THE NEXUS BETWEEN STATE FRAGILITY AND FEDERALISM

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This paper guides the discussion of the webinar on state fragility and federalism. Based on a literature review the paper aims to improve understanding about the nexus between state fragility and federalism.[1]

Two important linkages between state fragility and federalism are discussed in this paper. The first arises from the impact of deep ethnic/racial/religious divisions in a discrete subset of fragile contexts. Territorially based, severe political identity fragmentation, more than any other factor, serves to bridge the state fragility and federalism literatures.

[1] The goal of this discussion, however, is to understand how this nexus between state fragility and federalism can translate into better policies to build state resilience in fragile states. This discussion paper consists of excerpts from a longer paper on the topic of state fragility and federalism developed by the author and will be forthcoming from the Forum.

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The second arises from practice-based research in both literatures unpacking the causal significance of society-society relations and state-society relations on political outcomes. A focused literature review confirms that high political identity fragmentation prevents progress in distinct subset of fragile contexts. Both literatures offer ways forward in these cases but are rarely brought together to shape research and policy.

Findings arising from the state fragility literature do suggest that federalism may offer a policy path to greater state resilience in a subgroup of fragile contexts, but this requires further exploration to identify when federalism is suitable and how best to pursue it. This paper suggests an emphasis on federalization programming in fragile state contexts that focuses on decision-making systems and structures in critical governance processes. This focus on decision-making in federal design has the potential of simultaneously equipping groups and preparing institutions to shape each other through recurring, essential governance processes. Policy-makers can use this approach to develop context-specific strategies in the design and implementation of programs to build state resilience.

1. Conceptualizing State Fragility and Federalism in Divided Contexts

Definitions and conceptualizations of state fragility are constantly evolving, and the number of cases is in many ways a function of how it is defined.[2] The number of fragile states increased from seventeen to twenty-six between 2003 to 2006.[3] Organisation for Economic Co-operation and Development (OECD) data in its States of Fragility 2018 report indicates that seventy-five countries or contexts of fragility have been designated since 2008 and that twenty-seven of those countries are chronically fragile, appearing in every report since 2008.[4] People living in fragile states account for just over three-quarters of all people living in extreme poverty.[5] During 2019, fragile contexts represented twenty-two of thirty-one cases of ongoing, state-based conflict.[6] Also, forty-one of fifty-four fragile contexts stagnated or declined on United Nations Sustainable Development Goal #16, 'peace, justice, and strong institutions,' "including 12 of the 13 extremely fragile contexts, underscoring the importance of investments in sustaining peace."[7] The growth in number of fragile contexts and variation among those contexts is reflected in the changing definition of state fragility.

[2] Kaplan, Seth. 2014. 'Identifying Truly Fragile States.' The Washington Quarterly 37(1). P. 50.
[3] Kaplan, Seth. 2008. Fixing Fragile States: A New Paradigm for Development. London: Praeger Security International. P. 4.
[4] OECD. 2018. States of Fragility 2018. Paris: OECD Publishing. P. 26.
[5] OECD. 2020. States of Fragility 2020. Paris: OECD Publishing. P. 13.
[6] Ibid. P. 14.
[7] Ibid. P. 14.

In 2006, the OECD adopted a binary framing of state fragility, designating states as fragile for "failing to provide basic services to poor people because they are unwilling or unable to do so."[8] By 2016, the OECD adopted a multidimensional conceptualization of state fragility, rejecting the idea that a single dynamic is the root cause.[9] Its 2020 States of Fragility report characterizes state fragility as a "combination of exposure to risk and insufficient coping capacity of the state, systems and/or communities to manage, absorb or mitigate those risks."[10] Prominent policy institutes and think tanks echo this understanding of state fragility in a framework document called the 'Bellagio Consensus.' It defines state fragility as "the absence or breakdown of a social compact between people and their government" and describes fragile states as "suffer[ing] from deficits of institutional capacity and political legitimacy that increase the risk of instability and violent conflict, and sap the state of its resilience to disruptive shocks."[11]

Shifting from a binary-linear to a multidimensional-nonlinear conceptualization represents an evolution in thinking over a fifteen-year period.

