

Special Issue on *Federalism and Conflict Management* edited by Neophytos Loizides, Iosif Kovras and Kathleen Ireton.

Book Review

WELLER, M. AND NOBBS, K. (eds.) 2010, Asymmetric Autonomy and the Settlement of Ethnic Conflicts *Penn Press, Philadelphia* 360 p.

by Karl Kössler

European Academy of Bozen-Bolzano (EURAC), Italy

Email: karl.koessler@eurac.edu

About Federal Governance

Federal Governance is an online graduate journal on theory and politics of federalism and multi-level governance. Its mandate is to engage the global federalism community and reach out to outstanding graduate students interested in federalism and multi-level governance. By providing a platform for graduate students to have early success in their careers, Federal Governance seeks to promote and sustain interest in federalism and multi-level governance research among graduate students. Allied with the Forum of Federations and founding partner, Institute of Intergovernmental Relations at Queen's University; Federal Governance aims to contribute to a global dialogue on federalism.

Co Chairs, Advisory Committee: Rupak Chattopadhyay and Christian Leuprecht

Publisher: Forum of Federations
(Rupak Chattopadhyay and Rod Macdonell)

Managing Editor: Annegret Eppler

Associate Editors: Joshua Cerovski, Dominic Heinz,
Eva-Maria Maggi and Victoria Tait

Terms of Use

Your use of this Federal Governance article indicates your acceptance of Federal Governance's Terms and Conditions of Use, available at www.federalgovernance.ca/terms. Federal Governance's Terms and Conditions of Use provides that you may use Federal Governance content only for personal, academic and non-commercial use. Each copy of any part of this Federal Governance article must contain the same copyright notice that appears on the screen or printed page of such transmission.

“It is fair to claim that no clear account of the concept of autonomy is available.” (Wiberg 1998, 54) It is quite strange and indeed regrettable that the term autonomy is so frequently used (43) both in theory and practice of conflict settlement but still lacks a widely recognized definition. As autonomy contains “many threads but no single strand” (Potier 2001, 54) misunderstandings are inevitable. To some degree this unfortunate situation also applies to federalism which was once without any illusions characterized as having become “one of those good echo words that evoke a positive response but that may mean all things to all men” (Duchacek 1970, 191). Although this statement of Ivo Duchacek was written as far back as in 1970, the problem of vague and incoherent terminology still persists today (see Gamper 2005, 1300). With regard to autonomy the need of conceptual clarification seems to be even greater. However, the explicit aim of this book is not to delve too deeply into theoretical discussions but to explore asymmetric autonomy as a tool for settling ethnic conflicts.

Nevertheless this endeavour of course requires a working definition of autonomy. This is provided by Marc Weller’s introduction which echoes the quite common distinction of three types of autonomy: personal, cultural, and territorial (Weller, 2010, 2ff). In my opinion a fundamental objection has to be raised against this widespread classification insofar as the definitions of the three types of autonomy have different bases (Kössler and Zabielska, 2009, 56). Personal and territorial autonomy refer to the subject of self-government which is a personal corporation in the first case and a territorial one in the latter. Cultural autonomy, on the other hand, focuses on the content of self-government which is limited to cultural affairs in a wider sense. As these are the tasks which can be easily fulfilled by a personal corporation, virtually every personal autonomy is, in fact, a cultural autonomy. Starting from this questionable but still prevailing differentiation of three types, Weller goes on to define territorial autonomy. This is done from an empirical perspective by providing an enumeration of ten essential elements. While such an approach appears to be useful in principle, the definition as “self-governance of a demographically distinct territorial unit within the state” (Weller 2010, 4) is too restrictive. Such an explicit limitation to areas with specific ethnic, cultural, linguistic, or religious characteristics does not grasp the diverse reality of territorial autonomies around the world. It clearly excludes, for instance, the special status of Madeira and the Azores within Portugal which by no means originates from the demographic distinctiveness of these islands but from their remoteness. With good reason Stefan Wolff in the book’s second chapter disagrees with the introduction’s restrictive definition as he does not refer to a necessary link of territorial autonomy with demographic distinctiveness and precisely includes Madeira and the Azores in a list of classical examples¹ (Wolff 2010, 22).

