the transformation of the party system has been a very significant political development as it led to the creation of regional parties (Kothari 2006). In Malaysia the main political party has lost what was once an overwhelming majority support (Welsh 2004). The opening up of the Mexican system to electoral competition at the municipal level provided the opportunity for the main opposition party to gain managerial experience (Klesner 1998:489) while it allowed the governors of the dominant party to challenge the power of the president (Hernandez-Rodriguez 2003:108).

Table 3: Main Traits of Periphery-Enabling and Center-Enhancing Federal Democracies

<table>
<thead>
<tr>
<th></th>
<th>Periphery-Enabling Federal Democracies</th>
<th>Center-Enhancing Federal Democracies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Party System</td>
<td>Multiple</td>
<td>Dominant</td>
</tr>
<tr>
<td>Intergovernmental Forums</td>
<td>Inclusive</td>
<td>Non-Inclusive</td>
</tr>
<tr>
<td>Political Interaction</td>
<td>Diffuse and Non-Hierarchical</td>
<td>Restrictive and Hierarchical</td>
</tr>
</tbody>
</table>

5.2 Pair-Wise Comparison

In the pairs presented above, the main criterion for their pairing is a common federal trait that they share. As such, Brazil and Mexico share the fact that at the birth of their federal polity a central government was trying to keep the federation together by concentrating power within the presidential offices; they are therefore termed *presidential federations*. Spain and Malaysia are placed together because they have forged their respective constitutional pacts by promising the already powerful subnational political elites the creation of an asymmetrical federalism through particular privileges to certain regions during their respective critical junctures. The type of asymmetrical federalism pursued in both cases helped them reach a consensus among political elites. For this reason they are called *asymmetrical federations*. South

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5 Certainly, there are other ways in which these countries could be paired, for example by taking into account factors such as their historical interconnections, abundance of resources, and geographical proximity, among others.
Africa and India have opted for a federal framework to accommodate subnational grievances under a party leadership that has merged party dynamics with state dynamics in a democratic context. The constitutional pacts in both countries were reached with the crucial participation of parties that were born as national movements, and would eventually become the dominant party in the Indian and South African political landscape. Due to the presence of dominant parties that used their dominance effectively to paralyze federal institutions, it is possible to label India and South Africa monolithic federations.

5.2.1 The Monolithic Federations: India and South Africa Compared

India and South Africa display important similarities in the development of their federal systems of government. During their respective critical junctures, although separated by a considerable time difference—India in 1950 and South Africa in 1996—both countries experienced a similarity that makes them a comparable pair: namely the active engagement of a movement of national conciliation (i.e., the ANC in South Africa and the Congress Party in India) that would eventually become a dominant party in a multiethnic context. The movements of national liberation in India and South Africa became a leading force in the negotiations for a constitutional compact.

In these negotiations the regional pressures coming from ethnic minorities led the leaders of the liberation movements in both countries to adopt a constitution that was federal in character without explicitly mentioning the word “federal”. As the case of South Africa illustrates, the movement of national coalition has had the potential to unite fragmented groups under a common orientation and to represent these groups in any negotiations leading to political agreements. Similarly, in India the Congress Party as a movement started with the support of local political elites. Yet, the type of negotiations leading to a settlement in India was different from that of South Africa.

In addition to these structural similarities, India and South Africa share two important institutional commonalities: a weak second chamber of the national parliament, and the interference of the central government in the dismissal of the head of the regional executive (the provincial premiers in South Africa and the state governors in India). These institutional aspects have often favored the prevalence of national political elites in the bargaining interaction with subnational political elites.

As already emphasized, the type of constitutional settlement reached at the time of the critical junctures in India and South Africa has created different institutional incentives in each country. Whereas in South Africa the involvement of subnational political elites in the negotiations led to an all-encompassing constitution favoring the interests of subnational political parties (Kotzé 1996: 49), in India the constitution clearly showed a bias towards the central government (Kohli 2004: 282). In the implementation of the constitutional provisions, the prevalence of the central government over issues concerning intergovernmental affairs was reinforced (Arora 1991, Sáez 2007). As a result, in India the process of federalization, once initiated fell short of its promises to create more robust intergovernmental relations despite the attempt to institutionalize new intergovernmental forums. In terms of decentralization,
although the subnational governments have gained more tax authority, they have remained largely reliant on central government transfers (Rao 2007).

