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Federalism as Decision-Making

Changes in Structures, Procedures and Policies

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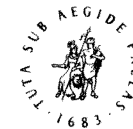

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CHAPTER 17

Federalism as Decision-Making: Security Structures, Procedures and Policies

Christian Leuprecht, Mario Kölling and Todd Hataley

SUMMARY: 1. Introduction 2. Theoretical Framework 3. Dynamics of Change 3.1 *Nature of Threats to Each Country* 3.2 *Centralization and Decentralization* 3.3 *Symmetry and Asymmetry* 4. Drivers of Intergovernmental Dynamics 4.1 *Path-Dependency* 4.2 *Intergovernmental Relations* 4.3 *Legitimacy* 4.4 *Proactive Versus Reactive Policy-Making* 5. Conclusion

1 Introduction

The quality and scope of potential threats to public security have changed significantly over the past decade, and no level of government is equipped to confront these challenges on its own. Seemingly ungovernable urban spaces in Brazil, skyrocketing crime rates in South Africa and Mexico, the impact of the economic and financial crisis on public security in Spain, right-wing terrorism acts in Germany and terrorist activity in the United States and Canada underscore the need for close coordination across tiers of government to secure the sort of balance between order and freedom that is fundamental to modern democracy. Thomas Hobbes famously wrote that life in the state of nature is "nasty, brutish and short."[1] If one follows that logic, then the modern State is premised on an "implicit contract"[2] between the State and society, whereby the State provides "security, law and a reasonable amount of order" to the population.[3] Max Weber defines the State as "a human community that successfully claims the monopoly over the legitimate use of force within a given territory."[4] The constitutionally enshrined balance between shared-rule and

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* The chapter is in part the result of an international comparative project on Public Security in Federal Systems, carried out by the Forum of Federations in collaboration with the Manuel Gimenez Abad Foundation.

1 T. Hobbes, *Leviathan* (London: Penguin Books Limited, 1985).

2 *Ibid.*

3 K.J. Holsti, *The State, War and the State of War* (Cambridge: Cambridge University Press, 1998) 94.

4 M. Weber, "Politics as a Vocation", in H.H. Gerth and C. Wright Mills (eds.), *From Max Weber: Essays in Sociology* (Oxford: Oxford University Press, 1946) 77–128, at 78.

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self-rule among the several tiers of federal government raises the prospect of collective-action problems in both the use of force in the enforcement of law and order and the assurance of individual and collective freedoms.

Power relations and pragmatic compromises are at the crux of federal arrangements. In that sense, public security is no different from other challenges so many federations confront. The nexus between federalism and security has yet to be examined systematically through a comparison across several federal countries. In fact, the genesis of many federal solutions is rooted in disagreements over the provision of physical or ontological security, scepticism about letting the central government monopolize security, or both. Owing to the many exogenous circumstances that bear on the genesis and operation of federal political systems, "one cannot [...] just pick models off a shelf. Even where similar institutions are adopted, different circumstances may make them operate differently."[5] For the same reason, no study could possibly produce a federal model solution for any given set of public-security issues. The purpose of this chapter is to conduct a cursory survey of public security across selected polities and to gauge the extent to which successes and problems are the function of federalism, and may be improved by making federalism work better, and the extent to which they are largely driven by factors beyond the purview of federalism.

The first section of this chapter presents the theoretical framework and the *problématique* of public security in federal systems. It goes on to formulate research questions and hypotheses and operationalizes key concepts, showing how the subject of enquiry is not merely an empirical issue of institutional design but is also a normative debate about the appropriate role and relationship of the central state, constituent units and local communities. The second section examines the way domestic and external man-made threats affect a federal system's capacity to respond to variation in local priorities, values and interests. It gives rise to the core hypothesis that frames this chapter: the more that values and preferences differ by community, the greater the gap between federal and local priorities and, therefore, the greater their policy differences and, horizontally, the greater the imperative for asymmetry. The third section examines the dynamics of centralization and decentralization, symmetry and asymmetry, as well as the necessary and sufficient conditions that underpin observed trends. The comparative empirical observations allow the formulation of some initial hypotheses as to the role and conditions of decentralization

5 R.L. Watts, *Comparing Federal Systems* (Kingston: McGill-Queen's University Press for the Institute of Intergovernmental Relations, 2007) 2.

and asymmetry with respect to public security in federal polities. The fourth section on drivers of change analyses institutional path-dependency of a regime's institutions, horizontal and vertical intergovernmental relations, as well as legitimacy as independent and intervening variables in public security in federal polities. The final section discusses these observations in light of the initial hypotheses and research questions by identifying the institutional logic that underpins the observed trends and how these findings inform the nexus of security and federalism.

