

Federalism and Participatory Democracy: A Manifold Balancing Act

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1 Introduction

Federalism and territorial (re-)scaling, alongside democracy and democratization with participatory democracy, are critical current issues in light of changing societies and patterns of governance. Such changes give renewed impetus to scholarly and practical considerations for adapting federal and democratic institutions and practices. It is a tall order to undertake an exploration of federalism and participatory democracy – this no less so when considering them in connection with diversity and pluralism, and their potential accommodation in complex societies or polities. Taken together, the respective features and principles, and their potential linkages, may comprise a seemingly overwhelming territory of complexity. However, this chapter does not embark on that endeavor without navigational assistance. It aims instead to provide for a possible orientation and prompt further reflection. Territory is here a particularly fitting term for multiple reasons as well. Its organization lies at the heart of principles and many institutions and practices of federalism, democracy and constitutions, as well as the rule of law in and the organization of modern states and polities¹ – yet these principles are not intractably bound to particular territories or regional jurisdictions, but may also cut across them in variable ways, including federalism and federative forms of (self-)governance.² Indeed, federalism, democracy, law and diversity (its accommodation in particular) may each be conceived on their own and in distinction. Yet there may also

1 Cf. recent on theory of territory, relationship between people and polity, borders among others, e.g. Jenna Bednar, “Federalism Theory: The Boundary Problem, Robustness and Dynamics,” in *A Research Agenda for Federalism Studies*, ed. John Kincaid (Cheltenham: Edward Elgar, 2019), 27–38; John Gerring and Wouter Veenendaal, *Population and Politics: The Impact of Scale* (Cambridge: Cambridge University Press, 2020); Margaret Moore, *A Political Theory of Territory* (Oxford: Oxford University Press, 2015).

2 See especially the introduction by Alessi and Trettel as well as the chapters by Alessi, Kössler and Malloy in this volume.

be deep foundational linkages connecting them below the surface. Moreover, they surely become interlinked in political practice.

Federalism and democracy represent particular principles of political organization, for one, and distinct dimensions of government each based on division of powers, for another. Federalism and democracy encompass multiple meanings and link with various ideas and institutional arrangements. Each is thus complex on its own, and their complexity grows when combined into one polity. Against this backdrop, this contribution explores the relationships and linkages between federalism and democracy. It draws on recent comparative federalism research that has taken a more differentiated view of the relationship between federalism and democracy as one of complexity, i.e. not just mutual compatibility, but rather also tensions, and this not least in diverse societies.³ Furthermore, the chapter sets a particular focus on participatory democracy. To this end, it first revisits in compact fashion federalism and democracy as organizational principles and arrangements of division of powers. Secondly, it provides an overview of the linkages between federalism and democracy and their various potentials for tensions. They arise on account of different ideational, structural and functional logics, though also because of commonalities in shared principles, but that are grounded in different points of reference. Thirdly, an outline is proposed regarding the complex relationship between federalism and participatory democracy. This requires examining the ideational dimension and several facets of the institutional dimension regarding structural, functional and procedural arrangements. Accordingly, a variety of participatory democratic channels and the potential for their implementation in federal or multilevel systems is surveyed, which may prove particularly conducive to the establishment and expansion of participatory democracy. Finally, the chapter reflects on this relationship anew in line with the main themes of the edited volume. It considers how to conceptualize the relationship between federalism and participatory democracy not only as one

3 Arthur Benz, *Föderale Demokratie: Regieren im Spannungsfeld zwischen Interdependenz und Autonomie* (Baden-Baden: Nomos, 2020); Arthur Benz and Jared Sonnicksen, eds., *Federal Democracies at Work. Varieties of Complex Government* (Toronto: University of Toronto Press, 2021); Arthur Benz and Jared Sonnicksen, "Patterns of Federal Democracy: Tensions, Friction, or Balance between two Government Dimensions," *European Political Science Review* 9, no. 1 (2017): 3–25; Cristina Fraenkel-Haeberle et al., eds., *Citizen Participation in Multi-Level Democracies*, eds. (Leiden-Boston: Brill-Nijhoff, 2015); Alain-G. Gagnon, *The Legitimacy Clash: Challenges to Democracy in Multinational States* (Toronto: University of Toronto Press, 2023); Alain-G. Gagnon, "Multinational Federalism: Challenges, Shortcomings and Promises," *Regional & Federal Studies* 31, no. 1 (2021): 99–114.

of complexity, but also as balancing acts of accommodating pluralism and diversity along with self and shared rule in complex polities.

2 Delineating Federalism and Democracy

Federalism and other forms of non-unitary division of powers have long been viewed as fundamentally conducive to democracy. Many features of federalism support the premise of an inherently democratic quality to federalism, rendering it quite plausible to presuppose a mutual compatibility between federalism and democracy. For one, they are both grounded in norms and principles of not only liberty and equality, but also self-government. For another, federalism thus seemingly benefits democracy, and vice-versa democracy would be beneficial to federalism. They multiply the spaces and places for institutionalizing and continuously actualizing those underlying norms and principles, i.e. liberty, equality, and self-government, among others. The potential advantages of federalism and democracy span across a wide range: from providing room for maneuver for democratic policy experimentalism, to engendering competition for good policies or citizens who are endowed with rights to participate in (self-)government or defect (e.g. ‘voting by feet’) to other jurisdictions; from imbuing the polity on the whole with multiple layers of checks, balances and safeguards against government encroachment on liberties and rights, to guaranteeing protections for and even empowering minorities.⁴ Regarding the latter, federalism is also commonly purported to exhibit the comparative advantage of an integral capacity to foster and adapt to diversity and assorted minority groups.⁵ Moreover, federalism has been often deemed the most democratic way of facilitating a fair accommodation of multiple identities.⁶ This potential property attributed to federal arrangements bears, of course, fundamental relevance in the context of diversity and pluralism. Federalism has

4 See e.g. comprehensive Michael Burgess and Alain-G. Gagnon, eds., *Federal Democracies* (London-New York: Routledge, 2010). On the wider democratic-theoretical implications of ‘exit’, see e.g. Mark E. Warren, “Voting with Your Feet: Exit-based Empowerment in Democratic Theory,” *American Political Science Review* 105, no. 4 (2011): 683–701.

5 Cf. e.g. Will Kymlicka, *Politics in the Vernacular: Nationalism, Multiculturalism, and Citizenship* (Oxford: Oxford University Press, 2001); Luis Moreno, César Colino and John Kincaid, eds., *Diversity and Unity in Federal Countries* (Montreal: McGill-Queen’s University Press, 2010); see also the chapters by Kössler and by Malloy in this volume.

