

FEDERALISM, REGIONALISM AND TERRITORY

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Federalism, Regionalism and Territory

Call for Papers

Territory has long been the visible element of national sovereignty. Historically, the definition of frontier (*limes*) has determined who was a member of the community and who was alien. It was within the territory that the law of the state was applied, in the process creating a “*community of destiny*”.

The territory of a federation is the outcome of an alliance (*foedus*) between its component or member states. Each state makes its own territory available to the federation and in so doing accepts limits on its sovereignty. In this territory both state and federal law apply simultaneously; the state populations come to recognise the federation as their new country and as a broader community which embraces them.

However, in federations territory is also what permits competition between the different member states and allows diversity to exist and persist in different parts of the federation, including different institutions and policies, customs and usages, sometimes even languages and religions. Internal state lines may be crossed, but they continue to define political identity and set limits on jurisdiction.

Internal frontiers in a federal state are not necessarily historical in nature and even where frontiers have distant origins, this tends not to have impeded change over time. As a rule, for example, in regional states frontiers are the product of “*constitutional engineering*” but this can be also the case with federations with more distant origins. Frontiers reflect the human factor but they also reflect geographical, economic and, above all, political factors. Often, such constitutional engineering of the territory may be an ongoing process in a search for optimality conditions for the implementation, replacement or termination of specific public policies.

Moreover, each territory has its specific features, sedimentations of historical, cultural and institutional conceptions which frequently become a defining element - or at least are used in that sense - of the identity of the community in the territory. This also conditions attitudes and behaviour in the wider context of the federal/regional state.

In addition, the development of networks, linked to the activities of public services and utilities, has highlighted the importance of the territorial dimension and of the question of the appropriateness of the level of government chosen.

Finally the territorial factor is connected with the mobility of the population, the production of wealth and the allocation of public financial resources and in turn of public expenditure. There is a certain circularity between these elements which requires a legal system capable of generating economies and of developing investment policies which promote development and remove geographical disparity.

We must therefore ask how responsibilities should be allocated in a federal/regional system bearing in mind the character of the different levels of sub-government. But this on its own is insufficient. We must in addition enquire how responsibilities should be allocated to take account of the character of the territory of these levels. The constitutional theory of federalism highlights the fact that writing or re-writing the constitutional rules to establish optimal arrangements for the performance of what in a

given period are defined to be the tasks of government can be an extremely time consuming, arduous and costly operation.

In many cases, therefore, federal and regional systems faced with territorial evolution, instead of reallocating responsibilities, tend to resort to using tools taken from related disciplines, different from those used to allocate responsibilities: for example, interstate or interregional collaboration (horizontal cooperation) or forms of collaboration between the federation (the national government level) and the member states or regions, provinces and local governments (vertical collaboration).

In other cases there is a division of labour whereby responsibilities are allocated between governments according to the so-called *executive federalism*. One level of government is responsible for legislative regulation and another for carrying out administrative functions. In other cases, agencies are set up which are quite distinct from the federation and from the states/regions and which are free to ignore the frontiers of the member states or regions for regulatory or administrative purposes.

Choosing any of these options allows us to avoid constitutional change and to stay with the original allocation of powers. This outcome is all the more likely if the constitutional rules end up being interpreted in vague and inherently contradictory terms. However even this is tantamount to changing the structure of federalism or regionalism, change which *de facto* over time assumes a constitutional character.

Considering federal/regional systems in terms of territory permits a different understanding of the make-up of federations. Federal and regional states must necessarily take account of the impact of their policies over time upon the territory and population.

We must seek to understand how federal and regional states can modify or influence internal boundaries with the aim of making them more appropriate for public policies and for the production of public goods and how, in turn, member states and the regions can set internal optimal conditions by defining the frontiers of sub-regional levels of government.

The Conference welcomes papers from different disciplines including (but not limited to) constitutional law, political science, administrative science and public finance. A paper may focus on one or more of the following themes.

1. General Country Reports

Description and analysis of a country's arrangements for the government of the *territory*. Historical origins of, and major changes in, these arrangements over time. Key dimensions of territorial arrangements and of their historical identity. Is autonomy mainly administrative-or functional in nature?