2 Theoretical Framework

Federal countries have a plethora of agencies and institutions at different levels of government tasked with enforcement and security functions. The basic premise of dividing sovereignty is that the federal government is better equipped to perform some functions, whereas others are better left to the constituent units or local entities. Federal governments tend to control security agencies with national mandates, such as the armed forces, customs, immigration, coastguard, federal police, security and intelligence services and criminal investigation agencies. Constituent units are likely to have at their disposal their own civilian police services, special police or militia forces. While these organizations were established with specific mandates in mind, assignment of responsibilities is neither tidy nor clear. Overlapping mandates, mission creep and different institutional cultures often give rise to inter-service rivalry, which engenders operational problems and hinders the effective management of public security. Without mechanisms and institutions for intergovernmental and interdepartmental cooperation federal agencies risk dissipating the federal government's energy, while eroding the value-added and flexibility contributed by the local entities. Public-security outcomes are also predicated on an appropriate balance between shared-rule and self-rule in governance arrangements.[6] Shared-rule is a function of the institutional capacity to reconcile federal and local priorities while self-rule is a function of the degree of flexibility afforded to the constituent units to respond to local preferences. *Ergo*, success and failure in the provision of public security across federal polities cannot simply be reduced to tactical, operational or institutional effectiveness of service delivery *per se*. Rather, public security actually manifests

6 The epigram of federation as "regional self-rule plus shared rule" was introduced by Elazar. D.J. Elazar, *Exploring Federalism* (Tuscaloosa, AL: University of Alabama Press, 1987).

normative controversies over fundamentally different views of how to reconcile unity in diversity: ultimately, balancing unity and non-centralization is as much an empirical question as it is a normative one.

Security is embedded in a discourse that is used to identify and justify solutions to various problems.[7] Inherent in this definition of security are norms, values, interests and identities that have a definitive effect on what is understood, or not, as a security issue. That definition of security can be broken down into four components: identify who or what is going to be secured; authoritatively identify the threat; identify the most effective agent to deal with the threat; and determine the appropriate action to deal with the threat.[8] Two components make this a workable definition for comparing public security in federal systems.

First, this definition of security is not a function of the (unitary) Sate *per se*.[9] Conventional definitions make the State not only the focus of security but also the agent that defines what security means. Instead of realist reductionism, this discursive definition recognizes multiple territorial and non-territorial actors beyond the central government—regional, constituent-unit and non-State—all of whom have a role in defining security.

Second, underlying the identification of threats is a set of norms and values. Those have traditionally been defined by the central state, but need not necessarily be so. Wendt[10] considers structure as a social phenomenon, rather than material, meaning that ideas and shared knowledge are dynamic and change occurs when actors, responding to a stimulus (broadly defined as the social collective), redefine their conception of security. This dynamic process has three effects. First, security conditions are temporally bound, that is, they will change over time. Second, security agents are equally dynamic. Who defines security will vary by situation and social, cultural and/or political context. Third, the issues that become securitized[11] will change over time. Owing to

7 A.J. Bellamy, *Security Communities and Their Neighbors: Regional Fortress or Global Integrators?* (New York: Palgrave Macmillan, 2004) 47–48.

8 *Ibid.*, at page 48.

9 For example, realists and neo-realists posit States as key actors in an inherently anarchical world. Their security and insecurity are a result of power relations in the international community. See T. Terriff, S. Croft, L. James and P.M. Morgan, *Security Studies Today* (Cambridge: Polity Press, 1999) 38–39.

10 A. Wendt, "Anarchy is what states make of it: The social construction of power politics", *International Organization*, 46(2) (1992) 391–425, at 398.

11 On security and securitization see: B. Buzan, O. Waever, J. de Wilde, *Security: A New Framework for Analysis* (Boulder: Lynne Rienner Publishers, 1998) 23–25.

variation across time and space, conceptions of security across any state are never monolithic. In unitary states, however, the central government can potentially enforce a particular conception of security. Not so in federations where, by virtue of the constitutional division of sovereignty, variation in the conception of public security as a referent object manifests itself in the application of self-rule of territorial entities as well as in controversies over shared-rule. In sum, the fact that different actors prioritize security threats differently across a broad geographic spectrum necessitates a federal arrangement in the first instance but subsequently institutionalizes and, consequently, reifies competing conceptions of public security.

The conception of public security thus varies across levels of government that set specific objectives—predictable social patterns—for the purpose of preserving freedom and maintaining order within a community. The federal polity's political unity is premised on the state's capacity to provide members of a free society with a sense of security and public order. To this end, federal political systems reconcile diverse conceptions of freedom and public security while overcoming the collective-action problems this diversity presents through a coordinated or more unified approach to public security. This chapter postulates the success or failure of the politics of public security in federal polities as the ability to be responsive to, incorporate and reconcile variegated values and priorities among local communities. How 'secure' the outcome is, then, is partially a function of how 'public' it is, that is, it hinges precisely on the quality of the equilibrium between shared-rule and self-rule. That is because security and the dynamics of securitization are inherently political, especially in federal polities where the competing conceptions of multiple constituent entities are constitutionally entrenched, legitimated and institutionalized within their respective geographic, institutional and social constraints. These dynamics can be broken down into four key variables as they affect the provision of public security: political culture, geographic restrictions, institutional design, and social constraints. Each of these variables can be studied in isolation. But for the purpose of studying the way federal political systems accommodate diversity, which includes ensuring security within diverse communities, disentangling the way their interaction gives rise to different security outcomes is of particular interest. One of the issues this chapter seeks to resolve is the extent to which the outcomes these variables generate are a function of federal institutional design as opposed to the ability of federal institutions to channel and shape public security.