Federalism studies and experts are also compelled to adapt to meet new realities in the adoption and operation of federal systems. As a form of government, federalism divides powers "between constituent governments and a general government having nation-wide […] responsibilities. This division of powers is combined with authoritative capacity to carry out responsibilities on behalf of the people of the federal polity."[12] The subnational, constituent governments "also have broad local responsibilities and sufficiently autonomous self-government to carry out their responsibilities on behalf of their own people in concert with the whole of the people of the federal polity."[13]

[8] OECD. 2006. 'DAC Guidelines and Reference Series: Applying Strategic Environmental Assessment: Good Practice Guidance for Development Cooperation.' Paris: OECD Publishing. P. 147.
[9] OECD. 2018. States of Fragility 2018. Paris: OECD Publishing. P. 27.
[10] OECD 2020. States of Fragility 2020. Paris: OECD Publishing. P. 15.
[11] Overseas Development Institute, The Rockefeller Foundation, and the United States Institute of Peace. 2019. 'The Bellagio Consensus – Final Outcome Document'. P. 2.
[12] Kincaid, John. 2005. 'Introduction.' In Handbook of Federal Countries, 2005, ed. Ann L. Griffiths. Montreal and Kingston: McGill-Queen's University Press. P. 9.
[13] Ibid. P.9.

Federal system design usually consists of the following six features: (i) a national, federal government and subnational, territorially-based governments that are each directly elected by voters in their jurisdiction; (ii) a constitution that is written and prevents unilateral amendment by the federal government; (iii) establishment of meaningful autonomy for each order of government through constitutionally allocated legislative and fiscal powers to each sphere of government; (iv) provisions for the representation of subnational governments in relevant federal government institutions to facilitate their contribution to central government decision-making, such as an upper house; (v) an arbiter or mechanism for arbitrating constitutional disputes between governments; (vi) processes and institutions enabling intergovernmental relations.[14]

Federalism is also a normative concept advancing multilevel governance that combines shared-rule and [subnational] self-rule "based on the presumed value and validity of [...] accommodating, preserving, and promoting distinct identities within a larger political union.

The essence of federalism as a normative principle is the value of perpetuating both union and non-centralization at the same time."[15] This normative concept takes on myriad forms wherever it has been adopted. This is an important quality if and when applied to fragile contexts, many of which struggle with post-colonial and post-conflict conditions requiring context-specific solutions.

Non-centralization is both a maxim and a fact of federal design. It manifests in the writing and acceptance of a constitution whereby the constituent units forming the federation agree to establish each order of government, shared and divided authorities, and territorial divisions.[16] Appreciation for the conceptual significance of non-centralization is necessary to distinguish it from decentralization. The latter is a well-developed concept and policy in the state fragility literature. In contrast with non-centralization through federalism, decentralization represents unilateral action by the central government to assign authority to subnational governments while retaining the ultimate authority to reverse the process.[17]

[14] Anderson, George. 2008. Federalism: An Introduction. Toronto: Oxford University Press. P. 3-4.
[15] Watts, Ronald L. 2008. Comparing Federal Systems, 3rd edition. Montreal & Kingston: McGill Queen's University Press. P. 8.
[16] Watts, Ronald L. 2007. 'The Historical Development of Comparative Federal Studies.' Institute of Intergovernmental Relations, Working Paper 2007(1). P. 18.
[17] Burgess, Michael. 2012. In Search of the Federal Spirit: New Theoretical and Empirical Perspectives in Comparative Federalism. Oxford: Oxford University Press. P. 186; Choudhry, Sujit and Nathan Hume. 2011. 'Federalism, devolution and secession: from classical to post-conflict federalism.' In Comparative Constitutional Law, eds. Tom Ginsburg and Rosalind Dixon. Northampton: Edward Elgar Publishing Limited. P. 358.