6 Helder De Schutter, “Federalism as Fairness,” *Journal of Political Philosophy* 19, no. 2 (2011): 167–189.

even been treated in the classic typology of patterns of democracy by Lijphart⁷ as a constitutive feature of the consensus-democratic type – i.e. as opposed to majoritarian, power-concentrating type – given its in-built propensity to power-sharing. This feature may in turn underscore the appropriateness of adopting federalism in diverse or divided societies.

Federalism and democracy have a great deal in common. Beyond a grounding in principles of freedom, equality and self-determination, they both have deep developmental links with constitutions, and with that, separation of powers, but also constituency and representation.⁸ However, the features of *constitutionalism* and *division of powers*, as well as *constituencies* and the presupposition of their *equality* with need for effective *representation*, have different points of reference (see also Figure 4.1 below).⁹ This warrants a brief, albeit schematic, re-summary of federalism and democracy. In democracy and democratic government, the constitutional compact emanates from a people, conceived as a *demos* presupposed to enjoy popular sovereignty, and thus a collective right to self-determination. In modern constitutions moreover (i.e. as opposed to antiquity, or the Western ‘Medieval’ times etc.), the division of powers in popular government, which is predominantly representative-democratic government, runs chiefly between branches of government. Here, the popularly elected legislative and executive ones have pivotal democratic significance. Accordingly, the constituents, who in constitutional terms also comprise a collective *pouvoir constituant*, are citizens or the citizenry. Democratic equality refers foremost to their equal rights and value, which is not only, but prominently embodied in the electoral rules of ‘one person, one vote’ (of equal value; i.e. counting the same). The institutions and procedures of political representation are, moreover, principally based on population as well as people as individuals or diverse groups. The social contract of federalism, on the other hand, comprises a *foedus*, a compact or “covenant”¹⁰ among communities. In modern federal systems, they have (ideal-)typically either aggregated or ‘come together’ as sovereign units, or have disaggregated from a

7 Arend Lijphart, *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries* (New Haven: Yale University Press, 1999).

8 Jared Sonnicksen, “Federalism and Democracy,” in *Encyclopedia of Contemporary Constitutionalism*, eds. Javier Cremades and Cristina Hermida (Cham: Springer, 2022a), 1–17, https://doi.org/10.1007/978-3-319-31739-7_207-1.

9 See e.g. overviews in Sonnicksen “Federalism and Democracy,” and Jared Sonnicksen, *Tensions of American Federal Democracy: Fragmentation of the State* (London-New York: Routledge, 2022), 48–50.

10 Daniel J. Elazar, “The Political Theory of Covenant: Biblical Origins and Modern Developments,” *Publius* 10, no. 4 (1980): 3–30.

FIGURE 4.1 Democratic and federal principal features and points of reference

Features	Democracy	Federalism
Constitution	Demos	Foedus
Division of powers	Branches of government	Levels of government
Constituency	Citizens	Constituent units (e.g. states, regions, or other communities)
Equality		
Representation	Population-, group-based	Territory/region/community-based

SOURCE: OWN DEPICTION

preceding unitary polity into a federal union so as to ‘hold together’¹¹ – though there are also many other forms, shades and constellations of federal unions, not to mention non- or cross-territorial based ones. Depicted in similar vein for federalism, the division of powers runs chiefly between governmental levels: a federal, national or otherwise superordinate one, and the constituent unit ones. The latter, irrespective of denomination (e.g. autonomous regions, cantons, Länder, provinces, or states), represent the *pouvoirs constituants*, i.e. in chiefly territorial based federal systems at least. They hold (ideal-)typically equal partial sovereignty or constituent power – though asymmetric allocations of authority are both theoretically conceivable and existent in practice –, which is also institutionalized in their respective governmental level, while political representation is accordingly foremost territorially, regionally or community based.

In line with the different points of reference, federal and democratic governments involve different institutions, institutional arrangements and procedures.

Democratic governments, again in modern polities, are by and large constituted as representative democracies. Yet, the principle of popular government based on citizen equality, voting rights, and other forms of co-determination, do not implicate one specific institutional set-up. Democratic theory and practice reveal a wide variety of democratic government arrangements. They

11 Alfred C. Stepan, “Federalism and Democracy: Beyond the U.S. Model,” *Journal of Democracy* 10, no. 4 (1999): 19–34.

include (see also Figure 4.2 below) the constitutional *form of government* and its division of powers among government branches, which may be rather prone toward separation of powers or a more fluid, fused relationship. In the former, executive and legislative branches are elected separately and enjoy fixed terms of office as typified by presidential systems – e.g. USA, but also many Central and South American countries –; while in the latter case, the executive emanates from the legislative (i.e. parliament) and remains dependent on its confidence. In the parliamentary case, the executive can be removed prematurely through votes of no confidence, though it often also has power to dissolve parliament early.¹² Moreover, a further series of *structural* features determines the rules and organization of democratic government, most notably (though not exhaustively) the electoral system, other electoral or popular voting procedures (e.g. referenda, initiatives), the party system, and the system of interest mediation. Each of them may correspond with various forms or sub-types. While by no means solely deterministic, these structural-institutional features have fundamental impact on the functional logic and operation of democratic governance: for instance, whether democratic governance conforms to (simple) majoritarian or consensus patterns,¹³ whether the dynamics of decision making conform to government-versus-opposition dualism or more variable coalitions, among others.

This outline is limited in referring to democracy as form of government in contemporary political systems and not the spectrum of democracy in theory. Capturing the latter would require a much more multifaceted review of democracy from, for example, further normative perspectives and even as a way of life. Instead, this depiction focused first on representative institutions. However, while participation inheres to any democratic government – elections being part and parcel of representative democracy, and thus a pivotal avenue of citizen participation –, participatory democracy extends and multiplies the channels and mechanisms of participation (which is explored further below and in relation to federalism). To be sure, democratic government is organized not only in a polity. It is also, fundamentally, constituted with a

12 Most European countries and majority of other modern democracies including federal ones like Australia, Austria, Belgium, Canada, Germany, India and Spain; see e.g. typology by Matthew Søberg Shugart and John M. Carey, *Presidents and Assemblies: Constitutional Design and Electoral Dynamics* (New York: Cambridge University Press, 1992); cf. also for comprehensive review by Mahir Tokatlı, *Auf dem Weg zum ‚Präsidialsystem alla Turca‘? Eine Analyse unterschiedlicher Regierungsformen in der Türkei seit 1921* (Baden-Baden: Nomos, 2020), 61–118.