Does federal institutional design affect the exercise and provision of public security? Is public security provided differently in cooperative (for example, Germany) as opposed to dual (for example, Canada) federations? Are concerns

over security either the principal reason for a country's federal system? What are the drivers of change to security and public-safety arrangements in federations: functional, political, economic, historical? Does the degree of asymmetry affect the way public security is delivered? Does the degree of decentralization affect the way public security is delivered? Institutionalism is a particularly promising framework to broach these questions. According to this approach, institutions themselves may not make decisions as independent actors, but they do constrain some behaviour while encouraging other behaviour, they act as filters for political decision-makers and set the context in which decisions are made.[12] The development of institutions encourages or generates increased investment in resources and skills, deepening social commitment to the institution.[13] At the same time, constraints imposed by the institution on social behaviour are reinforced. This suggests that the provision of public security, either originally by convention or, subsequently, by legislative design, enjoys continuity, reinforced over time by the increased investment of resources. A significant commitment of resources sets the course for some degree of institutional continuity because reversing course would be too costly, both politically and possibly financially.[14] This condition is known as path-dependency, defined as "social processes that exhibit positive feedback and thus generate branching patterns of historical development."[15] Path-dependency means that whatever occurred at an earlier point in time will affect the outcomes of events later on.[16] A key concept in any dynamic definition of path-dependency is positive feedback or self-reinforcement. Path-dependency does not suggest that institutional change is predetermined; rather, it limits the range of actions available or acceptable to an actor.[17] Moreover, the greater the level of feedback, coupled with persistence over time, the greater the cost of changing the institutional trajectory. In other words, alternative means of providing public security become increasingly costly. As a result, the provision of public security is associated with a high degree of inertia.

12 E.M. Immergut, "Theoretical Core of the New Institutionalism", *Politics and Society*, 26(1) (1998) 5–34, at 26.
13 P. Pierson, *Politics in Time: History, Institutions and Social Analysis* (Princeton: Princeton University Press, 2004) 34–35.
14 *Ibid.*, at page 7.
15 *Ibid.*, at page 20.
16 W.H. Sewell quoted in *Ibid.* at page 20.
17 J. Campbell, *Institutional Change and Globalization* (Princeton: Princeton University Press, 2004) 7.

Our case selection was largely driven by an effort to compile a representative sample of federal political systems from across the world. By the time federations that are relatively small, have a dubious or no record of democratic governance, or are relatively new were eliminated, the scope of the sample included Brazil, Canada, Germany, India, Mexico, South Africa, Spain, Switzerland and the United States. One country in this study, Spain, in effect is decentralized so as to function as a *de facto* federal polity. Although these countries have similar institutional features they are institutionally heterogeneous nonetheless. In fact, the comparison is complicated because the constituent units across these federal systems are structured differently, with different types of status, power and jurisdiction. However, the study compares more than just nine federal political systems. The polities in this study comprise over 200 constituent units, such as states, provinces, autonomous communities, *Länder* and cantons. The precise number is difficult to ascertain as it depends on whether entities such as Canada's three northern territories, India's seven union territories or United States dependencies, such as Puerto Rico, are counted. In addition, in Brazil and South Africa municipalities have constitutional standing distinct from the provinces, whereas in other federations in our study municipalities are mostly appendages of provinces, states or cantons.

3 Dynamics of Change

3.1 *Nature of Threats to Each Country*

Broadly speaking, countries face two types of threats to public security: naturogenic and anthropogenic risks. Anthropogenic risks divide into endogenous and exogenous ones. The countries in our study confront different levels of naturogenic threats. In Germany, South Africa and Spain these are quite limited. In Brazil, Canada, Mexico, Switzerland and the United States they are prevalent but moderate. In most cases, they take the form of natural disasters that run the gamut from landslides, storms (including hurricanes and tornadoes), flooding, wildfires and drought, to earthquakes. In Mexico, the risk is heightened due to desertification. Only in India do the same risks appear particularly high due to the compound effect of prevalence and population density.

Endogenous anthropogenic threats tend to be relatively low in Canada, Germany and Switzerland. Now that the risk from the terrorist group ETA (*Euskadi Ta Askatasuna*) has subsided, Spain might be classified in this group as well. The United States faces a moderate risk, largely as a result of violent crime. Finally, Brazil and Mexico are at high risk from drug-related homicides

and organized crime, South Africa from disproportionate rates of murder, rape and robbery that are exacerbated by xenophobia and socioeconomic conditions, and India from high levels of homicide and persistent politically motivated violent extremism in different parts of the country.