Another crucial difference has been the recognition of local governments in the Indian and South African constitutions. In India, the local level of government is subordinate to state governments and they are not granted any constitutional rights. In South Africa, conversely, local governments not only gained constitutional rights, but also became important players in an intergovernmental system of cooperative governance (Reddy 2001: 24, Dickovick 2007). Furthermore, despite the dominant party system, post-apartheid South Africa is characterized by coalition formation among political parties (Kadima 2006: 15). These differences have affected structurally the bargaining power of the local political elites; in South Africa they have been more influential than in India with their attempt to change the intergovernmental balance of power.

5.2.2 Asymmetric Multi-Ethnic Federations: Malaysia and Spain Compared

Malaysia and Spain are similar federations primarily in that they share an important trait: the strength of the political elites of some regions, which warranted them a differentiated status within these federations. This asymmetrical feature is a common characteristic of Malaysia and Spain. At the time of the elite negotiations leading to the adoption of a constitutional contract with federal features, the pressure coming from some regions led Malaysia and Spain to grant them special status. In Malaysia, Sabah and Sarawak received some prerogatives not given to other states. Also, in Spain, Andalucia, Catalonia, the Basque Country, Galicia and Valencia gained earlier access to responsibilities not granted to other regions.

In these two cases, it is uncontroversial to highlight the essential role played by subnational political elites in the key events leading to the critical juncture. Although the incentives and methods used to secure a pact among political elites were different, in both countries a political pact was essential to reaching a constitutional agreement. Other similarities include the existence of separatist movements that made credible threats to the central government. The Malaysian separatist movement under the North Kalimantan People’s Army (Paraku) in the 1960s and 1970s threatened the unity of the country. Similarly, the Spanish separatist movement in the Basque country has attempted to destabilize Spain. Despite differences in the nature and origin of these movements, it is possible to say that they were a factor in the development of the intergovernmental systems in Malaysia and Spain. An additional commonality is the monarchy, which in both countries has had a stabilizing role during critical episodes in their respective histories.

These initial similarities were not, however, enough to put Malaysia and Spain on the same trajectory in the respective development of their intergovernmental relations. Whereas the subnational political elites in Spain witnessed a gradual augmentation of the autonomy granted in the constitution pushed by subnational political parties (Beramendi and Maiz 2004: 142), in Malaysia the autonomy given to the subnational governments, even to the ones given greater autonomy, experienced the reverse. This difference between the two countries can be explained by the type of negotiations that led to the promulgation of their respective constitutions. In Malaysia ethnic Malays were willing to preserve their dominant position (Milne and Mauzy 1999), while in
Spain a peaceful democratic transition was an important aim of the negotiations (Hopkin 2005). Furthermore, the Malaysian negotiations leading to the federal constitution had an important ethnic component and were mainly negotiated between members of the Barisan coalition (Case 2007: 127). The outcome has clearly favored the Malays, who secured constitutional privileges and gained informal concessions such as the Malaysian premiership and key positions in the civil service. In other words, whereas in Malaysia a dominant party attempted to accommodate the interests of subnational political elites through the party (Welsh 2004, Case 2004), in Spain this accommodation occurred to a certain extent through intergovernmental state institutions (Colino 2008).

5.2.3 Presidential Federations: Mexico and Brazil Compared

The Brazilian and Mexican federations share a common characteristic: a bias towards centralization in the national presidency from the adoption of federalism as a system of government. In both countries the national presidencies remain the focal point of federal dynamics. This trait can be traced back to the origins of federalism in both countries.