2. Federalism and Fragility in International Development

Important intergovernmental organizations working on building state resilience recognize that federalism should be part of the policy conversation in some fragile contexts. For example, decentralization is presented in the 2011 World Development Report as a policy that "can avert center-periphery ethnic conflict, or secession."[18] Jörn Grävingholt and Christian von Haldenwang (2016) elaborate the logic of decentralization in fragile contexts in terms strongly resembling the rationale for federalism. Decentralization, they explain, dismantles central government monopolization of power held by a small ruling elite that is causally connected to state fragility.[19] It "divides power, multiplies the centres of power, and therefore increases the opportunity for otherwise marginalised groups in the population to partake in political power."[20]

Unsurprisingly, there is little or no effort to conceptually distinguish decentralization and federalism in important policy research on state fragility.

A recent World Bank report exclusively focused on subnational governance, conflict prevention, and state fragility proceeds on the understanding that "[s]ubnational governance […] represents a broad spectrum of governance arrangements, including political, fiscal, and administrative decentralization; regional autonomy; and federalism."[21] The report does explain that federations are constituted by written constitutions.[22] However, the distinction with decentralization and the implications for negotiating one form or the other between conflicting groups is not fully elaborated.[23]

Finally, Pathways for Peace, a policy document on sustainable peace in fragile contexts published by the United Nations and World Bank, asserts that federalism has "proven effective in many cases in reducing local violent conflict where there is horizontal inequality among groups […]."[24]

[18] World Bank. 2011. World Development Report 2011: Conflict, Security, and Development. Washington, D.C.: World Bank Group. P. 166
[19] Grävingholt, Jörn and Christian von Haldenwang. 2016. 'The Promotion of Decentralisation and Local Governance in Fragile Contexts.' Bonn: German Development Institute. P. 4.
[20] Ibid. P. 4.
[21] Wolff, Stefan, Simona Ross and Asbjorn Wee. 2020. Subnational Governance and Conflict: The Merits of Subnational Governance as a Catalyst for Peace. Washington, D.C.: World Bank Group. P. 20.
[22] Ibid. P. 21.
[23] Ibid. P. 85.
[24] World Bank and United Nations. 2018. Pathways to Peace. Washington, D.C.: International Bank for Reconstruction and Development / The World Bank. P. 146.

A background report for Pathways for Peace qualifies this assertion by acknowledging that "federalism's ability to contribute to peace is conditional on [...] how federal institutions (fiscal decentralization, intergovernmental transfers, and political co-partisanship) respond to characteristics of the societies that they govern, most notably society's level of wealth (inequality) and ethnic composition."[25] This is consistent with Cameron's view that when federalism is an unavoidable, 'next best' policy option, "one is left trying to work something out, despite the forbidding obstacles to its realization."[26] In other words, federalism should help shape policy considerations under specific conditions in select fragile contexts but does not guarantee success.

3. What Do We Know about the Nexus between Federalism and State Fragility?

In fairness, the wider scope of the state fragility policy field may preclude deeper scrutiny, but this only emphasizes the need for research on the nexus between state fragility and federalism.

Ferran Requejo sets forth the significance of the distinction in clear terms, arguing that "[i]n the liberal tradition, on the one hand, the federations' basic nucleus is related to the territorial division of powers. This principle, originally associated to agreements on the centralization or non-centralisation of specific political functions, is of a kind that is distinct from other organizational principles such as [...] decentralization."[27] A conceptual distinction between federalism and decentralization is adopted for the purposes of this study. Maintaining this conceptual clarity facilitates more careful consideration for federalism's potential impact in deeply divided, fragile contexts.