Is there, or has there at some time been, a "territorial question" with demands for greater autonomy or special powers? Specifically, have there been requests for significant change in "internal (territorial) boundaries"? Have there been particular sources of tension - culture, the economy or other areas which have especial pertinence for the territory?

What agents and tools have been used for the governance of territorial pluralism and for the resolution of conflict or the promotion of cooperation?

The general reports may be country-specific or comparative.

2. Defining and modifying “internal borders”

A distinction may be made between the definition and modification of internal borders and the impact of this upon the efficiency of resource utilisation.

Historical, political and cultural factors have all had a role to play in the definition of internal borders. What has been the relative importance of these single factors in terms of impact? Specifically, have linguistic-ethnic considerations operated? Does a linguistic factor tend to be associated with the concession of fiscal advantage? Are the original reasons for giving importance in a given country to the linguistic question still valid? Have technical-functional factors (for example the re-arrangement of administrative powers) a role here? How have the various factors interacted and created pressure over time for the redefinition of the original internal borders? Do formal arrangements exist for re-drawing internal borders?

What policy principles and instruments appear most consonant with changing the territory with minimal trauma or conflict? What factors have contributed to bring change from below? Which instead have resisted attempts at territorial change from above?

A second set of questions relates to the consequences of borders. What have been the key historical factors helping to determine how powers are allocated among the different territorial institutions?

Yet another set of questions, related but distinct, regards the consequences of territorial boundaries on choices of public services to be delivered and the efficiency with which these are public services are produced and delivered. It is now recognised that the search for optimality in public service provision via appropriate inter-governmental allocation of powers tends to be a search in vain. The desire to maximise allocative efficiency is valid. Operating albeit sub-optimally, we can ask what new problems have arisen due to old (and antiquated) boundaries, how boundaries are effecting service delivery, where communities / cities / metropolitan regions cross regional boundaries. What is the policy significance of situations where boundaries coincide with socio-economic disparities? Is the federation strained by extreme differences in territorial population, geographical extension, income pro capite?

3. Territory and socio-economic disparity.

Has the territorial question tended to be superimposed on that of socio-economic disparity? What have been the institutional responses to this? How successful have existing policies and agencies been in reducing disparity? How can we reduce tension between demands from the territory for more autonomy and powers and the goal of continued social cohesion of existing state systems? What tools are available to help overcome conflict and encourage cooperation?

4. The rebirth of the territorial question?

Is it reasonable to hold that there has been a rebirth of the “territorial question”? In other words, can we retain that the difficulties facing states, together with “internationalisation” of the economy, have brought the territorial question once again to the fore? Has this taken the form of demands for additional powers or for special status for the territory or for the redefinition of the very way states are organised?

After the affirmation of the state and its hegemony based on the “universalisation” of (welfare) rights, can we reasonably argue today that - in certain cases - the weight of past history (legacies) is making itself felt again through the-affirmation of territorial- cultural identities?

How have federal and regional systems reacted to this changed situation? Have these systems been modified or have they taken different forms (such as devolution)? Could this lead to new forms of political cohabitation marked by cultural diversity, or perhaps even explicit attempts to establish new, or strengthen existing, national identities within the state

5. Territory and services

Services may be territorial or state or a mixture of both. How responsibilities are distributed will depend on criteria of a technical or operational character, but also historical, constitutional and financial. The search for the holy grail of optimality in arrangements for the inter-governmental distribution of powers and responsibilities so to maximise allocative efficiency has long been abandoned. However we still need help in deciding how to finance, organise, administer and deliver services within the territory

More specifically, in practice how do we allow for the fact that certain services may have great interest territorially but also be important for the national interest? To what extent can such services be considered to be in part or entirely “territorialized? How do we reconcile the importance of services with the quest for efficiency in service provision? To what degree can there be territorial mobility of citizens even when a service is only partly territorialised?

Is there a “European Union problem” created by the emphasis of the European Court of Justice on the free movement of services and persons (for example, for health care). Or will practical, cultural and linguistic factors work to keep this mobility a marginal phenomenon? Are there lessons to be had here from consolidated federations?