In spite of the centralization of this common characteristic, Mexico and Brazil pursued different paths towards the development of subnational autonomy following their respective critical junctures. What accounts for this difference is precisely the elite negotiation leading to the creation of a constitutional pact. In Mexico its 1917 constitution was the result of a negotiation between the leaders of the post-revolutionary struggle. Consequently, in Mexico federal relations between the central government and the subnational governments evolved under the shadow of a constitutional pact which subnational political elites did not agree to. This was not the case in Brazil, where constitutional bargaining before the promulgation of the 1988 constitution included subnational political elites in the constitutional negotiations, and where these elites had the opportunity to shift the intergovernmental balance of power during the implementation of the constitutional provisions (Medeiros 1986, Souza 1997).

Other differences have affected the new federal dynamics in Mexico and Brazil. These differences include the status of the local level in their constitutions and the type of party system that emerged in the post-critical juncture period. As far as the constitutional status granted to local governments is concerned, Mexico and Brazil display important differences. In Mexico local governments do not have enshrined constitutional rights as in Brazil. This means that while in Brazil local governments constitute a level of government, in Mexico local governments are creations of the states. This difference has had two implications concerning the federal dynamics of both countries: whereas in Brazil the mayors of the municipalities gained bargaining power to tilt the intergovernmental balance of power, in Mexico municipalities lacked it (Samuels 2000, Dickovick 2007); and while in Brazil municipalities could engage in direct bargaining with the states and the centre, in Mexico any real bargaining would be limited through the state governments (Hernandez-Rodriguez 2003).
The party systems have played a role in the intergovernmental federal dynamics in Mexico and Brazil. In a context of a concentration of power and authority in the hands of the national executive, a centralized dominant party system, as in Mexico, where the President of the nation is the president of a dominant party, political dynamics are dictated by the national executive (Beer 2001: 423, Weldon 2002). This dominance was also felt in the intergovernmental relations in Mexico. Here, pluralism has been present for most of its post-independence history; however, as already mentioned, electoral completion was limited. Somewhat differently, in Brazil the decentralized multiparty system forced the accommodation of different political elites at the subnational level, correcting the bias towards the national executive (Desposato 2004). The fragmentation of the national parties and their decentralized organization has forced the Brazilian national government, which can be said to have lost cohesion in the implementation of policy (Weyland 2000) to be politically engaged with the subnational political elites.

6. Discussion

This section revisits the main propositions and discusses their applicability to the six country cases.

From the comparison of the three pairs of cases—monolithic federations, asymmetric multi-ethnic federations and presidential federations—, it is possible to identify the factors that do not determine the type of intergovernmental dynamics. These factors are the existence of a national movement that becomes a dominant party (as in the case of monolithic federations), the asymmetric distribution of power across constitutive units of a federation (as in the case of asymmetric multi-ethnic federations), and the concentration of power in the national executive (as in the case of presidential federations). Instead, other factors such as the power distribution among political groups in formulating a constitution, bargaining interaction between national and subnational politicians, elections at the subnational level, and increasing demand for power devolution, were critical to the development of either cooperative or conflictive relations in the six federations in question.

Based on the proposition that indicates that inclusiveness of a wide array of political groups on the constitution formulation will inevitably lead to a negotiated implementation of the constitution, it is possible to observe in the cases of Brazil, Spain and South Africa that negotiations between national and subnational politicians increased after their constitutional promulgation. These countries in their pre-constititutional phase experienced a critical juncture from which only one political group emerged as a winner. Unlike the experiences of Brazil, Spain and South Africa, where democratization processes have created opportunities for national and subnational political elites to draft all-encompassing constitutions, the Indian, Malaysian and Mexican experiences with drafting their most recent constitutions were motivated by an attempt to recreate a central government under a dominant political group. In India the winner was the Congress Party, in Malaysia the Malay ethnic elite, and in Mexico the revolutionary political elites. In effect, in these cases there was an attempt to transition from one political regime to another by forging an all-encompassing elite pact that avoided creating winners and losers. The above proposition can explain the slow inclusiveness of India, Malaysia and Mexico in
including their political elites in the political dynamics following the promulgation of their respective constitutions.