Exploring whether federal design can promote accommodation, manage ethnic conflict, and prevent civil war in deeply divided societies is a core research agenda in the field.[28] Nancy Bermeo (2002) makes this research question explicit, asking how "can states avoid ethnic violence and best accommodate multiple ethnicities? [...] Is adopting federalism the best way to cope with territorially based diversity?"[29]

[25] Bahgat, Karim, Gray Barrett, Kendra Dupuy, Scott Gates, Solveig Hillesund Håvard Mokliev Nygård, Siri Aas Rustad, Håvard Strand, Henrik Urdal, and Gundrun Østby. 2017. 'Inequality and Armed Conflict: Evidence and Data.' Peace Research Institute Oslo. P. 166.
[26] Cameron, David. 2009 'The Paradox of Federalism: Some Practical Reflections.' Regional and Federal Studies 19(2). P. 316.
[27] Raquejo, Ferran. 2001. 'Federalism and National Groups.' International Journal of Social Sciences 53(167). P. 43.
[28] Choudhry, Sujit and Nathan Hume. 2011. 'Federalism, devolution and secession: from classical to post-conflict federalism.' In Comparative Constitutional Law, eds. Tom Ginsburg and Rosalind Dixon. Northampton: Edward Elgar Publishing Limited. P. 356.
[29] Bermeo, Nancy. 2002. 'A New Look at Federalism: The Import of Institutions.' Journal of Democracy 13(2). P. 96.

Bermeo's work proceeds with the observation that this research agenda is driven by policy challenges emerging in deeply divided societies in the Global South.[30] Scholars exploring rising interest in federalism recognize that "ethnic, religious, and linguistic identities," often supressed for years, emerged at the forefront of group contestation following the collapse of numerous undemocratic, oppressive regimes.[31] "The political mobilization of these identity-based groups has generated a global search for mechanisms through which to manage diverse societies."[32] Research on federalism in deeply divided, post-conflict societies grew in significance at the same time the international community became preoccupied with state fragility.

An extensive accumulated body of knowledge in federalism studies explores the myriad causal relationships between ethnic, religious, racial and other identity-based political cleavages with institutional, governance design frameworks.

Significant growth in research in this field is driven by the idea that federalism provides "a way to accommodate territorially based ethnic, cultural, and linguistic differences in divided societies, while maintaining the territorial integrity of existing states."[33] Territoriality is a central factor to this field because the political identity-based conflicts manifesting in weak states are often propelled by subnational, territorially concentrated identity groups seeking the right to exercise self-determination, if not outright territorial sovereignty.[34] In this study, a consistent reference is made to subnational governments and constituent units. This refers to the provincial or state-level governments that can provide territorially concentrated groups a degree of self-determination within a clearly defined jurisdiction.

George Anderson and Sujit Choudhry recently explored the state of the art in this field through the edited volume Territory and Power in Constitutional Transitions (2019).

[30] Ibid. P. 97.
[31] Skogstad, Grace, David Cameron, Martin Papillon, and Keith Banting. 2013. 'The Global Promise of Federalism.' In The Global Promise of Federalism, eds. Grace Skogstad, David Cameron, Martin Papillon, and Keith Banting. Toronto: University of Toronto Press. P. 4
[32] Ibid. P. 4.
[33] Erk, Jan and Lawrence Anderson. 2009. 'The Paradox of Federalism: Does Self-Rule Accommodate or Exacerbate Ethnic Divisions.' Regional and Federal Studies 19(2). P. 191. (emphasis mine)
[34] Wolff, Stefan. 2010. 'Approaches to Conflict Resolution in Divided Societies: The Many Uses of Territorial Self-Governance.' Ethnopolitics Papers. No. 5. P. 2.

This work explores a wide range of possible democratic, governance design outcomes that account for territoriality. Anderson and Choudhry, however, carefully consider both the causal factors and logic underpinning symmetrical federalism, highly devolved federal government, and special autonomy arrangements alongside the logic of other institutional forms.[35] The authors acknowledge that their research "join[s] a growing body of work that draws links between Constitution-making processes and conflict resolution […]."[36] Within federalism studies, Anderson and Choudhry's project significantly expands on the synthesis provided by Simeon and Conway (2001) who concluded that "short of repression, the territorial sharing of power that federalism represents seems essential in any formula for managing geographically concentrated ethnolinguistic divisions within a state."[37] Federalism cast as the alternative to violence is not uncommon in this literature.