Only South Africa and India confront manifest exogenous anthropogenic threats. South Africa faces a continuous influx of migrants for economic reasons from countries in Southern Africa, especially from Zimbabwe, which has had, and still has, a destabilizing effect on public security due to the prevalence of xenophobia. While refugees and migration pose an ongoing challenge to India, both as a result of political instability and the impact of climate change in its vicinity, India has festering territorial disputes, notably with Pakistan and China. Several of the countries in our sample share a threat from transnational terrorism, but in most that threat remains modest and isolated. India, by contrast, continues to confront regular challenges from both domestic and international state-sponsored terrorism. Given this panoply of challenges, security theory would predict that we would expect to find a more centralized approach to security in India and, to a lesser extent, South Africa than among the remainder of the sample. Analogous dynamics informed the latent centralization of security measures in many federal systems in the aftermath of 9/11 that resulted in a modest recalibration of shared-rule and self-rule with respect to public security. However, the nature and magnitude of public-security challenges faced by India, coupled with less state capacity among constituent units to respond to these challenges, both explains why India is an outlier in its centralized approach to public security and why it is likely to remain so for the foreseeable future.

3.2 *Centralization and Decentralization*

On matters of public security, developing countries are consistently more centralized than developed ones. India and South Africa stand out for their centralization on matters such as policy, investigation, arrest and public order. In India, the emphasis on the Indian Union seems to be driven by a concern about territorial integrity, heightened by the experience and aftermath of partition. In South Africa, the centralized approach to security is a lag effect of the centralized security apparatus under the apartheid regime, but is also indicative of the centralized institutional security culture prevalent throughout much of Africa. Mexico and Brazil show similar patterns of centralization but more moderately than the high degree of centralization found in India and South Africa. In Mexico, the legacy of decades of authoritarianism continues to shape public security. *De jure*, however, the Mexican regime is more decentralized than *de facto*. The recent centralization of resources and powers within

the army and federal police runs counter to a more decentralized approach in the Constitution and to ongoing judicial reform. The recent centralization may thus be more momentary in response to acute domestic security concerns. That possibility is confirmed by the oscillation between decentralization and centralization found in Brazil. While the centralization of public security correlated with authoritarianism, constitutionally the federal government's control over security in constituent units is actually relatively weak. *De facto*, however, the federal government has control over powerful civil and military police forces and intelligence agencies, which it is at considerable liberty to deploy because of areas of shared jurisdiction with the constituent units. That is emblematic of a general observation in federalism studies, namely that federal governments have a propensity to crowd constituent units out of areas of concurrent jurisdiction.

By contrast, centralization in matters of public security among the sample of developed countries is relatively low. Although quite decentralized, the German arrangement nonetheless produces highly homogenous outcomes. Legislative capacity and the implementation over matters of public security resides largely with the *Länder* governments. This is less by intentional institutional design than as a result of strategic interests of strong local bureaucracies and predates the current constitutional arrangement by several decades, autocratic interludes in the first half of the twentieth century notwithstanding. The federal government's competences are largely limited to overcoming collective-action problems, such as national criminal investigations or the armed forces.

Insofar as Switzerland until recently even lacked a federal police, it is even more decentralized than the German system. In fact, the Swiss system follows the opposite approach: only those powers clearly vested in the federal authorities by the federal constitution, requiring a double majority of the voters and the cantons, fall into their jurisdiction. Switzerland's approach relies heavily on cooperation among the cantons, which enjoy a substantial degree of autonomy, particularly in matters of public security. The federal government alone is responsible for (military) defence, however, with a militia army minimizing the amount of necessary (or rather indispensable) military professionals.

In Spain, the legacy of decades of authoritarianism provided an impetus for a decentralization process that also included responsibilities over public security. Owing to the decentralization process over the past 30 years, the powers of the paramilitary Guardia Civil and the National Police Force overlap considerably with those of the constituent units' security forces, especially those with a long legacy of some degree of linguistic and cultural autonomy, notably the Basque country, Navarre and Catalonia. The Basque *Ertzaintza* and the Catalan

Mossos d'Esquadra date back to the eighteenth century. These regions' long-standing autonomy with regard to public security seems to be path-dependent, having waxed and waned over the centuries despite more centralized interludes. Regaining autonomy over security that these regions had traditionally enjoyed as a result of the decentralization process initiated after the Franco dictatorship seems to have had a contagion effect on other autonomous communities where the main obstacle is not *de jure* constitutional but the *de facto* ability by the government to transfer sufficient resources to the autonomous communities to enable them to realize and extend some degree of autonomy over public security. In autonomous communities that do not yet have their own full-fledged police force, the recent economic and financial crisis has, for the time being, halted their ambitions.