As far as the second proposition is concerned which hypothesizes that the existence of bargaining interaction between national and subnational politicians leads to the development of robust institutions to intermediate intergovernmental relations, it is confirmed in Brazil, Spain and South Africa. In the years following the promulgation of democratic constitutions, these countries experienced a proliferation of intergovernmental forums that would mediate between national and subnational politicians in different areas. It is possible to suggest that in these three cases, given the complexity of their intergovernmental interaction, it became necessary to institutionalize intergovernmental interactions over time. These three countries are hence examples of progressive institutionalization of intergovernmental relations in the face of growing bargaining between intergovernmental actors.

In the case of India, Malaysia and Mexico, the above proposition could explain the creation of a bargaining interaction bias towards the central governments in these countries. In effect, following their critical junctures there were key events that required the concentration of resources at the central level of government.

Given the institutional incentives and the bargaining interaction between the national and subnational political elites at the inception of federalism in India, Malaysia and Mexico, it is possible to suggest that they followed a federal trajectory under a zero-sum game. This trajectory is marked by a progressive augmentation of power and authority in the hands of national political elites. Institutional arrangements in these countries, in addition of failing to protect some autonomy granted in the constitution, also created incentives for power encroachment on subnational affairs. As a consequence intergovernmental dynamics became an extension of the hegemonic position of the central government.

The third proposition suggests that subnational democratic elections increase the leverage power of subnational government vis-à-vis central governments, and is borne out in the cases of Brazil, Spain and South Africa. In these countries the existence of elected subnational politicians created a group of actors that would preserve local interests with the legitimacy of democratic elections. Furthermore, based on the Indian, Malaysian and Mexican experiences with electoral democracy, when competitive elections are slowly introduced at the subnational levels and smaller parties with strong subnational support win elections at the national level, a new federal dynamic emerges. The end result in all cases is that the pattern of achieving subnational autonomy in India, Mexico and Malaysia is markedly different from that of Brazil, Spain and South Africa. In the Indian, Malaysian and Mexican cases, the introduction of competitive elections at the subnational levels of government has leveled the playing field between national and subnational political elites. It is important to say that in Mexico and in Malaysia the political dynamics have altered after the institutionalization of competitive elections; however, it is not possible to assert that there has been a lasting shift in the intergovernmental balance of power. As a result, intergovernmental relations in these three countries have remained steeply hierarchical.
Lastly, the fourth proposition, which predicts that a growing demand of subnational politicians over time will lead to a higher possibility of change in the intergovernmental balance of power, finds resonance in Brazil, Spain and South Africa. In these countries the power acquired by subnational political elites at their respective critical junctures has triggered further demands for a greater voice within these polities. In all the three cases, the subnational political elites at the time of transition to democracy had new windows of opportunity to be engaged in a process of change. With the growing leverage power of the subnational political elites over fiscal and administrative matters, the balance of power in these federations changed. This means that with the advancement of the process of federalization, the balance of power shifted in favor of the subnational political elites in these three polities.

India, Malaysia and Mexico have failed to produce a reinforcing process of federalization that has fundamentally changed the balance of power and authority in these federations. This is not the same as to say that in these federations there were no changes at all. Certainly, India is the country that has seen the most significant shift in the intergovernmental balance of power. It is worth calling attention to the fact that in these three countries the ruling national party has governed with little challenge for at least 40 years after the promulgation of their federal constitutions.

Taking all of these arguments into consideration, and in sharp contrast to the Brazilian, Spanish and South African paths to cooperative intergovernmental relations, the Indian, Malaysian and Mexican cases show that the center can control the processes (e.g. democratization and federalization) that might have changed intergovernmental interaction in these countries. The main observation that can be drawn from the trajectory of post-independent India and Malaysia, and post-revolutionary Mexico, is that federal arrangements, instead of fostering subnational autonomy, hampered it in these countries and created non-cooperative intergovernmental relations. In short, on the one hand, cooperative intergovernmental relations were fostered in the Brazilian, Spanish and South African cases with the development of progressively less hierarchical intergovernmental relations. On the other hand, conflictive intergovernmental relations developed with the increasing consolidation of the central government as a focal point of a hierarchical structure of intergovernmental relations.