13 Lijphart, *Patterns of Democracy*.

FIGURE 4.2 Democratic-government arrangements

Form of government	Executive-legislative relationship	<i>Separation of powers (separate elections)</i> e.g. presidential system <i>Fusion of powers (confidence relationship)</i> e.g. parliamentary system
Structures of politics	Electoral system Further voting Party system	e.g. plurality / majority v. proportional e.g. direct democracy and plebiscites; e.g. two v. multiparty; moderate v. polarized
Logics of operation	Interest mediation Majoritarianism Consensus	e.g. pluralist v. corporatist, lobbying e.g. competition, “winner takes all”, “minimum-winning” coalitions e.g. concordance / ‘Proporz’; consociational; negotiation; concertation

SOURCE: OWN DEPICTION

respective jurisdiction linking people or *demos* to governmental institutions elected by and (supposed to be) responsible and accountable to the people. This polity with constitutive democratic jurisdiction linking government and citizenry becomes even more multidimensional in a federal system.

Federalism likewise encompasses various forms, types and ideas¹⁴ (see also Figure 4.3 below), and entail an own kind of division of powers. A federal system is most typically conceived as an organization of the state or polity with a territorial-based allocation of powers that is primarily *vertical*, i.e. between levels of government. However, even when the constituent units are on equal footing, the federal *division of power* does not prescribe one particular arrangement. From the outset, the constitution may set forth a stricter separation of powers and/or functions between levels as typified in dual federal systems, or variable arrangements spanning from flexible to compulsory cooperation, sharing of responsibilities or joint-decision making (i.e. common tasks that require cross-level decision making and/or implementation). The diversity of

14 See e.g. comprehensive review by Ronald L. Watts, “Federalism, Federal Political Systems, and Federations,” *Annual Review of Political Science* 1, no. 1 (1998): 117–137.

formal federal arrangements expands in light of models such as asymmetric federalism. For instance, not all regions or constituent units may enjoy the same scope of powers, authority, autonomy, etc. The division of powers can apply to specific functions (e.g. a division of labor in legislating vs. implementation, revenue raising vs. expenditure) or rather groups (e.g. linguistic, religious, ethnic, various minorities or indigenous population), which may or may not be territorially concentrated, while federal governance may also be configured in non-territorial terms.¹⁵

The relationship between government levels may change over time. This also points toward the relevance of an elemental feature of federalism, namely *intergovernmental relations*. Their institutions and practices may correspond to the formal structural and constitutional division of powers. Again, they may be more prone to separation and therefore possibly competition or, instead, favor unilateralism between levels of government and among constituent units, or rather lean more toward cooperation. Shifts in practice occur such as when stricter dualistic systems develop arenas and fora for voluntary cooperation and coordination of cross-jurisdictional political tasks and problems. Yet, intergovernmental relations serve not only effectiveness of policy making, but also democratic ends.¹⁶ They can contribute to managing the ‘balancing act’ between upholding self-rule and autonomy and to coping with interdependencies that arise from innumerable challenges of modern government and societies.¹⁷ In addition, federal systems exhibit different *logics of operation*. They may coincide, in variable fashions and extents, with the institutional arrangements of separation or sharing between government levels as well as among constituent units and communities.

Democratic and federal arrangements reveal a spectrum of variety in their respective institutional designs as well as structural and functional propensities. This applies already with a selective view to conventional representative democratic government and to federalism as a system. Each may tend toward separation of powers with more or less ‘checks and balances’; toward variable forms of power sharing; or different patterns and intensities of cooperation, interlinkage and interaction. They share common features embedded in

15 See e.g. César Colino, “Varieties of Federalism and Propensities for Change,” in *Federal Dynamics: Continuity, Change, and the Varieties of Federalism*, eds. Arthur Benz and Jorg Broschek (Oxford: Oxford University Press, 2013), 48–69; see also again chapters by Alessi, Malloy, and Kössler in this volume.

16 Samuel Beer, “Federalism, Nationalism, and Democracy in America,” *American Political Science Review* 72, no. 1 (1978): 9–21.

17 Arthur Benz, *Föderale Demokratie*.

FIGURE 4.3 Federal-system arrangements

Division of powers	between levels of government	strict separation of powers (e.g. dualistic) sharing of powers (e.g. cooperative) symmetric or asymmetric based on e.g. territory, function, group, sector
Intergovernmental relations	vertical relations horizontal relations	e.g. separated jurisdictions and/or tasks vs. cross-level cooperation and coordination; informal or institutionalized relations e.g. separated jurisdictions and/or autonomy vs. Interstate/-regional cooperation and/or joint tasks; informal or institutionalized relations
Logics of operation	self-rule shared rule	e.g. distinction-emphasis, competition, unilateralism e.g. coordination/cooperation-emphasis, multilateralism

SOURCE: OWN DEPICTION

constitutionalism, the modern state, notions of equality, constituency, and collective self-government, among others. Yet, their points of reference differ: the constituent people, *demos* or citizenry, on the one hand, and the constituent *places*, territorial units or otherwise demarcated communities, for another. What is more, federalism comprises manifold jurisdictions of autonomy or self-rule. It can thus multiply democratic *governments* and hence linkages with *demoi* endowed with rights and eligibility of participation. However, this does not implicate a necessary compatibility or necessarily produce compounded democratization. In short, more federalism does not equate to more democracy per se. However, it *can* enable and even foster democratic government, not least in diverse societies. Federalism may invite a particularly suitable framework for the institutionalization of participatory democracy beyond regular elections.¹⁸ Democratic government and federalism create a complex and multidimensional relationship when combined. This warrants on the other hand examining the linkages and potential tensions underlying this relationship.

18 See also the chapter by Trettel in this volume.

3 The Linkages, Tensions and Complexity between Federalism and Democracy

Federalism and democracy each have a long history reaching back millennia into the past. They have changed tremendously, moreover, with the evolution of modern states, constitutionalism and governance. Further transformations in the complexity of society as well as the extent and diversity of belongingness have prompted federal and democratic changes that help integrate pluralism. Institutions and practices include meanwhile core features such as mass political parties and interest group mediation in democracy, or bicameralism and cross-level intergovernmental relations in federalism. Hence, federalism and democracy are much more diverse in their respective variants than their historical predecessors. Earlier modern thinkers such as Montesquieu or the U.S. *Federalists* supposed an inherent or 'natural' congruence between federalism and democracy. Their ideas are influential to this day. However, such premises were derived from different conditions and a much more limited scale and range of government, state capacity, and even the demos itself.

