# Federalism and Individual Sovereignty

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I have been both surprised and disturbed by two sources of opposition to efforts to move toward federalist structures in which political authority is divided between levels of government. I refer, first, to the opposition in Europe, mainly in Britain, to movements toward effective European federalism. Second, I refer to the successful agitation that blocked the proposed Conference of the States in the United States in 1995. What is disturbing about these sources of opposition to the very idea of political federalism is that both emerge from groups that are identified variously to be right-wing, conservative, or libertarian. We should not, of course, be surprised at all by socialist-inspired opposition to the federalist idea and ideal. Socialists have been and remain forthright in their desire to extend the range of politicized control over the lives and liberties of persons. But why should conservatives, classical liberals, or libertarians join socialists in opposing structural reforms that embody federalist principles?

I suggest that a coherent classical liberal must be generally supportive of federal political structures, because any division of authority must, necessarily, tend to limit the potential range of political coercion. Those persons and groups who oppose the devolution of authority from the central government to the states in the United States and those who oppose any limits on the separate single nation-states in modern Europe are, by these commitments, placing other values above those of the liberty and sovereignty of individuals.

The incoherence in values that such anti-federalist ambivalence reflects is not widely acknowledged. The relationships between federalist political structure and the sovereignty of the individual must be

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carefully examined, particularly in terms of the implications for current discussions in Europe, Mexico, and the United States.

In this paper, I shall summarize the theory of competitive federalism and examine the relation between the engagement-participation of the individual in politics and the size of the political unit. The theory of competitive federalism emphasizes the prospects for exit, both internal and external, as constraints on political control over the individual. In contrast, the theory of what we might call "partitioned sovereignty federalism" emphasizes the prospects for the exercise of voice in limiting political excesses.

In addition, I shall introduce moral elements that may emerge in arguments for federal political structures and relate those arguments to observed crises in modern welfare states. Finally, I shall apply the analysis more directly to discussions of movements toward federalist structures in several parts of the world.

## The Theory of Competitive Federalism

The normative theory of competitive federalism is congenial to economists in particular, because it is simply the extension of the principles of the market economy to the organization of the political structure. The market economy produces high levels of value from which all participants benefit; persons are legally guaranteed rights of entry into and exit from production and exchange relationships one with another. If a good or service offered by a producer-seller is "bad" compared with goods offered by other producer-sellers, the prospective purchaser-consumer simply exercises the exit option and shifts his or her business to an alternative supplier. And the facts that profits are promised by marketing "good goods" rather than "bad goods" ensures that scarce resources will flow toward those uses that yield relatively high values. Suppliers remain always in competition among themselves, faced with the knowledge that demanders have available the continuing prospect of exiting from any ongoing economic relationship.

Normatively, the political structure should complement the market in the sense that the objective for its operation is the generation of results that are valued by citizens. By its nature, however, politics is coercive; all members of a political unit must be subjected to the same decisions. The prospect of exit, which is so important in imposing discipline in market relationships, is absent from politics unless it is deliberately built in by the constitution of a federalized structure.

Consider a large economy, characterized by liberty of resource flows and trade throughout the territory—liberty that is enforced by

a political unit, a government, that is coincident in extent with the effective size of the market. If politics could be restricted to the exercise of these minimal or protective state functions (the night watchman state), little or no concern need be expressed about coercive political intrusions on the liberties of citizens. As the experience of this century surely demonstrates, however, politics is almost certain to extend beyond any such limits. (We need not argue here about whether or not and to what extent expansions in the domain of politics are justifiable.) The problem becomes one of organizing the beyond-minimal politics of the "productive" and the "transfer" state so as to minimize the potential for political coercion or, stated conversely, to maximize the protected sphere of individual sovereignty.

It is here that the prospects for organizing the polity in accordance with federalist principles become exceedingly attractive. Federalism offers a means of introducing essential features of the market into politics. Consider, for example, a setting in which the central or federal government is constitutionally restricted to the exercise of minimal or protective state functions, while all other functions are carried out by separated state or provincial units. The availability of the exit option, guaranteed by the central government, would effectively place limits on the ability of state-provincial governments to exploit citizens, quite independently of how political choices within these units might be made. Localized politicians and coalitions would be unable to depart significantly from overall efficiency standards in their taxing, spending, and regulatory politics. And note that the feedback effect of potential exit need exert itself only on a relatively small share of economic decision takers. Even those citizens who might never consider migration in some Tiebout-like regime would be protected by the acknowledged existence of those few citizens who might be marginally sensitive to differential political treatment. Federalism serves the dual purposes of allowing the range or scope for central government activity to be curtailed and, at the same time, limiting the potential for citizen exploitation by state-provincial units.