Historically, federal countries with vast territories, such as the United States and Canada, have necessarily had to take a more decentralized approach to matters of public security. However, in the United States that mindset is driven by scepticism of government in general, and of central government in particular, as exemplified by the Posse Comitatus Act (1878)—limiting the powers of the US federal government in using federal military personnel to enforce the laws of US states—which explicitly restricts the involvement of the armed forces in domestic law enforcement operations and sets other limits on domestic operations (such as intelligence gathering) by organizations, including the Central Intelligence Agency and the National Security Agency. In Canada, by contrast, decentralization is more a matter of providing public security effectively across large swathes of territory with linguistically and culturally diverse populations. Both federations resolve concerns over the provision of security resources by granting constituent units sufficient powers of taxation to raise the resources necessary to cover their respective public-security obligations.

Conversely, then, the developed countries in our sample show a pattern of decentralization of public security whereas decentralization tends to be more limited in our sample of developing countries. In South Africa, provincial powers are limited to oversight, consultation and social services; municipalities, by contrast, have limited powers of arrest along with control over policing, traffic and by-laws. In all cases, suspects are handed over to national authorities for detention and prosecution. Similarly, Indian states have few formal powers over public security, although, constitutionally, they have control over 'police' and 'law and order'.[18] In fact, the Indian Constitution even allows the president

18 Union Ministry of Home Affairs, *Modernization of Police Force (MPF) Scheme Book* (Government of India, 2011), entry 2 of the List II of the VII Schedule to the Constitution of India, 268.

to dismiss and dissolve elected state governments in the case of emergency and bring them under direct central rule, as has happened in the Punjab, the North East and Kashmir. Because these are all border regions, it stands to reason that concerns about territorial integrity continue to outweigh local autonomy in the provision of public security in India.

Mexico is becoming more centralized. Although each state and the federal government had their own criminal code (33 in total), the country has been moving toward a unified criminal code for the whole country. In Spain, the federal government provides public-security funding to the states as well as the municipalities, and in Germany tax income is shared between the central government and the *Länder*. Still, the merits of one model over another require more data because the experience of federations that have granted constitutional status to municipalities and where municipalities receive direct federal funding seems to suggest that this may exacerbate collective-action problems across federal systems. However, because those federations are all developing countries, whether this is a function of institutional design or a function of other endogenous factors is unclear. In Canada, the United States, Germany and Switzerland, constituent units enjoy considerable autonomy over public security, with little leeway for the federal government to control public security directly, other than through targeted financial incentives. However, all four countries have seen local autonomy compromised in the aftermath of 9/11 through anti-terrorism legislation with latent centralizing tendencies, including the creation of federal police forces in Germany and Switzerland, and more sweeping powers for security services in general and federal police in particular in the United States and Canada. In all four federations, however, constituent units retain a substantial degree of autonomy in the application and execution of public security. Add to that the variegated tendencies toward decentralization of public security in Spain, Mexico and Brazil and the initial hypothesis that public security is, ultimately, a local matter seems to be confirmed.

For decentralization to materialize, however, certain conditions seem to be necessary. Detailed constitutional provisions alone are insufficient and, as the Spanish case suggests, may not even be necessary. Rather, a commitment to a balance between shared-rule and self-rule as well as adequate resourcing through own-source revenue or transfers, are necessary. However, the contrast between Germany and Spain (with the exception of the Basque Country and Navarre) on the one hand, where transfers based on shared tax revenue constitute the bulk of resources, and the United States and Canada, where own-source revenue plays a significant role, suggests that the mechanism by which public security is financed in decentralized systems is somewhat immaterial.

As in any other policy field, systems with a greater degree of own-source revenue may be prone to less equitable outcomes because the federal government has less leverage. Yet, the American and Canadian experience suggests that even under conditions where constituent units raise most of the revenue to pay for public security, relatively equitable outcomes across large territories with considerable variation in conditions are readily achievable. In other words, as long as resources are adequate, the mechanism by which they are provided seems secondary to an overall commitment to autonomy in the provision of public security.

3.3 *Symmetry and Asymmetry*

While political and economic development emerge as determinants of dynamics of centralization and decentralization in federal polities that is not the case for proclivities toward symmetry and asymmetry. Developed federations where the administration of public security is decentralized, such as the United States and Germany, can nonetheless be quite symmetric in the way decentralization is operationalized. In Germany that is by design; in the United States that is the result of the federal government gradually acquiring more expansive powers to encourage or coerce convergence among states. Resources play a considerable role in the degree of symmetric development in public security. In South Africa, especially, most public-security resources accrue to national agencies. Similarly, in Brazil and Mexico federal agencies are effectively better resourced than those of the states, and there is considerable variation in spending on public security among states in both federations. As a result, in Mexico, for example, both the quantity and quality of police forces vary considerably across Mexican states and municipalities.

