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THEORETICAL REFLECTIONS ON FEDERATIONS AND FEDERALISM

STANISLAW EHRLICH

Federal systems decide by territorial decentralization who has what power, what sovereignty. The institutions of federalism are ideologically neutral, and serve to decentralize a state or protect ethnic identities within it. Marxists have favored unitary governments, accepting federalism as a means to avoid breakup of the state. Cases of federalism and mixed cases are examined. Secession is usually resisted by force—and in the Third World cannot occur lest the East-West power balance be affected. Federalism has a future!

Our consideration of federalism must take into account the fact that in the last few decades, new federations have mushroomed and political scientists have been faced with hitherto unknown problems. All this proves the vitality of problems of federations and federalism. It justifies the choice of the topic of this collection, a topic that certainly will provoke more than purely academic interest.

If we could agree that pluralism must not be conceived of exclusively as an attribute of Western democracy (as some staunchly believe¹), that many pluralisms function *versus* many brands of monolithism, and that there are serious reasons to approach *pluralism* in an interdisciplinary way, we could treat it as a common denominator opposing all kinds of uniformism, all unjustified centralism in the political process, as well as all views that serve notably structured interests. I will not develop these ideas here because I have done so elsewhere (1980, 1982). However, federal states and federalism are a pluralistic case in point.

I dare say that my point of view has something in common with the ideas expressed by McWhinney in *Comparative Federalism*, especially with his discussion of the problem of monistic versus pluralistic federalism (p. 16 ff.) Let me stress that each brand of pluralism is naturally directed against a specific, uniformist, monistic pole. Or when he deals (in Chapter 6) with social policy, states' rights, minority rights, and the limits of unity and diversity; or when he concludes that federalism is a sociological as well as strictly juridical condition (pp. 99-100). Indeed,

we should keep in mind that, at least since Proudhon's time, federalism has socio-economic content (Ehrlich, 1982: chap. 14).

Second, it might be useful to suggest agreement on the meaning of "federation" as the normative federal structure of the state, and by "federalism" to mean both (a) the functioning of federations and (b) the processes and trends that intend to transform a state organization into a federation or amalgamate into it two sovereign states or more.

Finally, it would be good to consider the precise extent to which the political and legal institution of secession should be regarded as a necessary attribute of federations.

THE FEDERAL SYSTEM AND DECENTRALIZATION

Whatever their shape, federal institutions are, by definition, devices to limit the center and the range of federal decisions. The questions of what should be decided, where, and by whom, are at the heart of the matter. To put it in more traditional terms, How much sovereignty for whom? This means that I disagree with authors who consider the problem of sovereignty a relic of the past (e.g., C. J. Friedrich, 1950: 56). On the contrary the right approach should determine how to share decisions between the federal center and the federal subsystems. If we proceed this way, we may be inclined to conceive of the federal system as a special case of territorial decentralization.

Even so, we can't avoid difficulties in specifying the differences between the "federal decentralization" and other forms of high level territorial decentralization. What about the delimitation of notions of decentralization and autonomy? Other doubts are looming ahead: Below the level of federal subsystems we are faced with differently structured entities of local government. In mega-federations like the United States, Canada, Brazil, Australia, and the Soviet Union, one is confronted with hierarchical, representative, local bodies. This is not the case of small federations like Switzerland.

This is not the whole list of obstacles to an understanding of the differences between a federation and a decentralized unitary state. After World War II, we witnessed a trend toward far-reaching decentralization in unitary states; Italy would be a case in point. Later we observed constitutional evolution in Belgium, the United Kingdom, France, and, last but not least, Spain. In all these countries the evolution was labeled "autonomy."

So, where does decentralization end and where do federations begin?

I would venture to say that, in the light shed by the science of organizations and their decisions, there is no difference in substance. My suggestion would be to treat federations as examples of mega-decentralization within the framework of a global organization called the state.