Federalism and democracy can and have been able to exist with and without the other. Whether democracy is better in a federal system is an unresolved question in philosophy, social science and political science.¹⁹ Moreover, having a federal system does not automatically qualify a democracy as a specific variant, like a 'consensus democracy', as the majoritarian democracies of Canada, the U.S. or India demonstrate. Empirically there are more non-federal than federal democracies to be found – though in a globalized world, and within the EU of a 'Europeanized' union, they often find themselves embedded in integrated and intersected multilevel systems. Conversely, from a normative standpoint, federalism, and arguably any political system for that matter, is preferable when it is democratic. Historical experience and current practices attest to a desirability of democratic federalism too. If anything, this holds true since non-democratic federations, while constituting an arrangement of divided authority, strictly limit the scope of eligible participation in self- or co-government and fail to protect citizens' rights and liberties. All the same, with a focus on federalism *and* democracy, it remains necessary to capture the complex relationship, with manifold interconnections but also potential tensions and challenges.

19 Cf. e.g. John Gerring, Strom C. Thacker and Carola Moreno, "Centripetal Democratic Governance: A Theory and Global Inquiry," *American Political Science Review* 99, no. 4 (2005): 567–581.

A federal democracy with its multiple levels of government and democratic jurisdictions and/or other demarcated communities offers additional constitutional provisions of rights and protections against their violation, and thus inversely safeguards liberty vis-à-vis the state, or the states. Theoretically, this arrangement offers checks and balances for limited government, as well as constructive opportunities for ‘voice’ and ‘vote’ in, but also ‘exit’ from and ‘switch’ to, multiple jurisdictions.²⁰ The actual exercise of these powers by the citizenry or *demos* – as well as their anticipation (e.g. the threat of exit, the anticipation of elections, the threat of vetoes) – engender and incentivize processes and dynamics of representation and responsiveness. The constitution of a federal democracy firmly, though not unalterably, allocates rights, responsibilities and restrictions across multiple government branches and levels. It empowers, endows and enables both constituent units (or communities) and citizen constituents to collective self-government(s). The potential mutual advantages may be enjoyed irrespective of the composition of the society. They would be beneficial for a rather homogenous *demos*. However, they take on particular relevance, and even necessity, for multinational, heterogeneous and diverse plural societies as well as affected minorities. Otherwise, regular majoritarian democratic rules and institutions without federalism could lead or contribute to recurring overruling, marginalization, and other detrimental effects.

At the same time, as the previous section elaborated, federalism and democracy differ with regard to their respective institutions and structures, while many of their fairly common or analogous principles differ in their points of reference. This may lead to tensions, contradictions, and even dilemmas. As such, they cannot be solved per se, but they can be coped with.²¹ From a theoretical standpoint, the additional levels and communities of government in federalism could be construed as multiplying spaces and channels for participation and protection of liberty. Yet this also suggests multiplication of governmental institutions and powers, and thus potentials for rule, coercion, taxation and so forth that citizens are subject to. Historical cases and current federal autocracies show that federal systems cannot only be undemocratic, but may also provide institutional structures and constitutional rules that wind up serving the continuation of sub-national authoritarianism.²² This warrants

20 See e.g. Jacob T. Levy, “Federalism, Liberalism, and the Separation of Loyalties,” *American Political Science Review* 101, no. 3 (2007): 459–477; Wallace E. Oates, “An Essay on Fiscal Federalism,” *Journal of Economic Literature* 37, no. 3 (1999): 1120–1149.

21 Arthur Benz and Jared Sonnicksen, “Patterns of Federal Democracy,” 3–25.

22 Edward L. Gibson, *Boundary Control: Subnational Authoritarianism in Federal Democracies* (Cambridge: Cambridge University Press, 2013); see also the chapter by Kössler in this volume.

caution against attributing to federalism a built-in democratic-promoting nature or character, at least wholesale. However this does not permit the inverse conclusion that federalism hinders democracy either. Nor is the potential for normative transfer of federalism theories and ideas to democratic government diminished. Nevertheless, potentials for institutional, structural and functional inconsistencies and mismatches remain.

The linkage of territory with the political in general is multifaceted. Federalism has conventionally been an organization of the state or polity into levels of government and constituent units. Though again, territory is constitutive for any modern state and democratic government, while – as several chapters in this volume address – federalism is by no means limited to a territorial-unit basis. Federal territorial and jurisdictional architecture – or otherwise configured federative communities – bring along multiple spaces and places of self-government. Yet, this also implicates necessities of coordination and challenges to politics, e.g. in processes like elections, interest mediation, and representation in line with the multiple levels of the polity.²³ Moreover, in the context of adapting to pluralism, the allotment of autonomous territory may be a suitable measure to serve minority protection and accommodate diversity, but this is an ambivalent issue for multiple reasons.²⁴ There may be non-territorially concentrated minorities or plural groups, while notions of pluralism as well as affected or defined groups may change incongruently with constitutionally delineated units. The diversity warranting accommodation may not necessarily match with certain territorial boundaries: e.g. a specific significant minority that is dispersed across the polity, or new autonomy-aspiring groups may have emerged elsewhere or increased in another jurisdiction. Subsequent re-apportionments, re-scaling or redistributions may pose a challenge to a federal democracy since the rules for amending the constitution typically involve high super-majoritarian thresholds of consent.²⁵

23 For overview, see e.g. Klaus Detterbeck and Eve Hepburn, eds., *Handbook of Territorial Politics* (Cheltenham: Edward Elgar, 2018).

24 Francesco Palermo, "Owned or Shared? Territorial Autonomy in the Minority Discourse," in *Minority Accommodation through Territorial and Non-territorial Autonomy*, eds. Tove H. Malloy and Francesco Palermo (Oxford: Oxford University Press, 2015), 13–32.

25 Arthur Benz, *Constitutional Policy in Multilevel Government: The Art of Keeping the Balance* (Oxford: Oxford University Press, 2016); Richard Simeon, "Constitutional Design and Change in Federal Systems: Issues and Questions," *Publius* 39, no. 2 (2009): 241–261.