Simeon and Conway's study reflects a careful focus on federalism following the effort by John McGarry and Brendan O'Leary (1993) to "evaluate the merits of different forms of ethnic conflict regulation and to establish whether multi-ethnic states can be stabilized in ways that are compatible with liberal democratic values and institutions."[38] McGarry and O'Leary identify patterns of continued marginalization of minorities at the federal level of government as a key cause of federal failure in conflict-prone societies.[39] The scholars cited here are representative of an effort to discern solutions to prolonged intranational conflicts between territorially-rooted politicized identity groups. For many of them, the specific question of federalism's capacity to reduce conflict and promote sustainable peace represents the most significant research question in the subfield.

[35] Anderson, George and Sujit Choudhry. 2019. 'Territorial Cleavages and Constitutional Transitions: Political Mobilization, Constitution-Making Processes, and Constitutional Design.' In Territory and Power in Constitutional Transitions, eds. George Anderson and Sujit Choudhry. Oxford: Oxford University Press. P. 412-24.
[36] Ibid. p. 425
[37] Simeon, Richard and Daniel-Patrick Conway. 2001. 'Federalism and the Management of Conflict in Societies.' In Multinational Democracies, eds. Alain-G. Gagnon and James Tully. Cambridge: Cambridge University Press. P. 339.
[38] McGarry, John and Brendan O'Leary. 1993. 'Introduction: The macro-political regulation of ethnic conflict.' In the Politics of Ethnic Conflict Regulation, eds John McGarry and Brendan O'Leary. London: Routledge. P. 4.
[39] Ibid. P. 34.

The challenges presented by working in fragile contexts to support domestic efforts at building state resilience are invariably complex. Federalism scholarship is fully aware of the limitations and challenges presented by efforts to use federalization to bring about sustainable peace in post-conflict, deeply divided societies. David Cameron (2009) captures this stark reality when noting that federalism enters policy conversations in deeply divided societies when "there appears to be no other better alternative. It is not a first choice; it is everyone's second choice. [...] Federalism is what the parties [to a conflict] fall back on."[40] At the same time, there is also a basic appreciation that unitarist policies in situations of deep political identity-based divisions are often unfeasible and counterproductive.[41] A lack of alternatives and inability or unwillingness to forcefully impose unitarist solutions propels the search for federal solutions in those states where territorially based ethnic and sectarian groups are locked in cycles of conflict.[42] Under these conditions, federalization tends to proceed on the basis that some actors demand it, others are hostile to it, but everyone needs to make it workable in the absence of alternatives.[43]

4. Challenges in Project Implementation

State fragility research shares a basic appreciation for the causal significance of high political identity fragmentation. Agenda-setting research by state fragility expert Seth Kaplan in 2008 called for "design[ing] institutions around identity groups."[44] Kaplan argues that "state structures must be better aligned with cohesive identity groups where practical."[45] This basic understanding establishes a critical bridge between research on state fragility and federalism. Federalism studies, from this perspective, provides a wealth of knowledge relevant to those fragile contexts where state fragility and territorially based high political identity fragmentation coincide.

[40] Cameron, David. 2009 'The Paradox of Federalism: Some Practical Reflections.' Regional and Federal Studies 19(2). P. 315.
[41] Anderson, Liam. 2015. 'Ethnofederalism and the Management of Ethnic Conflict: Assessing the Alternatives.' Publius: The Journal of Federalism 46(1). P. 14.
[42] Ibid. 16-7.
[43] Iff, Andrea and Nicole Töpperwien. 2017. 'In Support of Federalism Debates'. Politorbis 64 (1).
[44] Kaplan, Seth. 2008. Fixing Fragile States: A New Paradigm for Development. London: Praeger Security International. P. 53.
[45] Ibid. P. 53.

The goal of this discussion, however, is to understand how this nexus between state fragility and federalism can translate into better policies to build state resilience in fragile states.

Key questions

• What are the opportunities and the challenges of a federal or decentralized governance system in supporting or sustaining peace in fragile countries?

• What is the importance and the role of local governance in developing countries, particularly with a view of sustaining peace in fragile contexts?

• What should development partners consider when supporting federal or decentralized governance structures in fragile countries?

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