Asymmetry is the book’s second conceptual point of departure alongside autonomy. It is rightly and very importantly pointed out by Weller that there is no fundamental contradiction between differential legal treatment of a state’s constituent units and their

¹ He stresses that his concept of autonomy does also encompass territories which lack demographical distinctiveness, such as the German *Länder* or Austrian *Bundesländer*. Such cases are only excluded from this book due to its focus on the settlement of ethnic conflicts, see also Wolf 2010, 21.

equality (Weller 2010, 304). Whereas one aspect dimension of equality is attached to the notion of same rights for all of them, and thus their absolutely equal legal treatment, another one calls for adequate rights.² According to the latter aspect it is necessary that real differences between territorial units in terms of size, population, etc. are reflected in differential legal treatment. It is certainly true that such asymmetric state structures, especially designed with the purpose of accommodating diversity, have proliferated. But contrary to the assumption in the introduction (Weller 2010, 7) this development has not been accompanied by a lack of academic attention. Apart from the first main publication on this subject, edited by Robert Agranoff in 1999, there is actually a burgeoning literature on asymmetric settlements.³ Moreover, the issue was intensively studied by two panels under the auspices of the International Political Science Association (IPSA) from 1993 onwards and is therefore rightly qualified as a major focus in current research on federalism and regionalism (Sturm 2000, 29ff).

As reflected in the title of the book the concepts of autonomy and asymmetry are joined because the authors detect a steady increase of ethnic conflict settlements following both of them. However, some reservations have to be expressed with regard to this amalgamation, as the term asymmetric autonomy seems to be tautological. If autonomy “needs to be tailored specifically to the particular circumstances” (Weller 2010, 1) it will – with a view to the state structure – always and inevitably lead to asymmetry. This is admitted in Wolff’s chapter by observing that “as a tool of statecraft, autonomy ... always resulted in asymmetrical state designs.” (Wolff 2010, 18) It is to be questioned then that the attribute asymmetric does add anything to the term autonomy.

Following the conceptual introduction the book presents a wide array of case studies. That these particularly touch on ethnic conflict settlements of high contemporary relevance and/or in understudied parts of the world constitutes a tangible and lasting value of the book. One of the case studies, which has to be highlighted, is Coel Kirkby’s and Christina Murray’s chapter on autonomy (and its absence) in Sub-Saharan Africa. With special regard to the examples of Tanzania, Mali and South Africa it is made clear that autonomy could be in theory a suitable compromise for the settlement of many African conflicts. While most postcolonial state leaders have relentlessly adhered to the borders of the colonial past, the continent’s tremendous ethnic diversity calls for at least some form of self-government short of secession. In practice, however, autonomy is precisely interpreted as a stepping stone to independent statehood and demands for it subsequently rejected or even suppressed by force.

Being one of the world’s primary examples of a failed state, Somalia in the 1990s did not even have the option to oppress Somaliland’s secession and Puntland’s self-declared autonomy. Taking up a refreshingly critical stance, Janina Dill challenges the widespread intuition that autonomy is always conducive to the settlement of ethnic conflicts, while secession invariably prolongs them by causing a domino effect of more and more territories claiming independence. In her judgment both Somaliland’s de

² Based on Platonic philosophy the first dimension is referred to as “*arithmetical equality*”, while the second one is termed “*geometrical equality*” see Gamper 2005a, 144.

³ See for example Seidle 1994; Swenden, 2002; Pernthaler 2002; Watts 2004, 2005; Agranoff 2005; Brown 2005; Burgess 2006, Palermo Hrbek et al 2007; Palermo, Zwilling et al 2009; Lecours 2005.

facto independence and Puntland's de facto autonomy neither had a negative nor a positive effect on the restoration of peace in Somalia.

While for Puntland the lack of an effective central power as counterpart for negotiations on an autonomy arrangement is highly problematic, Hong Kong finds itself in a diametrically opposite situation. Faced with the Chinese government, the special administrative region has to come to terms with an overly powerful center. And indeed, as pointed out by Johannes Chan, Hong Kong is not able to bargain autonomy issues on an equal footing. As effective bilateral mechanisms of conflict resolution are lacking, Beijing always has the final say. Although the autonomy therefore has feet of clay, China shows remarkable self-restraint and hardly intervenes in the exercise of the special territory's numerous competences. Hong Kong seems to accept this situation, as there have not emerged any serious separatist tendencies since the transfer of sovereignty in 1997. Chan attributes this mutual maintenance of the status quo to several factors, among them the efficient government and effective legal system of the special administrative region. However, the most important reason is Hong Kong's affluence and economic success as an international financial center. It is simply coupled with the rest of China through a "marriage of convenience" which is mutually beneficial in economic terms. Another significant factor is the absence of an ethnic conflict. This evidently raises the question of why the – undeniably interesting – case is included in a book on the settlement of precisely such conflicts.