Yet, resources alone are not deterministic: despite being well resourced with relatively similar levels of per capita spending by constituent units, public-security actors at the level of constituent units in the United States and Germany generate highly equitable outcomes. But this is, of course, precisely what one would expect to find in a modern state whose sovereignty is in part defined by its ability to assert the monopoly of violence over a given territory. In other words, the sign of maturity of public security in a federal State is the extent to which it is able to generate comparable levels of public security across a single territory. In Canada, Switzerland and Spain, territory, language, culture, political culture and history have preconditioned and possibly even necessitated asymmetry to equitable ends. By contrast, in federations with highly disparate levels of public security, such as India, Brazil or Mexico, or federations where public security remains largely elusive, such as South Africa, a greater degree of federal intervention is perceived to be necessary to achieve more equitable outcomes. In Mexico, that intervention goes so far as the General Law of the National System of Public Security (2009) that deliberately legislates on intergovernmental mechanisms to improve efficiency in production and equity in the allocation of security as a public good.

On the one hand, asymmetric approaches to public security may be more tolerable where public security is already equitably distributed. On the other hand, asymmetry may actually be necessary to achieve equitable outcomes, at least under certain conditions, including linguistic, cultural, ethnic or national diversity. India—and to a lesser extent South Africa and Spain—are outliers somewhat in this regard: large, diverse countries with, in India especially, a highly centralized approach to public security and little tolerance for asymmetry in its delivery. Neither decentralization nor asymmetry is a sufficient condition for equitable public-security outcomes; but the observations suggest that they may be necessary, especially in diverse federations.

4 Drivers of Intergovernmental Dynamics

4.1 *Path-Dependency*

Scholars of federalism are heavily invested in historical institutionalism and, indeed, path-dependency seems to play an important role in explaining observed patterns. On the one hand, authoritarianism in one form or another has shaped experiences in Brazil, Mexico, South Africa and Spain that reverberate in today's network of decentralized organizational structures. In all four federations, federal security actors continue to play a large role in the provision of public security. Although that role has diminished somewhat in Spain, multilevel governance of public security in Spain continues to be plagued by operational overlap, redundancies and duplication that have proven difficult to disentangle, largely because of a public-security tradition premised on an expansive role for central institutions. Germany's experience is more distant but shaped an institutional design premised on thwarting the centralization of authority, which has given rise to problems of transparency and cooperation. Germany's federal institutional design, especially with respect to public security, is strongly influenced by the American model. The nuance, of course, is that American institutions are the result of scepticism of central government owing to a war of independence against colonial rule. Yet, in India, a similar reaction against colonial rule had the opposite effect: centralized security institutions. This suggests that exogenous anthropogenic threats, in India's case notably the threat of partition, trump concerns over strong centralized security apparatus. Canada's experience is somewhat analogous, with an

arguably more centralized approach to public security giving way to decentralization and asymmetry as the initial external threat emanating from the United States subsided. Switzerland is the outlier. The last international conflict in which it participated (as an entity) was the battle of Marignano (1515). The greatest risk to its sustainability has since been the threat of internal strife (except for the World Wars). Switzerland's decentralized, asymmetric approach to public security is thus a combined function of reconciling unity in diversity and diminishing external threats to its territorial integrity.

4.2 *Intergovernmental Relations*

Our sample divides into cases where intergovernmental relations in public security are heavily politicized (and thus arguably more subjective) and those where they are less politicized (and thus arguably more objective). Politicization seems to be more determined by institutions than political development. Relations in Brazil, India and South Africa are heavily politicized, with relations in Mexico less so. In Spain the dynamics between police forces are highly politicized. Controversy over the level at which public security should be provided and the way public security is resourced among constituent units is widespread. This lack of consensus is apparent in the absence of formal mechanisms of cooperation and the difficulty of making the ones that do exist, such as the Security Boards, work effectively. The South African Police (hereinafter SAP) is heavily influenced by a federal government that is controlled by the African National Congress. Its 'tough-on-crime' rhetoric legitimates the central government's heavy-handed approach and resonates with the electorate. Ergo, oversight through politically neutral organizations and the provinces—that technically have responsibility for oversight—as well as intergovernmental coordination is limited and ineffective. However, as limited collaboration between the SAP and municipal forces shows, the relationship has become less politicized as South African politics matures and security institutions professionalize. Analogous security rhetoric has served to legitimize strong central federalism in India, much to the states' chagrin—and to the detriment of intergovernmental cooperation. However, politicization is not as much a function of federal political parties than it is of resentment among minorities who militate against perceived oppression by the central state and its security agents. That sentiment is prominent in Kashmir but is similarly prominent in support for the Naxalite rebellion in Bihar, Jharkand, Andhra Pradesh, Karnataka, Chhattisgarh, Orissa, Maharashtra, Uttar Pradesh and West Bengal. In Brazil, regional elite interests and concomitant corruption reinforce lingering paternalism and clientelism from its oligarchic past. Although not partisan *per se*, these dynamics complicate intergovernmental relations and the

intergovernmental effort that does exist, such as the Integrated Management Committee and the National Public Security Force, tends to operate on the operational and tactical rather than the strategic level.