## Partitioned Sovereignty Federalism: The Exercise of Voice

The efficacy of competitive federalism depends directly on the operative strength of the exit option. The ability of persons to migrate and to shift investment and trade across boundaries serves to limit political exploitation. Recall, however, that in his seminal work, Albert Hirschman (1970) placed "voice" alongside "exit" in his examination of control institutions. In the market, exit is the dominant means

through which persons indirectly exercise control, and, as indicated earlier, federalism incorporates this means into politics. But the exercise of voice is also important, especially perhaps in politics, and this feature lends independent support for federal structures.

The basic logic is straightforward. If the concern is for the protection and maintenance of individual sovereignty against the potential coercion that may be imposed by political or collective action, the size of the political unit, measured by the number of members, becomes a relevant variable, quite apart from the presence or absence of an exit opportunity. And political authority may be deliberately shared between a central government and component units, with effective sovereignty partitioned among levels.[1]

Consider, again, a large economy in which a central government, coincident in size with the economy, is limited to the carrying out of protective or minimal state functions. How should the extensions of political activity beyond these limits be organized? How should the public-goods and welfare state activities be structurally designed?

Even if citizens are predicted to remain locationally fixed, and hence within a single jurisdiction, so that exit is not a potentially effective means of institutional control at all, there remains a strong normative argument to be made for establishing relatively small, and coexisting, political units, all of which may be geographically contained within the boundaries of the economic interaction and the territorial reach of the central government. If persons are, for any reason, either unable or unwilling to exercise the exit option, actually or potentially, they may be able to exercise voice, defined here as activity that is participatory in determining political choices. And voice is more effective in small than in large political units. One vote is more likely to be decisive in an electorate of 100 than in an electorate of 1,000 or 1 million. Also, it is easier for one person or small group to organize a potentially winning political coalition in the localized community than in a large and complex polity.

But voice is more than a vote in some precise mathematical formula for measuring potential influence over political outcomes. Neither the set of alternatives among which political choices are made nor the preferences of citizens-voters are exogenous to the processes of political discussion. And it is self-evident that the influence of any person in a discussion process varies inversely with the size of the group.

Even if exit is nonexistent in reality, what we may label as "virtual exit" may be important and relevant in the internal discussion-choice

[1]Roland Vaubel (1995) makes several of the same points that I emphasize here. Notably, Vaubel also used the "exit" and "voice" metaphors in the federalist context.

process. The mere fact that coexisting units of government exist and can be observed to do things differently exerts spillover effects on internal political actions. As a practical example, even though exit was of some importance, especially in Germany, the *observations* of Western economies, culture, and politics by citizens of Central and Eastern Europe were independently critical in effecting the genuine political revolutions that occurred in 1989–91. As an additional conceptual experiment, think about how much less vulnerable the communist regimes would have been if all of Europe had been under communist domination. Or imagine how prospects for the revolution might have fared in a world without television.

Note that the normative arguments for federalizing political authority made so far have not considered the relative economic efficiency of public goods delivery by the different levels of government. Those arguments suggest that, even if productive-welfare state functions could, in some ideal sense, be best carried out by the central government, there are offsetting grounds, based on what we may call "political efficiency," for partitioning political choice (see Brennan and Buchanan 1980: Chap. 9).

## Homogeneity, Moral Capacity, and Federalization

The effects of community size on the individual's protection against political exploitation discussed so far are independent of any consideration of the homogeneity or heterogeneity of the constituent members of the separated state or provincial units. Even if the inclusive polity is made up of similar persons, there remains a normative argument for partitioning effective political sovereignty between central and state-provincial units of governance. If, however, we now introduce prospects for heterogeneity in the inclusive constituency, the argument for federalization is surely strengthened. Small units, defined geographically or territorially, are likely to be more homogeneous in makeup than larger units, and the individual is more likely to share preferences for political action with his or her peers than would be the case where political interaction must include persons who are considered to be "foreign," whether the lines here be drawn racially, ethnically, religiously, economically, or otherwise. If the end objective is the minimization of politically orchestrated coercion, the individual will, personally, feel under less potential threat in a community of similarly situated peers than in a large community that embodies groups with differing characteristics.

