

Did we get it wrong? The true meaning of European federalism

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Abstract This article reflects on the meaning of European federalism. Although many enthusiasts of European unity have referred to their vision as ‘federalist’, very little systematic analysis of what European federalism means and implies has been carried out. The result has been a tendency in the pro-European debate to identify the federalisation of Europe with the transfer of more and more powers to the EU level and the eventual creation of a continental state-like polity. This article argues that such a tendency is not in line with the proper and historical meaning of federation, a polity whose political and institutional logic is completely at odds with that of the modern nation state. The latter is characterised by an emphasis on institutional hierarchy, bureaucratic uniformity and economic controls, while the former encourages institutional competition, societal diversity and economic openness. This article concludes that embracing a clearly articulated federalist doctrine could help pro-European forces, most notably the pro-European right, to recover a sense of purpose and successfully meet many of the present challenges in European integration.

Keywords Federalism · European integration · Regionalism · UK renegotiation · Institutional competition · Welfare state

Introduction

An article dealing with the meaning of European federalism may appear untimely and anachronistic to many contemporary readers. It comes at a

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moment when the European ideal is under great strain, when only a handful of dreamers still have the temerity to call themselves ‘federalists’, and almost none of them would dare to do so in public. The EU has been mired for years in an economic crisis of unusual length and scope, the legitimacy of its institutions is being questioned and anti-EU forces are on the rise in many countries. Besides, the claim to be offering a reappraisal of such an important topic may appear presumptuous, coming as it does after more than 60 years of European integration and many profound appraisals of this historical process.¹

However, very little systematic analysis has been carried out so far on the meaning of European federalism. This article, far from conclusive and all-encompassing, is a contribution in the direction of such an analysis. It reflects on the meaning of European federalism and argues that the values and policies it implies could offer answers to many contemporary challenges and change the EU and its member states for the better. The first section deals with the ideals and institutional structure underpinning federalism. The second sketches the economic constitution of a federal polity. The third section briefly illustrates how this federalism can help meet certain contemporary challenges.

The meaning of federalism

Whereas the US founding fathers gathered in Philadelphia to draft the original constitution of the United States, the European founding fathers never fully articulated their political vision of an integrated Europe in a constitutional document. Therefore, the origins of European integration contain no grand federalising moment comparable to the US Constitutional Convention. European integration developed as a process for which ‘ever closer union’ and federalism were simply regulative ideals and not elements of a precise constitutional blueprint.² Today, a long way down the path of integration, this ambiguity seems less and less tenable, as it leaves all pro-Europeans open to the accusation that they are ultimately struggling to unify the continent within a state-like polity similar to those that unified the various European nations in previous centuries. Although many self-styled European federalists would recognise this accusation as faithfully reflecting their ultimate political aim, such an aim is emphatically not in line with the proper and historical meaning of federalism. While the modern state posits itself as a leviathan—the sovereign with ultimate and supreme power over everything—the most striking feature of a federal polity is the dissolution of sovereignty within ‘a regime that enables people to be first their own governors’

¹ For one of the most insightful, see Weiler (1999).

² The various reasons that Europe did not have such a federalising moment lie beyond the scope of this short article. However, it is enough to remind the reader that while American unity was the product of a war of independence that had federated the 13 colonies against the motherland, the project of European unity developed in the aftermath of the most savage war ever fought on the old continent. The psychological and political scars of that war made it impossible for the founding fathers to envisage anything more than a circumscribed and gradual rapprochement between their peoples.

and where 'minimal emphasis is placed upon command and control' by public powers (Ostrom 1991). As one of the foremost scholars of American federalism poignantly put it, in its deepest sense a federal system of governance means that the government does not govern, but 'society governs itself for itself' (Ostrom 1991).³ At an institutional level, this is accomplished by fragmenting powers among multiple units of government, each having autonomous existence in its respective sphere of competence, so that none of them is sovereign, with ultimate and supreme power over everything. It is reinforced by the principle that all public powers should be exercised as closely as possible to the individuals who bear their consequences, so as to ensure not only wide participation and accountability, but also a wide regulatory competition between the different centres of power.⁴ Most importantly, in a proper federal system the role of public powers is only residual, because the preferred instrument of collective action is not coercive government intervention, but voluntary (covenantal) agreements among free individuals and groups. In other words, federalism entails an insistence on individual freedom and responsibility and an open prejudice against coercive state intervention and in favour of voluntary cooperation for the solution of collective problems. Arguably, no federal state survived the centralist forces of the nineteenth and twentieth centuries. However, the United States *were* a federation until the Civil War⁵—when, tellingly, 'the US *are*' became 'the US *is*'—and the Holy Roman Empire at the very heart of Europe had many federal traits.