For the creation of non-hierarchical intergovernmental relations, as the cases of Brazil, Spain and South Africa show, it is necessary to include a vast number of political groups in the phase of constitution making, to create an opportunity for bargaining interaction between national and subnational politicians, to hold democratic elections at the subnational level, and to be able to sustain a constant demand for power devolution. These necessary conditions are absent in the cases of India, Malaysia and Mexico (See Table 4).

Table 4: Confirmation of Propositions across Country-Cases

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6 It is important to note that only after several years of limited subnational autonomy did the coalescing central governments in India, Malaysia and Mexico initiate a cautious process of change.
Propositions | Dependent variable | Dependent variable in Brazil, South Africa and Spain | Dependent variable in India, Malaysia and Mexico | Conditions for the proposition to hold
---|---|---|---|---
**Proposition 1** | Negotiations between national and subnational politicians | High | Low | Inclusiveness of political groups
**Proposition 2** | Presence of robust institutions to intermediate IGR | High | Low | Bargaining interaction between intergovernmental actors
**Proposition 3** | Leverage power of subnational government vis-à-vis central governments | High | Low | Subnational democratic election
**Proposition 4** | Capability to change the intergovernmental balance of power | High | Low | Sustainable subnational demand for power devolution

7. Final Remarks

This paper advanced the argument that there is a close relationship between the development of democratization and the advancement of federalization in six federal democracies. Evidence from Brazil, Spain and South Africa suggests that intergovernmental cooperation was achieved through the creation of inclusive intergovernmental forums, the establishment of a multiple party system, and the institutionalization of a diffused and non-hierarchical territorial political interaction. Contrasting evidence from India, Malaysia and Mexico shows that a dominant party system and non-inclusive intergovernmental forums, as well as restrictive and hierarchical territorial political dynamics, undermine intergovernmental cooperation.

To reiterate the propositions identified previously, this paper suggests that often countries that do not produce a clear group of political winners following the transition to democracy attempt to balance the political power of any group that exercise its majoritarian influence [proposition 1]. In the case of the existence of a clear dominant group, counter-majoritarian provisions could be introduced. These provisions help to keep democratization moving forward. In the absence of a dominant political winner and with the creation of institutional mechanisms to keep in check the majoritarian group, bargaining becomes an important instrument for political interaction [proposition 2]. In the face of political competition through elections, subnational political groups become more influential in the intergovernmental arena [proposition 3]. This influence will be reinforced over time as subnational politicians will become more capable of affecting intergovernmental relations [proposition 4]. Moreover, once the historical critical juncture has passed, the original pattern of intergovernmental dynamics is difficult to change.
The connection between democratization and federalization is an intricate one and has determined the type of territorial political interaction, intergovernmental forums and party system. Under the mutual reinforcement of democratization and federalization the conditions for the creation of cooperative intergovernmental relations— inclusiveness of political groups, bargaining interaction between intergovernmental actors, subnational democratic election, and sustainable subnational demand for power devolution—were developed. However, it remains undetermined whether the conditions identified in this paper must be present as endogenous conditions for the maintenance of federal institutions. Instead, it is clear that intergovernmental cooperation that appears under these conditions inhibits encroachment of power between spheres of government as well as predatory practices against the original constitutional contract.

Despite the clear identification of the conditions underpinning the creation of intergovernmental cooperation, the paper dismissed the variation of intergovernmental cooperation among the selected cases. Furthermore, it has not addressed the most recent trends of power centralization in Brazil, Spain and South Africa. In addition, the paper has overlooked the emergence of new patterns of democratic dynamics in India, Malaysia and Mexico, and the increase of regional opposition in these countries. Although the variation of intergovernmental cooperation across the federal democracies was not accounted for, the close relationship between democracy and federalism was not compromised.

The paper has provided answers to the questions of how democratization affects federal dynamics, how certain institutional incentives empower subnational political elites under democratization, and how democratic institutions help to preserve federal pacts.

8. References


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