Quite apart from the objectively identifiable characteristics that might allow an outside observer to classify persons into groups, the

size of the community also becomes relevant in its direct relationship to the moral capacity of the individual to share values with others. That is to say, homogeneity in values among persons may itself be related to social and locational distance. And those values may include community bonding, which may be expressed in terms of utility interdependence. A person may feel genuine empathy for other persons whom he or she classifies, internally, as members of his or her moral community, the boundaries of which are determined, in part, by numbers and by proximity. For example, I may share a common concern for the plight of persons who are citizens of Montgomery County, Virginia, or, more inclusively, for the plight of the citizens of Virginia, a concern that is either absent or much attenuated with reference to the citizens of Kern County, California, or of California itself.

In a paper that I presented at the American Economic Association meetings several years ago (Buchanan 1978), I argued that each of us has only a limited moral capacity. It is surely easier and more natural to feel sympathy for and care about others who are members of the same small community than it is to care for members of a large polity. I suggested, further, that a major factor in generating the breakdown of the welfare state was the shift of transfer activities to the central government and away from local communities in which political action might well embody a greater sense of interdependence. I suggested that the shift of political activities that must incorporate moral elements to levels of interaction that extend well beyond our moral capacities can only serve to exacerbate the emergence of raw self-seeking by groups of potential clients on the one hand and by those who feel unduly exploited on the other.

The argument here is, of course, related closely to F. A. Hayek's emphasis on our genetic heritage, which is basically tribal, and leads us to classify other persons into two groups—"us" and "them," or "neighbors" and "strangers." Hayek (1979) perceptively noted that only as these genetic dispositions came to be transcended by the culturally evolved norms for generalized reciprocity in interactions did the "great society," defined by the extended market order, become possible. We must recognize, however, that politicization, in itself, explicitly encourages the reemergence of tribal identities. Political action, regardless of how decisions are made, involves choices that are made for, and coercively imposed on, *all* members of the relevant political community. Anyone who is a participant is, almost by necessity, required to classify his or her own interests in juxtaposition against the imagined interests of others in the polity. Federalized structures allow for some partial mapping of politics with tribal identities. At

the very least, federalized structures reduce the extent to which tribal identities in politics must be grossly transcended. This consideration assumes relatively more importance if and as the moral linkages are locational, rather than strictly genetic.

## Federalism as an Ideal Polity and Federalism in Reality

It is relatively easy to describe the ideal structure of politics for a large community, defined by territory or by numbers of citizens, if the overriding objective is the protection of individual sovereignty against political coercion.[2] A central government authority should be constitutionally restricted to the enforcement of openness of the whole nexus of economic interaction. Within this scope, the central authority must be strong, but it should not be allowed to extend beyond the limits constitutionally defined. Other political-collective activities should be carried out, if at all, by separate state-provincial units that exist side-by-side, as competitors of sorts, in the inclusive polity.

This definition of the idealized federalism is useful only because it offers a concrete objective toward which reforms in political arrangements may be directed. In reality, no existing political structure comes close to the ideal. Any constructive effort must therefore commence with an understanding of and appreciation for the politics that is observed to exist. "We start from here and now." This elementary fact should always be prefatory to any discussion of reform.

With reference to the common federalist ideal, however, we may observe categorically different starting places. The situation may be represented by the spectrum in Figure 1, in which a federal political structure stands halfway between a regime of fully autonomous states on the one hand and a monolithic, all-powerful central authority on the other.

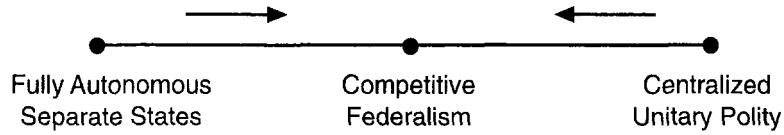
Individual protection against political exploitation is increased as we move toward the center of the spectrum from starting points either left or right of center. In 1787, James Madison sought to increase the authority of the central government; he located the status quo under the Articles of Confederation somewhere to the left of center in Figure 1. He sought to increase the authority of the federal government as a means of placing limits on the authority of the separate states. We know now that United States history has destroyed Madison's vision. As a result of the destructive Civil War in the 1860s, secession was permanently eliminated as an effective extra-constitutional check

[2]The discussion in this section closely parallels that in Buchanan (1995).

on the progressive increase in central government authority. And, in the 20th century, constitutional guarantees against federal encroachment on the authority of states were undermined by executive, legislative, and judicial departures from established principles. At the century's end, therefore, the status quo is clearly on the right side of the spectrum in Figure 1. Effective reform must embody devolution of power from the central government to the states—change that is in the opposite direction from what Madison accomplished in 1787.