That such a volume covers Iraq is of course less surprising. Brendan O'Leary analyses both the Transitional Administrative Law of 2004 and the Constitution of 2005 in terms of asymmetric autonomy. So far only Kurdistan established a regional government by taking advantage of a constitutional opportunity which is open as well to other parts of Iraq. Though such a regionalization in a variable bottom-up process is praised in the introduction as highly innovative (Weller 2010, 11), this approach already characterized Spain's short-lived Constitution of 1931 as well as its current one from 1978. Both constitutions did not themselves create regions but only provided an opportunity to establish them. While all of Spain was covered by Autonomous Communities as soon as in 1983, the process of Iraq's further regionalization is presently stalled by a tacit but powerful coalition of Sunni and Shiite centralist forces. Anyway, O'Leary rather dismissively labels discussions on asymmetry as sideshows. In his opinion the primary safeguard of an autonomous Kurdistan against a feared recentralization of competences, in particular regarding security and natural resources, is a power balance of regional and global players.

The primary aim of this book is to examine the potential of asymmetric autonomy for the settlement of ethnic conflicts and thus the prevention of – in most cases forcible – secession. This potential is based on the paradox that autonomy „while it provides national minorities with a workable alternative to secession, it also helps to make secession a more realistic alternative ...“ (Kymlicka 1998, 142). Finding itself permanently under this sword of Damocles, every successful autonomy arrangement requires constant adaption. This indispensable evolutionary aspect is evident throughout the case studies. Another goal of the volume is to track trends concerning the design of autonomy arrangements as experience in terms of their effects has certainly increased. The assessment in this respect, that back in the 1990s autonomy was still balanced by power-sharing tools, while they are absent in more recent

“monodimensional” (Weller 2010, 2) arrangements, does not seem very convincing. To this day, such instruments are considered as vital elements of conflict settlements. The Ohrid Framework Agreement on Macedonia in 2001 and the St. Andrews Agreement on Northern Ireland in 2007 are only two out of many recent examples. As John McGarry lucidly points out in his chapter on autonomy in the UK, the Northern Ireland settlement of 2007 resumed and in some respect even reinforced the power-sharing traits of the Belfast Agreement (McGarry 2010, 159). Warned by the cautionary tale of excessive consociationalism in Bosnia and Herzegovina more recent arrangements do not seem to completely lack power-sharing instruments but to contain reformed and more sophisticated tools. Recognizing that plain veto powers are often tantamount to political deadlock they tend to contain more concrete specifications of the veto requirements and complementary incentives for cooperation (Weller 2010, 302).

To sum up, the book’s case studies are more convincing than its conceptual focus. Though looking at the volume’s mentioned aims, it is to some degree understandable that it lacks a profound discussion of autonomy and asymmetry. Its principal orientation is simply not towards breaking new ground in terms of theory. Instead it provides a broad survey of ethnic conflict settlements around the world that impresses the reader by covering predominantly understudied and highly topical cases. As such the book is definitely worth reading.