Separation of powers and the division of authority is characteristic of both democracy and federalism. However, neither subsumes the other. They are distinct and have different points of reference (like with the principle of equality) for different kinds of structural and functional arrangements. In addition to presupposing popular sovereignty in the demos, democratic government divides power between branches of government on one level. Conversely, federalism entails the division of powers between governments at different levels, though also among the constituent-unit ones and, as case may be, other communities. While simplified, this outline provides for orientation. However, these division-of-power models actually interact and can even blur upon closer inspection, thus becoming difficult to distinguish. As one example, the second chamber of a legislature at the federal level of government is often understood as a typically federal feature. It allows for representation and participation of lower-level governments, whether the representatives are popularly elected, appointed or otherwise delegated. However, bicameralism is immediately relevant to the division of powers at one level of government, namely the federal level, and thus impacts *its own* democratic government.

In terms of representation, the combination of federalism and democracy generates “compounded” principles and modes of democratic and federal representation²⁶ of constituent people and communities. Federal representation and democratic representation become entangled or interspersed. A democratic federal system encompasses numbers and types of veto ‘players’.²⁷ This has extensive ramifications for political decision making and propensities for policy change – from competitive to cooperative, from negotiating, collaborating and bargaining to defections and blockades. Furthermore, federalism and democracy combine institutions that follow different and often “rival institutional logics”²⁸ in government. Gerhard Lehmbruch conceptualized one type of incongruity of institutional rules and arrangements conducive to frictions as a “rupture” or collision between the “tectonic plates” of competitive government-versus-opposition party politics of parliamentary government, on one hand, and the intergovernmental coordination and negotiation logics of

26 Thomas D. Lancaster, “Complex Self-identification and Compounded Representation in Federal Systems,” *West European Politics* 22, no. 2 (1999): 59–89.

27 George Tsebelis, “Decision Making in Political Systems: Veto Players in Presidentialism, Parliamentarism, Multicameralism and Multipartyism,” *British Journal of Political Science* 25, no. 3 (1995): 289–325.

28 Campbell Sharman, “Parliamentary Federations and Limited Government: Constitutional Design and Redesign in Australia and Canada,” *Journal of Theoretical Politics* 2, no. 2 (1990): 205–230.

cooperative federalism, on the other.²⁹ The rules of democratic government induce a particular logic of politics linked with “responsible government” between executive and party- or coalition majority in parliament. Yet, they can contravene the federal logic of politics when partisan dualism permeates into decisions on policies requiring formal consent or effective coordination by governments representing constituent units. Nevertheless, this friction of democratic-party politics in federal governance is not merely an interference or disturbance. It is likewise expression of the compounded principles and modes of representation in federal democracy. Put simply, federalism affects and changes how democratic government works and vice-versa.³⁰ The cross-level organization of parties – or other political and civil societal actors – may prove in many cases just as conducive to absorbing tensions, aggregating, channeling and negotiating differences and thus accommodating or ameliorating divides that would otherwise prove too difficult to bridge.³¹

Interest group and association representation as part of democratic governance is also affected by federalism. The federal system opens up and fosters multiple channels of inclusion and diversified participation for interest group mediation. There are comparatively more opportunities for gaining access to or being consulted by democratic actors and institutions. This bears relevance for intergovernmental relations in general. Intergovernmental relations may complicate the attribution of responsibility, e.g. when actors from different levels negotiate and reach compromises in multi-level settings. However, they may also be conceived as furthering democratic governance overall.³² While there is a preponderance of executive actors in these arenas – as implied by *intergovernmental* –, they remain accountable to legislatures and citizens. Intergovernmental relations also may create additional arenas and processes for further types of civil society actors and interest groups to enter into consultation and even cooperation. On the whole, the development and dynamics of

29 Gerhard Lehbruch, *Parteienwettbewerb im Bundesstaat. Regelsysteme und Spannungslagen im politischen System der Bundesrepublik Deutschland*, (3rd ed., Wiesbaden: Westdeutscher Verlag, 2000).

30 These tensions are not limited to federal systems with parliamentary government, as the politically polarized U.S. case – a separation-of-powers presidential government with dual federalism – shows; see e.g. Sonnicksen, *Tensions of American Federal Democracy*.

31 See e.g. Jared Sonnicksen, “Konträr oder konstruktiv? Zur produktiven Widersprüchlichkeit zwischen Föderalismus und parlamentarischer Demokratie,” *Zeitschrift für Parlamentsfragen* 55, no. 1 (2024): 93–108.

32 Thomas O. Hueglin, “Federalism and Democracy: A Critical Reassessment,” in *The Global Promise of Federalism*, eds. Grace Skogstad, David Cameron, Martin Papillon, and Keith Banting (Toronto: University of Toronto Press, 2013), 17–42.

a democratic federal system can affect both democratic governance and federalism in practice. These manifold dynamics stem from the combination of differently configured government dimensions but also their logics of politics, which may evolve through mutual influence.

Veritable frictions can emerge between the two institutional arrangements due to 'rival' logics and contradictions and on account of overlaps and ambiguities. Cross-cutting both the federal and democratic dimensions are, again, the analogous principles of individual and collective self-determination, between self and shared rule, and between different constituencies. Democracies as government by popular rule, are always bound to a territory and in many respects organized territorially (e.g. electoral districts, the *demos* at large, etc.), while federal governance cuts across boundaries of territories and jurisdictions. Popularly elected parliaments and accountability of executives for one, and cross-level coordination, intergovernmental relations and constitutional amendments for another, link institutions and actors. They also generate multiple, yet often incongruous accountability and representation relations. Political actors of multiple branches and at different levels of government must grapple, wittingly or not, with the tensions arising out of different and at times conflicting political logics – of representation, accountability, constituency and appropriateness. The government dimensions interlink, and their respective institutions interact, not least because numerous public policy problems transcend the institutional structures of levels of government in federal systems. The different governments and even individual institutions remain bounded to the respective democratic representation, accountability and legitimacy structures of their constituencies. Nevertheless, inter-branch, -level and -governmental relations across jurisdictions develop in democratic multilevel systems.