*FIGURE 1*

A CONSTITUTIONAL REFORM SCHEMATA




In Mexico, the situation is similar with respect to the direction of change, despite the categorically different history of the country. Reform in the direction of securing effective federalism must incorporate a devolution of authority toward the states and away from the central government.

In Europe, however, matters are quite different. There the status quo exhibits some features that are analogous to those assessed by Madison in 1787. The opportunity has existed, and still exists, to organize European politics so as to put in place a genuine federal structure with many elements of the ideal set out earlier. The Europe-wide economy has been substantially integrated, with historically unprecedented liberties of resource flows and trade across traditional national boundaries. Reform requires the establishment of a strong but limited central authority, empowered to enforce the openness of the economy, along with the other minimal state functions. In this way, and only in this way, can the vulnerability of the individual European to exploitation by national political units be reduced. At the same time, however, the extension of the central authority's powers beyond such minimal limits must be rigidly opposed. The separated nation-states, as members of the federal union, must zealously protect the whole range of subminimal political activities.

Opposition to the federalist idea, especially as expressed in arguments by some U.K. political leaders, stems from an imagined fear of a monolithic central authority in Brussels—a fear that has been fueled, in part, by the residual vestiges of the socialist mentality among some influential nominal supporters of the federal structure. Both attitudes fail to understand that federalism and socialism are contradic-

tory systems of political order. Federalism is a means of reducing political power overall and of dividing the power that exists. Socialism is opposed on both counts.

The opposition to federalism that comes from those who otherwise seem sympathetic to classical liberalism apparently reflects a failure to understand that federalism offers protection against the excesses of the autonomous nation-state. Or could it be that the genuine objective of those who oppose reforms toward federalism is not individual liberty, but rather the preservation of national political sovereignty? It is as if the U.K. anti-federalists are saying, "We do not mind being politically coerced, so long as it is done by the British Parliament."

The position of those zealots in the United States who successfully thwarted the organization of the Conference of the States in 1995 is even more bizarre and surely borders on paranoia. The initiative behind the Conference was aimed almost exclusively toward designing ways and means through which effective political authority could be devolved from the federal government to the separate states. How could those persons and groups who mouth slogans about liberty and oppose such initiatives be other than dishonest or ignorant?

## Postscript: Individual Sovereignty and Individual Liberty

Note that my title is "Federalism and Individual Sovereignty" rather than "Federalism and Individual Liberty." It may be useful to clarify the distinction. What is the ultimate maximand when the individual considers the organization of the political structure? Unless he or she is a genuine anarchist who thinks that private and voluntary action can be efficacious over the whole social space (including basic protections to person, property, and contract), this maximand cannot be summarized as the maximization of (equal) individual liberty from political-collective action. Implementation of such an objective would, to many of us, represent a leap backward into the Hobbesian jungle.

A more meaningful maximand is summarized as the maximization of (equal) individual sovereignty. This objective allows for the establishment of political-collective institutions, but implies that these institutions be organized so as to minimize political coercion of the individual. Coercion is defined as being required to do things or to submit to things others do to you, that you do not, or would not, voluntarily agree to do yourself or to have done to you. A person may give up his or her liberty to steal from others and pay taxes to support the enforcement of laws against theft provided others are subjected to the same general constraints. So long as one's agreement to such

political action is voluntary, the individual's sovereignty is protected, even though liberty is restricted (see Buchanan and Lomasky 1984).

## References

Brennan, G., and Buchanan, J.M. (1980) *The Power to Tax: Analytical Foundations of a Fiscal Constitution.* Cambridge: Cambridge University Press.

Buchanan, J.M. (1978) "Markets, States, and the Extent of Morals." *American Economic Review* 68 (May): 364-68.

Buchanan, J.M. (1995) "Federalism as an Ideal Political Order and an Objective for Constitutional Reform." *Publius: The Journal of Federalism* 25(2): 1-9.

Buchanan, J.M., and Lomasky, L. (1984) "The Matrix of Contractarian Justice." *Social Philosophy* 2 (Autumn): 12-32.

Hayek, F.A. (1979) *The Political Order of a Free People.* Vol. 3 of *Law, Legislation, and Liberty.* Chicago: University of Chicago Press.

Hirschman, A.E. (1970) *Exit, Voice and Loyalty.* Cambridge, Mass.: Harvard University Press.

Tiebout, CM. (1956) "A Pure Theory of Local Expenditures." *Journal of Political Economy* 60 (October): 416-24.

Vaubel, R. (1995) *The Centralisation of Western Europe.* Hobart Paper No. 127. London: Institute of Economic Affairs.