AN ESSAY IN TAXONOMY

The taxonomy I am going to propose should not be understood as an exercise in finding unbridgeable antinomies between Western and Eastern federations. On the contrary, organizational solutions should be regarded as instruments for attaining definite goals. They are in many respects ideologically neutral; from which it follows that adopted in one country they may be received in another where similar problems are waiting to be settled.

Laying aside ideologies and value judgements, we could try to put forward a taxonomy of federations, building it around answers to a simple question: A federal structure is a means to serve what ends?

(1) From the general class of federal structures we have to single out those that serve the end of mega-decentralization. The classic examples of the United States and the Federal Republic of Germany come to mind. Their federal institutions are not committed to solving problems of race, nationality, or religion. Neither the Navajo Indians, nor the blacks in the United States, nor the new Turkish minority in the Federal Republic of Germany can realistically hope to be upgraded as subjects of territorial units that could be considered as federal subsystems. Other institutions must serve their particular interests.

(2) The federal structures that safeguard national or ethnic identity constitute another category. An important attempt in this direction was the foundation of the Russian Soviet Federal Republic, which became the Union of Soviet Republics in 1922. This step was preceded by a serious turn in Marxist thought.

The evolution began with a postulate in the motions of the International Workers and Trade Union Congress in 1896 (London). Later Lenin brought this idea forward in a paper entitled "The Right of Nations to Self-Determination." He focused on the right to secession from a multinational state and doubtless drew conclusions from the experience of Norway, which peacefully separated from Sweden in 1905. This notion of self-determination was soon coupled with the aims

of a bourgeois-democratic revolution as they were formulated at the Prague Bolshevik conference in 1912. The pre-war period witnessed also the famous quarrel between the Austro-Marxists and the Bolsheviks. The former were protagonists of the national-cultural autonomy, whereas the latter defended the "territorial solution."² The verdict of history was not in favor of Austro-Marxists.

The outbreak of World War I and later of the October Revolution brought a further shift in Lenin's views. Thereafter he saw the national and colonial problems as integral parts of a socialist revolution. They merged within it.

The second trend was federalism. It departed from centralism (in the field of political structure) and was suspected of being tainted with dangerous particularism—a possible stumbling block to a revolutionary movement. Before internalizing federal ideas, the view of the Bolsheviks had to undergo a deep transformation. Lenin's respectful allegiance to the ideas of the founding fathers of Marxism had its effect.

Marx, commenting on the prospects of a separation of Ireland from the British Empire, wrote in a letter to Engels (November 2, 1867) that he considered this an unavoidable step *even if* (my emphasis) a federation had to be admitted. Engels, in his *Criticism of the Erfurt Program*, protested against the "Swiss-like" federalization of Germany. Why did they take this position? They were afraid of the evil of particularism, which crept from the Proudhonian and Bakuninist brands of federalism.

In spite of these allegiances, Lenin, who lived for many years in Switzerland, could not avoid being affected by its constitutional institutions. But he had to transform them. Historically, the Swiss design must be regarded foremost as a successful but local protest against Hapsburg absolutist rule. Only later did the cantons express ethnic and linguistic interests. Nevertheless they never formed distinct entities. Parallel ethnic and linguistic cantons maintained themselves—the evidence of strong localism.

The pro-federalist trend among the Bolsheviks grew very slowly. The revolutionary movement of professional conspirators was bound to be centralist. On the eve of the October Revolution Lenin analyzed the federal form in *State and Revolution* and treated it as an exception, a temporary device, one of the many means to solve the national problem. Stalin took a more extreme stance and wrote an article "Against Federalism" (March 28, 1917). Confronted with the huge post-revolutionary centrifugal wave of nations and nationalities, the Communist leaders decided upon the Soviet system—that is, a diversified, federal

state. In this shape it survived World War II, and is today a uniquely complicated net of federal and autonomous republics, autonomous districts (*oblasts*), and national regions. It turned out that the Soviet federal system could be used to heal religious differences as well.