The operation and dynamics of federal democratic government result from the way democratic and federal politics are linked, the *coupling* between federalism and democracy.³³ Again, federalism and democracy are distinct institutional dimensions of government operating by their own logic and mechanisms of collective action. They become linked not merely through their formal conjunction or co-existence, but also and above all through practices. The institutions of the federal system and democratic government allocate powers and mechanisms in ways that affect the dynamics of governing. Coupling then refers to how these powers and mechanisms are linked. The type and intensity

33 Arthur Benz, "Ein gordischer Knoten der Politikwissenschaft? Zur Vereinbarkeit von Föderalismus und Demokratie," *Politische Vierteljahresschrift* 50, no. 1 (2009): 3–22; Benz and Sonnicksen, "Patterns of Federal Democracy," 3–25.

of structural and functional linkage between levels, branches and arenas of democratic and federal government and politics of course differ, ranging from tightly to loosely coupled to decoupled altogether.

These different constellations may foster negotiation or underline autonomy, reinforce competition or encourage cooperation. Coupling of federalism and democracy entails both complexity and the potential for tensions. However, it also implies patterns and processes for coping with tensions and differences. This bears particular relevance for accommodating diversity and pluralism in particular as well as managing complexity in general. Federalism and democracy have a complex relationship given their joint multidimensionality. Their mutual interaction, influence and co-evolution create compounded forms of constituency and institutions as well as processes of representation and participation.

4 Exploring Federalism and Participatory Democracy

Federalism and participatory democracy comprise a special relationship, especially given the potential suitability of federalism for participatory democracy. This applies all the more so when also considering federalism from an ideational perspective, theoretical lens, or as a way of power sharing and shared rule.³⁴ Moreover, federalism may be compatible with participatory democracy in fashions that differ from the relationship to conventional representative democracy.

Representative democracy offers one possible way of organizing popular rule by the many. It is a predominant model in modern democratic governments with different possible arrangements. Without expounding on varieties of democracy in depth, numerous grounds invite reflection on democratizing reforms within established democracies as well as federal or otherwise multi-level and non-centralistic ones. The conditions underpinning and surrounding the exercise of popular rule have been in transition on multiple accounts. From changing patterns of governance to value reorientations, demographic shifts and growing diversity of societies, issues of democratic participation “beyond the vote” appear increasingly relevant and in demand.³⁵ Of course,

34 Sean Mueller, “Federalism and the Politics of Shared Rule,” in *A Research Agenda for Federalism Studies*, ed. John Kincaid (Cheltenham: Edward Elgar, 2019) 162–174.

35 Henrik S. Christensen, *Political Participation Beyond the Vote: How the Institutional Context Shapes Patterns of Political Participation in 18 Western European Democracies* (Åbo: Åbo Akademi University Press, 2011).

there is a large variety of democratic-reform perspectives. However, taken together, they point to limits in conventional representative democracy as overly reliant on elections with an aggregative model. The latter may comply with rather economic-rational or market (e.g. Downsian, Schumpeterian) democratic theories, but are unsuitable or have become insufficient for contemporary pluralism.³⁶

Democratic challenges do not just arrive on account of practical problems. They are also posed by democracy itself and several of its corresponding normative requisites. They include congruence – i.e. the ‘match’ between being affected by something and capacity to co-decide on it; effective articulation – i.e. expression of interests, ideas and identities; responsiveness – ensuring consideration and attentiveness on the part of political actors and institutions; and representation – i.e. the effective reflection of citizens and groups in their diversity. These requisites comprise cardinal questions of democracy to establish and enable participation and inclusion of all members of the demos as equals. Limits and perceived deficits to fulfilling democratic goods and promises have elicited reform discourse on democratizing democracy by introducing and expanding elements of “strong”³⁷ and “vital”³⁸ democracy and thus respective participatory reforms. The introduction and expansion of direct democratic instruments provide one immediately relevant tool for potential democratization. Plebiscitary democratic procedures enable citizens to take part directly – i.e. not mediated via (elected) representatives – in popular co-determination, whether through popular initiatives or citizen-legislation like referenda and other plebiscites such as popular ratification of constitutional amendments. They pose but one set or type of participatory democracy that is still fundamentally voting-based.

The fulfilment of democratic requisites becomes more complex – and from normative perspective increasingly necessary – on account of heightened sensitivity to inclusion, and against marginalization of minority and underprivileged persons and groups and toward the inclusive representation, ideally, of all societal groups.³⁹ For the most part, and even including certain

36 See e.g. Alberto Melucci and Leonardo Avritzer, “Complexity, Cultural Pluralism and Democracy: Collective Action in the Public Space,” *Social Science Information* 39, no. 4 (2000): 507–527.

37 Benjamin R. Barber, *Strong Democracy: Participatory Politics for a New Age* (20th Anniversary ed., Berkeley: University of California Press, 2009).

38 Frank Hendriks, *Vital Democracy: A Theory of Democracy in Action* (Oxford: Oxford University Press, 2010).

39 Iris M. Young, *Inclusion and Democracy* (Oxford: Oxford University Press, 2000).

adjustments and protections (like various thresholds, reserved seats, eligibility rules), voting-based procedures – whether regular elections or plebiscitary-direct democratic votes – correspond to an aggregative model that ultimately tends to result in winning majorities and losing minorities. Participatory approaches like deliberative democracy⁴⁰ emphasize inclusion of affected groups in decision-making processes to participate in discourse, exchange and argumentation. Deliberative and participatory forms and processes, moreover, allow citizens opportunities of direct exchange of opinions and position transformation, as well as experiences of empowerment and political efficacy in general, and autonomy and self-determination in particular.⁴¹ These demands take on particular weight and necessity in heterogeneous and divided societies.⁴² Under such conditions, democratic majoritarianism may prove untenable. It could even reinforce divisions, for instance when democratic procedures enable or perpetuate the ‘majoritarization’ or overruling and exclusion of minorities.

Other forms of participatory processes and institutions, as conceptualized in associative democracy, prescribe a manifold corporative, co-op type organization of political decision-making processes and co-determination by associative groups.⁴³ With affinities to neo-corporatist interest mediation, the associative-democratic participation of associations, civil society actors, and other groups extends further. They can be linked with one another and with governmental institutions to provide for further democratic anchorage – i.e. in addition to representative-democratic based ones – of decentralized and network-type arrangements of governance.⁴⁴ The participatory-democratic

40 James S. Fishkin, *Democracy and Deliberation* (New Haven: Yale University Press, 1995); Jürgen Habermas, *Between Facts and Norms* (Cambridge: Polity Press, 1996); see also comprehensive e.g. Stephen Elstub and Peter McLaverty, eds., *Deliberative Democracy: Issues and Cases* (Edinburgh: Edinburgh University Press, 2014); see also the chapter by Trettel in this volume.