If construed as a federation, the EU is now in the position to resurrect a supranational order where the exclusionary powers of national political authorities are held in check and the self-governing potential of individuals and communities is again allowed to flourish. The fear that is playing into the hands of the EU's enemies is, of course, that its institutions may want to develop their own exclusionary powers regardless of local sensitivities and traditions. Indeed, the ideas of many so-called European federalists do sound worryingly centralist. Their focus seems much more on transferring powers from the national to the European level than on returning them to individuals, families and local communities within a continental federal polity.⁶ In a truly federal EU,

³ Here Ostrom is quoting from Tocqueville's (2003) *Democracy in America*, the first systematic study of American democracy.

⁴ EU law recognises a weak version of this principle (the principle of subsidiarity), whereby action at the EU level is justified when its objectives cannot be sufficiently achieved at the state, regional or local level, but can rather be better achieved at Union level (See Art. 5 of the Treaty on European Union).

⁵ Many traits of federalism as described here were already identified by Alexis de Tocqueville. He visited the US in the early 1830s, well before the Civil War.

⁶ Interestingly, those who tend to confuse federalisation with state-making in Europe also tend to be in favour of wide-ranging government intervention in economic and social life, even if it comes at the cost of significant coercion. One should not forget that, for example, Altiero Spinelli was a Communist long before becoming a European 'federalist', and that his daughter Barbara Spinelli, another committed 'federalist', was elected a Member of the European Parliament in Italy with the radical left movement that supported Tsipras as President of the European Commission. Jean Monnet himself was a technocrat and the Commissioner-General of the French National Planning Board. Most recently, the French economist Piketty (2014) wrote in favour of a continental federation to harmonise social legislation and prevent tax competition.



the common institutions would uphold the shared values of Europe's civilisation, guarantee the integrity of the common market, administer both the monetary policy of the federation and an effective foreign and defence policy, and take over the few security and welfare obligations necessary to ensure the free movement of people and to grant equal rights to all citizens. All other functions would flow back to the member states, harmonisation would be kept to a minimum and decentralisation of power would be encouraged at all levels, as would the widest regulatory competition between different administrative units in the integrated continental space.

The economic constitution of a federal polity

There can be little doubt that a federal polity as I have described it naturally encourages market openness, economic freedoms and competition between individuals and firms. This is largely confirmed by the experience of federations. In the early part of their histories, they were long incapable of enacting wide-ranging regulations and economic controls at either the central or the state level.⁷ When they managed to do so, they either undermined their federalist fabric towards a more unitary and less polycentric economic order, or wounded the economic integrity of the federation with discriminatory controls and regulations at the level of the individual member states (Hayek 1948; Weingast 1995).

Since the Treaty of Rome, the clear commitment to the free movement of goods, services, capital and persons has created the conditions for the development of a distinctively federalist economic constitution for the European project. Such a constitution was then strengthened by conferring on the European Commission robust powers in the field of competition policy and by the enshrinement of the principle of mutual recognition in European law by the European Court of Justice.⁸ Indeed, it can be argued that the widest possible use of mutual recognition is the instrument best suited to a federation for opening markets. Mutual recognition allows multiple standards to exist and compete in the continental market, with the best among them being selected by consumers, instead of coming out of the arbitrary decisions of regulators. As a consequence, it seems in deeper accord with the polycentricity of a federalist economic order and its insistence on the freedoms of individuals and lower administrative units. The tendency, evident since the early 1990s, towards large-scale re-regulation at

⁷ The 'central' level refers here to the government of the federation as a whole, while the 'state' level refers to the governments of the different units making up the federation. These are called 'states' in some federations (e.g. the US), but not in others (e.g. Switzerland).