To put a long evolution in a nutshell, we see that in this system three trends merged: the political structure of the Soviets; national-ethnic; and, recently, religious interests. And all this is within the framework of federal institutions.

Yugoslavia adopted Soviet federal principles in its first constitution. But this model was abandoned in the last constitution enacted in 1974. So two principles were amalgamated into one whole: self-government and federalism; both form the real and original bedrock of the Yugoslav system.

Let us have a brief look on the experience of another country, the giant organization of federal India. On the surface its federal institutions remind us of the Soviet model. But a closer analysis leads to the conclusion that in this country, federalism was used as an organizational device, free from the revolutionary, ideological bias indispensable in the formation of the first socialist federation. The push toward national-ethnic and religious heterogeneity in India was not connected to a revolutionary movement.

MIXED CASES

In some European countries such as Italy, the United Kingdom, France, Spain, and Belgium, the institutions of autonomy or devolution were used to lower ethnic tensions. If we are to avoid oversimplification, we must not overlook the considerable differences among these countries.

The autonomy of regions in Italy certainly serves the ethnic interests and the consciousness of historical identity in the north, in the Mezzogiorno and on both the isles, but in the rest of the country it is a kind of far-fetched decentralization. One would be inclined to characterize the Spanish and French constitutional structure as similar to the Italian one. But the range of decisions of the local subsystems in Italy and Spain is broader than in France (notwithstanding the special status of Corsica). On the other side the centrifugal tensions in Spain (the Basques) and France (Corsica) do not exist in Italy.

The United Kingdom presents specific problems in its devolution. In Scotland the impact of historical independence seems evident, but in

Wales there are only the ethnic and linguistic traditions. There is the problem of Northern Ireland, where ethnic and religious hostilities have merged. This calls for a new organizational settlement, perhaps on an international level. Marx's dictum of four nations on two isles comes to mind.

Belgium, with its territorialization of ethnic autonomy, is in this respect, very close to the organizational model established in the Soviet Union, Yugoslavia, and India. This is the result of a successful interplay of social fragmentation and political stability—an enigma explained by P. H. Claeys (1973, 1980), who terms the latest constitutional changes “quasi-federalism.”

This organizational mosaic presents a question: Does it make sense to try to draw a demarcation line between autonomy and federation? Legal dogmatists search for—and inflate the importance of—juridical differences. An interdisciplinary approach would stress the common characteristics of different phenomena and the dynamics behind them. We should consider the matter as one of social-political process.

Perhaps we are faced in some of these countries with a brand of *creeping federalism*?

THE SPECIAL CASE OF CANADA

To a foreign observer, the crux of the matter is the feasibility of transforming the country's federal institutions so that they could genuinely serve the interests of the two nations considered as the founders of the federation of Canada. An agreement on basic values would make it easier to find the proper legal solution. But is this possible? H. G. Thorburn (1980) has put this question forward. The Belgian experience may offer food for thought.

Even if a satisfactory solution—satisfactory to Quebec and to the English-speaking provinces—could be reached, it would not bring the Canadian federation closer to the Soviet, Yugoslav, and Indian model because neither the existing federal structure nor a reformed one would affect the interests of the Indians and the Eskimos—interests that obviously transgress the range of the great federal debate.

A HYPOTHESIS ON SECESSION

The right to secede is guaranteed by no federal constitution and cannot be exercised as we know from the lessons on civil war in the

United States and in Nigeria. In both cases the attempts at secession were crushed by military power. So, what are now the obstacles to secession and the prospects for it in the foreseeable future?

Secession would necessarily mean either the end of the federation or its serious transformation, both economic and political. It can hardly be expected that the federation's political decision center would voluntarily agree to be stripped of vast amounts of decision possibilities (i.e., agree to a loss of power and prestige).