41 See e.g. Archon Fung, *Empowered Participation: Reinventing Urban Democracy* (Princeton: Princeton University Press, 2004).

42 See e.g. Ian O’Flynn, “Pulling Together: Shared Intentions, Deliberative Democracy and Deeply Divided Societies,” *British Journal of Political Science* 47, no. 1 (2017): 187–202.

43 Paul Hirst and Veit Bader, eds., *Associative Democracy: The Real Third Way* (London: Frank Cass, 2001).

44 *Ibid.*; Veit Bader, “Associative Democracy: From ‘the Real Third Way’ back to Utopianism or Towards a Colourful Socialism for the 21st Century?,” *Thesis Eleven* 167, no. 1 (2021): 12–41; Sabine Kropp, “Federalism, People’s Legislation and Associative Democracy,” in *Citizen Participation in Multi-Level Democracies*, eds. Cristina Fraenkel-Haeberle et al. (Leiden-Boston: Brill-Nijhoff, 2015), 48–66; Eva Sørensen, “Democratic Theory and Network Governance,” *Administrative Theory and Praxis* 24, no. 4 (2002): 693–720; Eva Sørensen

spectrum extends to a large variety of potential internet, digital or e-democratic procedures and practices (e.g. polling, e-voting, forums, and liquid democracy).⁴⁵ Another arrangement that has found increasing attention in both scholarship and practice in multiple countries concerns citizen assemblies. Typically they are composed of randomly selected citizens, convened on ad-hoc or recurring basis, for regular policy- or constitutional political issues, at various levels of government, and operate as consultative deliberative ‘mini-publics’ and even co-determining governance bodies.⁴⁶ The preceding reveals a selection of assorted democratic possibilities. While different, they share basic commonalities of fundamental interest in political equality, inclusion and their improved realization in political practice.

Transformations of governance, societies and democracy elicit several overarching problems and challenges. The latter relate to congruence, representation, inclusion and participation in principle and their realization under conditions of complex governance, societal pluralism and manifold diversity. Democracy commits governments and communities to ensuring possibilities for citizens to have an effective say in how they live together. In turn, it is necessary to ask how living together can be shaped so that there are adequate spaces within which democratic promises can be fulfilled for diverse social groups. In the history, theory and practice of democracy, numerous models are available that provide potential answers to these questions, including for heterogeneously composed polities with multiple demoi. At the same time, federalism provides a particularly suitable framework to these ends. From the structural and constitutional perspective, the federal division of powers with multiple levels of government is inherently open to multiple channels of access and thus input. Moreover, federalism bears an affinity to pluralism, with self-rule underlining self-governance in a pluralism of communities, while shared rule implicates a general thrust toward cooperation and coping necessary in light of the virtual inevitability of diversity of citizens and groups with multiple to overlapping identities and memberships.

and Jacob Torfing, “The Democratic Anchorage of Governance Networks,” *Scandinavian Political Studies* 28, no.3 (2005): 198–200.

45 See e.g. Stephen Coleman and Jay G. Blumler, *The Internet and Democratic Citizenship: Theory, Practice and Policy* (Cambridge: Cambridge University Press, 2009).

46 See e.g. Hubertus Buchstein, “Democracy and Lottery: Revisited,” *Constellations* 26, no. 3 (2019): 361–377; Nicole Curato and Marit Böker, “Linking Mini-Publics to the Deliberative System: A Research Agenda,” *Policy Science* 49, no. 2 (2016): 173–190; Kimmo Grönland, André Bächtiger and Maija Setälä, eds., *Deliberative Mini-Publics: Involving Citizens in the Democratic Process* (Colchester: ECPR Press, 2014).

Various institutions of federalism already reveal possibilities of participatory democratic anchorage. As with intergovernmental relations, an elaborate spectrum of arenas, fora and channels emerge in federal systems in order to manage the complexity and cross-cutting interdependencies in a system with multiple levels and jurisdictions.⁴⁷ They also, however, engender participatory democracy, at least in broad sense, because governmental actors in multiple branches and from multiple levels must interact, coordinate and negotiate. This may not conform to majoritarian democracy, but it certainly complies with consensus-democratic notions. Such complementary participatory and inclusionary democratic forms, in turn, may be preferable for distinct minorities and political-social identity oriented or based groups,⁴⁸ rather than reliance on only representative-democratic, and especially (simple) majoritarian ones. Federalism does not prescribe one particular form of democratic participation (nor even one particular form of federalism). However, its fundamentally multi-level and multi-jurisdictional character opens up the spaces and arenas that are particularly conducive to such complementary participatory democracy.

Again, not all federal systems are democratic. Nor does federalism imply one particular kind of democracy. Moreover, even with majoritarian constituted democratic regimes, federalism changes democratic governance on account of the compounded majoritarianism resulting from the multiple levels and tiers of governance. Federalism shows an affinity for, and is likely on the whole more supportive of, consociational or consensus-democratic regimes.⁴⁹ What is more, the relationship between federalism and participatory democracy implies not only multiple levels and arena for participation, but also an array of different procedures and mechanisms.⁵⁰ As federal systems already demonstrate, participatory democracy is possible even as part of constitutional reform processes⁵¹ – e.g. Australia, Belgium, Canada, Switzerland and to an extent even the European Union – in various procedures, from deliberative citizen assemblies and ‘mini publics’ to obligatory referenda. Moreover, drawing on the prior review of participatory democracy, it is possible to outline a

47 See e.g. Johanna Schnabel, *Managing Interdependencies in Federal Systems: Intergovernmental Councils and the Making of Public Policy* (Cham: Palgrave Macmillan, 2020).

48 Thomas D. Lancaster, “Complex Self-identification,” 59–89.

49 Daniel J. Elazar, “Federalism and Consociational Regimes,” *Publius* 15, no. 2 (1985): 17–34.

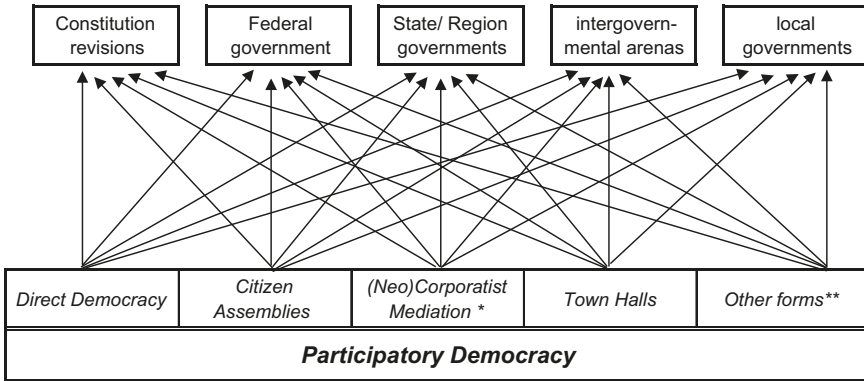
50 See e.g. Fraenkel-Haerberle et al., eds., *Citizen Participation*.