⁸ The milestone case in this regard was the *Cassis de Dijon* decision of the European Court of Justice in 1979. The court stated that Germany's refusal to admit a French liqueur into its market due to its insufficient alcohol content was to be viewed as a measure having an effect equivalent to that of placing quantitative restrictions on imports and, as a consequence, violated the Treaty of Rome. The Commission subsequently worded the meaning of the judgment as follows: 'Any product lawfully produced and marketed in one Member State must, in principle, be admitted to the market of any other Member State.'

the EU level to ensure ‘fair’ competition is a serious departure from a federalist method.

The most formidable challenges to economic federalism in Europe, however, arguably lie at the national level, where the size and scope of government inherited from the economic paradigm of the twentieth century welfare state seems singularly ill-suited to a federal setting. Most Central and Eastern European countries came out of their economic transitions with slim public budgets and free market policies. Many Western and Southern European countries, on the other hand, still have to cope with heavily regulated economies and high levels of public debt accumulated in the post–Second World War decades, when more and more personal and social responsibilities were taken away from individuals and handed over to state bureaucracies. In 1960 total government spending for the countries that would later make up the EU15 was, on average, 29 % of GDP. It grew steadily and in 1990 had already reached 50 % of GDP—half the size of the entire economy (Alesina and Giavazzi 2006). The recent economic crisis dramatically showed that such high levels of public debt are incompatible with the working of a decentralised monetary union. Especially, but not exclusively, among left-leaning politicians and economic pundits, it is fashionable to contend that pooling national debts and harmonising national welfare systems at the EU level would rescue ‘the European social model’, which they believe to be threatened by a ‘fragile’ and decentralised monetary union. In all fairness, however, more than rescuing the European social model, it would impose what they construe as *the* European social model—a model adopted, in subtly different varieties, by only a sub-group of EU member states—on the whole continent.⁹ Apart from being politically impracticable, such a move would be at odds with the very essence of a federalist order, which is variety and decentralisation, and implies the utmost respect for national and regional traditions under a continental framework of openness.

Let me stress at this point that, although there are good reasons to believe that such decentralised openness requires a drastic reduction in public debt and in the size of government, it need not force states accustomed to the far-reaching provision of public services to discontinue it altogether.¹⁰ Let me also mention that nothing in a federal EU would prevent some minimal social security functions from being administered at the supranational level. Indeed, there could be a need for it in the area of social benefits paid by an EU member state to citizens of another, particularly a poorer, state. The issue has given rise to accusations of ‘welfare tourism’ and has inspired proposals that could unacceptably limit the free circulation of people (Reho 2014). In future, some of these benefits could be paid through the EU budget in order to prevent

⁹ Interestingly, and more in tune with my understanding of European federalism, one author went as far as to argue that Europe’s social model is its ‘competing institutional variety’ (Wohlgemuth 2008).

¹⁰ The exact impact of a federalist economic order on the provision of public services will have to be assessed in each specific institutional context. Systems of public service provision other than direct state provision may have to be explored (e.g. school vouchers for education, as opposed to the direct ownership of schools and the direct hiring of teachers by the state). For an early perspective on more competitive ways of providing public services see Friedman (1962).



dangerous challenges to the four freedoms. In spite of these caveats, however, the central message is clear: if they wish to be part of a federal European order, member states (both governments and electorates) must be clear about what this means and implies, and stand ready to reorganise their economic and social systems accordingly. In the words of Hayek (1948)—the doyen of twentieth-century liberalism and one of the earliest students of the economic conditions of supranational federations—the readiness to accept definite limits to the economic powers of the state ‘will be the acid test of whether we are intellectually mature for the achievement of suprapstate organization’.