All preparatory efforts to secession could be considered as a political crime. The federal decision center would look at these efforts as an attempt to change a hitherto useful and fruitful non-zero-sum game (i.e. a game of cooperation for the benefit of the existing union) into a new game—this time into a zero-sum game, in which the predetermined loser would bound to be the federal decision center and the remaining federal units. These considerations would doubtless reflect on the interpretation of the respective federal rules.

It seems to a foreign observer that the question of Quebec's secession (promoted by *Le Parti Québécois*, in power since 1976) arouses high emotions because it is not only an economic and national challenge but also a challenge to Canadian sovereignty, to Canadian national conscience, to the existing system as such, to the status quo (Thorburn, 1980: 156ff, conclusion). This is something more than a clash between national and local values.

The international panorama presents a third dimension for objecting to secession. To secede, but where? The so-called Third World is differentiated into groups of states, which, in the majority of cases, lean (overtly or covertly) to one or another of the two opposing military, political, and economic blocs, led by the two superpowers. If this is the case, secession—whenever and wherever it might happen—must automatically be considered as a meaningful fortification of the adverse bloc. This consideration would be more acute in the case of secession in a state that is a member of one of the two blocs.

Especially in a period of cold war the question arises: What solution of a particular conflict suits whom? Will it mean a shift in the balance, and if so, to whose benefit?

A secession would provoke similar questions.

I cannot see other prospects for secession as the following; as long as international relations are under the impact of cleavage between two defiant power blocs, there is no chance to secede. No doubt this gulf will be bridged one day, but this may be a rather "long way to Tipperary."

CONCLUSION

The tug-of-war between unitarian, centralist, and centrifugal tendencies within federations will continue in the foreseeable future. Stalin's forecast of the irreversible trend of erosion of Western federations, not repeated by one scholar,³ was not confirmed by the course of evolution. On the contrary, in this tug-of-war different factors have their impact: economic, socio-political, military, demographic, and national-ethnic (Suchecki, 1968: 332).

We are not bound to discard or to oppose for ideological reasons all constitutional ideas and institutions from the West according to Rudyard Kipling's famous dictum: East is East. The Anglo-Saxon ideas of federal comity and cooperative, horizontal federalism (e.g., Corwin, 1947: 80ff; Ferguson and McHenry, 1965: 64ff, 110ff) might be useful in the development of socialist federations, an object of legal reception. Cooperation among republics within the federation of Yugoslavia could have prevented considerable wasting of costly investment and unnecessary doubling of means and organizational effort, put to an end only after the implementation of the last federal constitution (1974).⁴ Article 375 of this constitution can serve as an example of the reception of a Western legal institution: the constitutional court of Yugoslavia decides issues between and among the federation and different sub-federal bodies (p. 5).

And this is not the whole story of the prospects of federalism. McWhinney was right (1962: 95), I suppose, when he wrote that "federalism, at the legal-institutional level, can assist and extend movements for association and integration over conventional nation-state boundaries".

Although these words were written over twenty years ago, I am convinced that the times of federalism are not over. It has still a future.

NOTES

1. H. G. Thorburn in his article "Ethnic Pluralism in Canada" (1980, pp. 151ff) rightly draws the attention to the fact, that "it has become common since the Second World War to call western democracies pluralist, whereas the earlier designation was liberal or conservative. This change is more than one of fashion or custom, but corresponds at least superficially to a change of condition." Let me add that this change of condition was also a matter of ideology.

2. In this connection compare the views of Max Adler, Otto Bauer, and K. Renner presented by T. Bottomore and P. Goode (eds.) in *Austromarxism* (1978, chap. 3). See

too, Schlesinger's *Federalism in Central and Eastern Europe*, (1945: 212ff). The Austro-Marxists were opposed by Stalin (see "Marxism and the national question," V. 12, *Collected Works* (in Russian).

3. J. Stalin wrote in his article "The Organization of the Russian Federal Republic" (*Collected Works*) that the contemporary bourgeois federations transformed themselves into unitarian states maintaining only the federal form.

4. *Constitution de la République Socialiste Fédérative de Yougoslavie*, Beograd, 1974.

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