In other words, politicization of intergovernmental relations tends to be driven by regional grievances over the use, provision and resourcing of public security at the local level and the lack of institutionalized cooperative bodies at the vertical and horizontal levels. But politicization takes two different forms: in South Africa especially, and to a lesser extent in Spain, where it is driven by partisan politics, as opposed to Brazil and Mexico, where it is not. *Ergo*, partisan politics are neither a necessary nor a sufficient condition for the politicization of intergovernmental relations. Conversely, however, the absence of such partisan politics may not be a sufficient condition but appears to be a necessary condition for objective intergovernmental relations. As in Brazil and Mexico, the application and provision of public security in Canada, Germany and Switzerland is largely beyond the fray of partisan politics. In the United States, local sheriffs are elected officials, which may place them within the political fray. The Canadian and American experiences in particular suggest that lapses in public security are prone to exploitation for partisan gain by local and opposition politicians. Similarly, ideology has an impact on intergovernmental relations, as some parties see more or less of a role for the state in providing public security. Generally, however, intergovernmental relations concerning public security in these federations tend to be fairly objective insofar as the institutional mechanisms to work out horizontal and vertical differences tend to be quite mature.

A key difference in the way these mechanisms operate is the role and importance of politicians *vis-à-vis* bureaucrats. In Germany and Switzerland, for instance, strong regional structures are pivotal to intergovernmental relations with minimal political involvement. Swiss intergovernmental relations with respect to public security seem to have benefited from the opportunity to mature over a long time without significant disruption. That may partially account for their strong institutionalization within a robust rule-of-law framework. Germany's Conference of Interior Ministers is a highly institutionalized and effective intergovernmental mechanism, but its name belies the fact that its primary purpose is actually as a vehicle for horizontal and vertical coordination and cooperation among the bureaucracies of the *Länder* and the federal government. Intergovernmental relations in Mexico are equally institutionalized, but mechanisms, such as the National Public Security Council, the Attorneys General Conference, the Minister of Public Security Conference, the Prisons Conference and the Municipal Public Security Conference, operate primarily at the political rather than bureaucratic levels.

In Canada, by contrast, intergovernmental relations on matters of public security tend to be fairly ad hoc and premised on political involvement, with bureaucracies usually acting at the behest of politicians rather than on their own initiative. The United States and Spain are outliers: formal vertical intergovernmental institutions are all but non-existent and horizontal ones are ad hoc and often regional with national ones holding relatively little sway. Of course, that applies only at the strategic political level; plenty of contacts exist at the operational and tactical levels; and it is this trust and communication among bureaucrats and operators that seems to be a hallmark of maturity in intergovernmental relations in federal systems. That is, most intergovernmental aspects do not actually require much political involvement because civil servants already cooperate well, generally respecting each other's competence and jurisdiction. This is one of the problems to which a centralized approach to public security seems to give rise: hierarchical suppositions engender an undue sense of hubris among federal security actors and a consequent disrespect for security services at 'subordinate' orders of government. That federal forces and intervention in local security matters is required thus becomes a self-fulfilling prophecy, but one that runs counter to the premise that security is local and one that asserts national security priorities over local security interests.

4.3 *Legitimacy*

In federations where 'paternalism' is prevalent, institutional legitimacy and judicial efficacy tend to be low to begin with, and even lower at the levels of constituent and local governments. Where people feel the least secure, government and especially its related security institutions enjoy the least legitimacy. In Brazil, India and South Africa, for instance, corruption is endemic and, partly as a result, public-security actors are widely condemned as inept and ineffective. Under these circumstances, central institutions seem to enjoy a greater degree of trust than local ones. In Mexico and India, for instance, the armed forces consistently enjoy considerable trust, while local police forces often do not. In Brazil, the perception is widespread that police repression is applied unevenly, and there is a large gap between formal structures and the implementation of security provisions. While its institutional legitimacy and state capacity tend to be high, Spain is an interesting anomaly. The convoluted relationship between the autonomous communities and the central government, and the entangled diversity of police forces to which it gives rise, makes it difficult for citizens to hold any one level of government accountable for criminality and policy. Low levels of transparency and accountability thus make Spain comparable to Brazil, India, Mexico and South Africa. However,

with crime rates below average, Spaniards tend to perceive public security positively. However *opaque*, then, ultimately what matters is not the system's structure but the efficiency and equity of its outcomes.