Federalism and contemporary policy challenges

I will not claim that the federalism I defend provides some sort of panacea for the many policy challenges of our age. I am convinced, however, that this doctrine is in accord with the spirit of the age and could contribute—if it came to inspire our way of conceiving and pursuing European integration—to solving many of its challenges. I suspect that its first contribution would be towards a better articulation of the debate on the future of the EU and, more specifically, on what it actually means to be pro-European. Vague formulas such as ‘ever closer union’ and ‘more Europe’ would be given a more precise constitutional meaning—one that would make it easier to fend off the attacks of Eurosceptics against alleged attempts to create a European superstate with tentacular regulatory powers. Furthermore, this vision—which in itself does not have to be specifically associated with any political force—seems closer in spirit to the values of the pro-European right than to those of the pro-European left, which is more inclined to a state-like vision of harmonisation and relative centralisation of the EU. It can thus help the European centre-right to articulate a European federalism of its own. It can also contribute to reframing the European debate as a contest between competing visions of European unity, instead of a fight between a relatively undifferentiated pro-European mainstream, on the one hand, and the anti-European forces, on the other.

By fully embracing its federal destiny, the EU would also be in a better position to cope with the secessionist challenges that are threatening the integrity of many member states (e.g. Belgium, Italy, Spain and the UK). This is so for at least two reasons. First, secessionist tendencies are often exacerbated by the far-reaching regional transfers of modern European welfare states. Since the logic of openness in a decentralised federation tends to limit the scope of such centrally managed welfare structures, one of the economic rationales for secession is weakened.¹¹ Second, while an increase of member countries as a

¹¹ Different levels of economic development and regional transfers have undoubtedly played a major role in the rise of secessionist movements in Italy and Belgium, and some role in Spain. Interestingly, awareness that free-market policies can be a welfare-enhancing alternative to secession is now inspiring the action of some separatist parties in government. The most notable example is the New Flemish Alliance in Belgium, the dominant force in a centre-right government whose programme is the most economically reformist that Belgium has seen in decades (Robinson 2014).

result of secessions would probably put a strain on the present institutional structure of the EU, it could be more easily accommodated in a proper federal setting. This is because member states would have much less clout on the very few issues dealt with at the EU level, and almost complete autonomy on all the rest, with the only limit to such autonomy being the requirement of openness and competition.¹²

The creation of a proper federal structure is also the best way to ensure the widest possible 'repatriation' of powers from the EU to its states and regions. Therefore, it has the potential to meet some demands of the more Eurosceptic countries (e.g. the UK) without rejecting the idea that Europe has a supranational and federal destiny. Indeed, the EU is in many regards more centralised than most federations in history, and a federal evolution could well reduce its competences in many fields. For example, no federation has ever controlled the budgets and economic policies of its constituent units as tightly as the EU does.¹³ Under a truly federal framework, these and other powers could probably be exercised at the state and local level without undermining the stability of the whole, as they unfortunately do in the present EU.

Finally, as mentioned, economic federalism would drastically reduce the level of bureaucracy and make our economies much more flexible. Moreover, it would boost regulatory competition. This has the potential to free for productive endeavours the wealth of resources now employed in bureaucratic and other unproductive activities, thus giving Europe a more flexible and resilient economic constitution for the twenty-first century.

Conclusion

This article has tried to shed light on the meaning of federalism in general and of European federalism in particular. It has argued that the common tendency to identify federalisation and state-making in Europe is highly misguided, as the political and institutional logic of modern nation states is completely at odds with that of federations. The former are characterised by sovereignty, institutional hierarchy and bureaucratic uniformity; the latter are characterised by the dissolution of sovereignty, institutional competition and societal diversity. While one is economically agnostic, and often displays a tendency towards significant regulation and government intervention, the other has a prejudice against coercive government intervention and in favour of economic openness. This

¹² Incidentally, the same reasoning is applicable to future enlargements. The EU's 'enlargement fatigue' is also the result of a confederal institutional structure where each new member state adds to the decision-making costs of the common institutions. Federalisation is therefore imperative to creating a positive perspective on further enlargements.

¹³ In the US, which has strayed a fair distance from a proper federalist structure in the direction of centralisation, it is still unthinkable (and unconstitutional) for the federal government in Washington to inspect the draft budgetary plans of states and pressure them into adopting 'sound' economic policy measures, as the European Commission does under the new governance of our Economic and Monetary Union. Some states are very fiscally responsible; others are virtually bankrupt. Tax harmonisation is equally inconceivable, and tax competition is the rule.



article has further argued that embracing a clearly articulated federalist doctrine could help pro-European forces, and especially the pro-European right, to overcome the present crisis, recover a sense of purpose and prepare to more confidently meet the challenges of the coming years.

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