51 Benz, *Constitutional Policy*; Francesco Palermo, “Towards Participatory Constitutionalism? Comparative European Lessons,” in *Constitutional Acceleration within the European Union and Beyond*, ed. Paul Blokker (London-New York: Routledge, 2018), 25–47.

further series of types of democratic modes and mechanisms that each connect with multiple levels and among assorted communities.

In addition to *direct democracy*, participatory democratic types may include, in summary (see also Figure 4.4 below): *citizen assemblies* such as randomly-selected citizen councils or deliberative 'mini-publics'; more policy-sectional, function-oriented group-based (*neo-*)*corporatist mediation* akin to associative democracy or civil-society and interest-group councils; open plenary forums like *town hall meetings* for public debates, hearings and exchanges; and many *other forms* that may comprise distinct procedures such as participatory budgeting and deliberative polling or venues like round tables and variegated digital or online platforms. Each of these types allows for an 'internal' diversity of possible forms, arrangements and procedures as well as compositions or memberships. Moreover, their respective networks of linkages in federal or multilevel systems can run more *vertically*, such as from a lower level or tier like local and regional levels, to the national, federal or (supra-)national level as well as to different institutions such as representative-democratic legislative or executive bodies. At the same time, they could equally take on more *horizontal* relationships. Accordingly, the participatory models link communities to representative-democratic institutions or link the communities to each other, akin to intergovernmental and interparliamentary relations common to federal systems. Furthermore, the different participatory-democratic types may be linked to *constitutional revisions* as a distinct policy category, whether regarding amendments of polity-wide or sub-national constitutions. They may also connect to the *federal government* and to its particular institutions, similarly to *state or other regional governments* as well as to *local-level governments*, or rather to variable *inter-level and intergovernmental arenas*, be they already established inter-ministerial, -parliamentary, -administrative or further sectoral and group-based conferences.

Finally, these different types of participatory democracy present manifold possibilities for federal and multilevel systems, whether they are introduced and expanded at one or several levels. Beyond this quantitative propensity, federalism in qualitative principle can also foster realizations of participatory democracy for and even democratization of plural and diverse societies, precisely on account of its constitutive features of power-sharing and polycentricity. It is also capable of engendering and accommodating multiple coinciding as well as overlapping identities and memberships of *demos*. The latter in turn need not only be territorially defined within distinct and among cross-jurisdictional constituencies, but also along variable identity-, minority, cross-sectoral and functional lines and terms. At the same time, of paramount concern is the type of inclusion of participatory forms, arrangements and



* e.g. civil society inclusion, consultation, and/or co-production

** e.g. deliberative fora & polling; e-government; e-/liquid democracy; participatory budgeting; round-tables

FIGURE 4.4 Linking federal/multilevel systems and participatory democracy

* e.g. civil society inclusion, consultation, and/or co-production

** e.g. deliberative fora & polling; e-government; e-/liquid democracy; participatory budgeting; round-tables

SOURCE: OWN DEPICTION

procedures. Indeed, allocations of powers and roles may vary substantially. They span from inclusion and inputs at different stages such as agenda setting to the final decision or its ratification, and range from consultative and monitory to co-determinant and co-productive competences over policies and other collectively binding decisions. These issues related to participatory design and positioning in political processes also apply to democratic-theoretical perspectives in general. They pose challenges of both organization and legitimacy. However, the challenges and necessities gain special relevance and urgency when linked with the autonomy and shared-rule requisites of federalism. While not participatory democracy per se, federalism entails commitment to equality and collective self- and co-determination of places and communities. Federalism entails thus a promise to their – however calibrated, designed and positioned – participation in shaping collective life. Realizing these promises is never easy, but federalism can contribute effectively to their realization in diverse and complex polities.

5 Conclusion

There may be a common foundation from which federalism and democracy emerged, this basis being present most notably in the development of modern

states, constitutions, rule of law, and division-of-power arrangements, among others. On the other hand, state modernization has never been monolithic or unidirectional toward centralization and monocratic rule. It proceeded in a number of contexts in conjunction with decentralized and even polycentric arrangements.⁵² Thus, the relationship between federalism and democracy comprises, in developmental and structural-functional terms and principles, more an entangled knot than separated strands. Certainly the division of powers among branches and among levels of government renders the polity both structurally and functionally multidimensional. The preceding sections aimed to delimit the contours of different governmental dimensions, organizational principles and structures, and to capture their interconnecting processes and linkages that compound to a multidimensional net- or latticework. In other words, federal governmental structures and constituted jurisdictions and communities are distinct from democratic governmental ones. At the same time, the participatory processes – from forms of coordination and exchange, to processes of participatory democracy in stricter sense – provide for linkages, interactions and the connective bridges between the ‘nodes’ of autonomy. This complexity, of course, is by no means an uncharted territory. This chapter nevertheless has sought at least to provide an own productive scheme of orientation.

The institutions and processes of politics are always linked to people and places. In federalism and democracy in particular, they connect to multiple principles and multidimensional division of powers as well as diverse groups, societal pluralism and the *demos* and *demoi*. Federalism and democracy hold promises, but their concurrence holds tensions, potential frictions and discontinuities. At the same time, the interlinkages between the democratic and the federal institutions and procedures can offer precisely the means and ways for coping with them in order to balance self- and shared rule with diversity and pluralism. Finally, the lens of federalism offers perhaps the most powerful theoretical perspective for reflecting on how to accommodate and interlink diverse people and plural communities without domination. Federalism can offer a framework for democratically maintaining and fostering equality, and squaring autonomy with shared ruled for the management of complexity in an increasingly diverse and interdependent world.

52 Arthur Benz, *Der moderne Staat: Grundlagen der politologischen Analyse* (2nd ed., Munich: Oldenbourg, 2008); see also e.g. Daniel Ziblatt, “Rethinking the Origins of Federalism: Puzzle, Theory, and Evidence from Nineteenth-Century Europe,” *World Politics* 57, no. 1 (2004): 70–98.

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