4.4 *Proactive versus Reactive Policy-Making*

The major difference here is between intergovernmental systems that are sufficiently robust to prioritize prevention. In the absence of robust intergovernmental relations there is a tendency to resort to reactive public-security measures. India and South Africa dedicate few resources to prevention. They rely instead on central enforcement measures. Brazil's 'Institutional Duplicity' overlays an egalitarian political system with a stratified social structure so as to ensure that prescribed means rarely accomplish intended ends because legitimate and illegitimate institutions operate side by side and, occasionally, in concert. Change and intervention by the centre are occasioned by policy shocks while the fundamental structure of the public-security system remains unchanged. By contrast, Mexico's ambitious judicial and security-sector reform is an impulse toward greater prevention, but neither reaction nor prevention thus far appears to have generated tangible improvements in public security and in stemming the spread of violence.

By contrast, the high degree of trust, confidence and legitimacy in public security in Canada, Germany, Spain, Switzerland and the United States is the direct result of a functional federal/decentralized system. In the federal approach to dividing power, the resources and surge capacity to react, especially on a large, coordinated scale, are vested with the federal government. By contrast, preventative measures, such as social, education and healthcare policy—or, as in the case of administrative federations, at least their implementation—is vested with the constituent units. *Ergo*, proactive preventative measures are difficult to operationalize, let alone sustain, in federations whose constituent units lack the necessary capacity, resources or competences and the concomitant intergovernmental relations and mechanisms. Their absence causes federations to default to a Hobbesian mode where the federal government becomes the sole guarantor of public security, but at the cost of being able to tackle only symptoms of public insecurity, not their roots; and when it does so, federal priorities, values and interests are frequently not aligned with local ones. That is, ultimately, why decentralization is integral to public safety. Decentralization is not a normative preference *per se*. Rather, the ability to be proactive about implementing preventative public-security measures to create and sustain an environment where people feel safe and confident about their security hinges on harnessing strategically (1) the broad set of policy tools that are often conceived for public safety and go beyond the

immediate provision of public security, and which may require reactive measures as a fall-back position and (2) local public-security resources and actors that know and understand their local communities and will give priority to the community's priorities, values and interests.

5 Conclusion

Federal institutional design *per se* thus matters for the efficient production and equitable allocation of security. But so do a plethora of endogenous effects whose impact on the performance of a federal polity's capacity to generate public security cannot always be readily disentangled. That makes it difficult to control systematically for vertical and horizontal effects, such as decentralization and asymmetry, on security outcomes. However, the evidence clearly debunks the presumption that security need necessarily be centrally controlled. To the contrary, decentralized and asymmetric systems produce outcomes that are just as good. Whether more centralized and asymmetric arrangements would result in similar outcomes would require a counterfactual thought experiment. However, federal polities that do face challenges in the provision of security seem to rely heavily on a centralized approach.

The importance of security as ultimately a local issue, that is, one best handled by constituent units, thus seems to be confirmed. If one of the *raisons d'être* of a federal system is to reconcile self-rule and shared-rule in societies across whose territory priorities, interests and values vary considerably, then central and constituent governments are perforce likely to differ in their security priorities, interests and values. The greater the variance among priorities, interests and values, the greater the incentive for decentralization and asymmetry to reconcile unity in diversity. In fairly homogeneous federations, such as Germany, the provision and allocation of security is a matter of intergovernmental coordination. In diverse or heterogeneous federal polities, by contrast, there appears to be more horizontal and vertical competition among autonomous governments. The provision and allocation of security thus risks being reduced to a zero-sum game. The less optimal the federal system's performance, the more security is likely to be underprovided, and the scarcer it is, the more contentious its provision becomes by virtue of spawning opportunistic behaviour by competing governments within the federal polity.

Public-security outcomes, then, are a function of institutional design and operational differences. The challenge in terms of institutional design, on the one hand, and the way the network of intergovernmental institutions functions, on the other, is an equilibrium that optimizes the efficient and equitable provision of security across a federal polity. That seems to be difficult to accomplish when there are looming threats to territorial integrity or a path-dependent institutional culture of centralizing security.

The ability to reconcile shared-rule with self-rule is as important for public security as it is for other policy arenas in federal polities. How they are reconciled is a function of the types and intensity of the threats to public security that a country faces, the nature and diversity of society and the federal territory, and the path-dependent trajectory that constrains and conditions institutional development. The nature and territorial concentration of distinct linguistic, cultural and ethnonational groups is likely to influence the need and extent of asymmetric public-security arrangements. Irrespective of the degree of asymmetry, however, decentralization emerges as a key determinant of the legitimacy and efficacy of public security and the intergovernmental relations that institutionalize it. The institutional logic that informs this finding is a function of territorial differentiation of security priorities, values and interests across constituent units, on the one hand, and subsidiarity, on the other. According to the latter, local institutions are best situated not only to act in ways that are sensitive to those priorities, values and interests but also to be proactive in solutions and prevention. The more conceptions and the provision of public security are de-aligned, the more public security is likely to diverge from local priorities, values and interests. And the greater this de-alignment, the less objective and functional the intergovernmental relations needed to shift from immediate Hobbesian concerns of public security to a more holistic approach to public safety.