References

- [1] Agranoff, R. (ed.), *Accommodating Diversity. Asymmetry in Federal States* (Baden-Baden: Nomos, 1999).
- [2] Agranoff, R. "Federal Asymmetry and Intergovernmental Relations in Spain", *Asymmetry Series 17/2005*, IIGR, Queen's University, Kingston 2005.
- [3] Brown, D. "Who's Afraid Of Asymmetrical Federalism? A Summary Discussion", *Asymmetry Series 18/2005*, IIGR, Queen's University, Kingston 2005.
- [4] Burgess, M. "Asymmetrical Federalism and Federation", in: *ibid.* (ed.), *Comparative Federalism. Theory and Practice* (London and New York: Routledge, 2006).
- [5] Duchacek, I. *Comparative Federalism. The territorial dimension of politics* (New York: Holt, Rinehart and Winston, 1970).
- [6] Gamper, A. "A "Global Theory of Federalism". The Nature and Challenges of a Federal State", *German Law Journal*, Vol. 06(10) 2005.
- [7] Gamper, A. „Arithmetische' und 'geometrische' Gleichheit im Bundesstaat“, in: Karl Weber and Norbert Wimmer (eds.), *Vom Verfassungsstaat am Scheideweg. Festschrift für Peter Pernthaler* (Wien and New York: Springer, 2005a), p. 144.
- [8] Kössler K. and Zabielska, K., "Cultural Autonomy in Estonia. Before and After the Soviet Interregnum", in: Thomas Benedikter (ed.), *Solving Ethnic Conflict through Self-Government. A Short Guide to Autonomy in Europe and South Asia* (Bolzano/Bozen: EURAC Research, 2009).
- [9] Kymlicka, W. "Is Federalism a Viable Alternative to Secession?" In: Percy B. Lehning (ed.): *Theories of Secession* (London: Routledge, 1998).
- [10] Lecours, A. "Speaking of Asymmetry. Canada and the 'Belgian Model'", *Asymmetry Series 7/2005*, IIGR, Queen's University, Kingston 2005.
- [11] McGarry, J. "Asymmetrical Autonomy in the United Kingdom", in: Marc Weller and Katherine Nobbs (eds.), *Asymmetric Autonomy and the Settlement of Ethnic Conflicts* (Philadelphia and Oxford: University of Pennsylvania Press, 2010).
- [12] Palermo, F., Hrbek, R., Zwilling, C. and Alber, E. (eds.), *Auf dem Weg zu asymmetrischem Föderalismus?* (Baden-Baden: Nomos, 2007).
- [13] Palermo, F., Zwilling, C. and Kössler, K. (eds.), *Asymmetries in Constitutional Law. Recent Developments in Federal and Regional Systems* (Bolzano/Bozen: EURAC Research, 2009).
- [14] Pernthaler, P. "Asymmetric Federalism as a Comprehensive Framework for Regional Autonomy", in: Ann L. Griffiths, Ann L. (ed.), *Handbook of Federal Countries 2002* (Montreal & Kingston: McGill-Queen's University Press, 2002).
- [15] Potier, T. *Conflict in Nagorno-Karabakh, Abkhazia and South Ossetia. A Legal Appraisal* (The Hague: Kluwer Law International, 2001).
- [16] Seidle, L. (ed.), *Seeking a New Canadian Partnership. Asymmetrical and Confederal Options* (Montreal: Institute for Research on Public Policy, 1994).
- [17] Sturm, R. „Aktuelle Entwicklungen und Schwerpunkte in der internationalen Föderalismus- und Regionalismusforschung“, in: *Europäisches Zentrum für Föderalismus-Forschung Tübingen* (ed.), *Jahrbuch des Föderalismus* (Baden-Baden: Nomos, 2000).
- [18] Swenden, W. "Asymmetric Federalism and Coalition-Making in Belgium", *Publius*, Vol. 32(3) 2002.

[19] Watts, R.L. "Asymmetrical Decentralization. Functional or Dysfunctional", *Indian Journal of Federal Studies*, Vol. 5(1) 2004.

[20] Watts, R.L. "A Comparative Perspective on Asymmetry in Federations", *Asymmetry Series 4/2005*, IIGR, Queen's University, Kingston 2005;

[21] Weller, M. "Introduction", in: Marc Weller and Katherine Nobbs (eds.), *Asymmetric Autonomy and the Settlement of Ethnic Conflicts* (Philadelphia and Oxford: University of Pennsylvania Press, 2010).

[22] Weller, M., „Conclusions“, in: Marc Weller and Katherine Nobbs (eds.), *Asymmetric Autonomy and the Settlement of Ethnic Conflicts* (Philadelphia and Oxford: University of Pennsylvania Press, 2010).

[23] Wiberg, M., „Political Autonomy. Ambiguities and Clarifications“, in: Markku Suksi (ed.), *Autonomy: Applications and Implications* (The Hague: Kluwer Law International, 1998).

[24] Wolff, S. "Cases of Territorial Autonomy", in: Marc Weller and Katherine Nobbs (eds.), *Asymmetric Autonomy and the Settlement of Ethnic Conflicts* (Philadelphia and Oxford: University of Pennsylvania Press, 2010).