**Chapter 1 - Introduction**

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This is the first book to offer an overview of the federal structures and processes that reconcile domestic security with fundamental democratic norms. It offers a broad comparative review of constitutional, institutional and legislative frameworks that underpin security across nine federations, and the implications that follow for institutional design, public administration, and public policy. Two desiderata motivate this book. One is a how state structure and attributes, such as heterogeneity and unitary past, affects whether the state takes a top-down or a bottom up-approach to security, and how that affects the performance of security policy. The other is a relative dearth of policy, administrative, and institutional innovation because domestic security policy and the state's monopoly of force have been neglected as fields of rigorous comparative research. The systematic and methodical link between a set of nine federal polities on the one hand, and a select policy area on the other thus holds out considerable promise for new – or at least better – approaches to a core mandate of the modern state: security.

How to ensure security becomes positive-sum for all involved, rather than a zero-sum security dilemma? Ultimately, this is the research problem that underlies this book: how can (and do) federations overcome the fallacy of composition in the provision of security for their citizens, their sub-state units, and the state as a whole. This is *not* self-evident. In fact, it may well be the ultimate challenge that confounds federal countries: security is fundamental to democratic governance, social harmony, social development, and prosperity. Security is a necessary but, as even a most cursory survey of countries readily shows, hardly a sufficient condition for democracy. Federalism, of course, is neither a necessary nor a sufficient condition

for democracy. Democracy, however, is a necessary but not sufficient condition to ensure that the synthesis of federalism and security advances freedom, equality, and justice for all citizens across a federation's sub-state entities alike. Such is the aim of this book: to identify more (and less) optimal approaches to harness synergies between federalism and security to enhance democratic norms, values, outputs, and outcomes for citizens across sub-state entities.

The Forum of Federation's Global Dialogue series[1] has been making significant comparative inroads along an array of policy fields. However, most of those had antecedents. By contrast, the novelty of this book is two-fold: begin to fill a void in the comparative study of security in federations while, in the process, contribute to the nascent field of comparative security studies. In contrast to the maturity of the field of comparative federalism (Watts, 2007), comparative security studies has yet to emancipate itself methodologically and substantively as a sovereign field of study (Collins, 2016). The findings are intended not only to inform decision-making in the select subset of nine federal case studies that form the basis of this book but also to enhance conflict resolution through improved prospects for institutional design and power sharing in fledgling federations and proto-democratic regimes, such as Iraq and Ethiopia, in illiberal federations such as Russia, as well as in deeply conflicted societies for which a federal arrangement holds out the sole genuine alternative to fragmentation and disintegration, as in Yemen and Libya.

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[1] The program has thus far examined nine themes:
Theme 1:      Constitutional Origins, Structure, and Change in Federal Countries
Theme 2:      Distribution of Powers and Responsibilities in Federal Countries
Theme 3:      Legislative, Executive and Judicial Governance in Federal Countries
Theme 4:      The Practice of Fiscal Federalism: Comparative Perspectives
Theme 5:      Foreign Relations in Federal Countries
Theme 6:      Local Governments and Metropolitan Regions in Federal Systems
Theme 7:      Diversity and Unity in Federal Systems
Theme 8:      Intergovernmental Relations in Federal Countries
Theme 9:      Political Parties and Civil Society in Federal Countries

Owing to global supply and transportation chains, the interconnectedness of social media, population growth of 3 billion additional people on the globe concentrated in some of the least sustainable parts of the globe, pernicious effects of climate change, the diffusion of power, to name but a few trends, the emergent challenges to the security environment are prone to persist. The end of the Cold War, globalization and the concomitant trans-nationalization of deviance, and the aftermath of 9/11 as a tipping points for transnational terrorism have engendered rapid changes in domestic, regional and the global security environments. These developments challenge the institutionalized security claim of the modern state: to renew, deepen and expand control over risk phenomena that are ultimately impervious to state control.

Since security involves some of the most basic yet potentially coercive powers of the machinery of the modern state, how best to reconcile freedom and security is among the most prominent issues of the day. Striking the appropriate balance is complicated by the changing nature of risks that transcend a specific geographic location, whose consequences are in principle incalculable, and with fleeting control over the unsafe consequences and dangers of decisions. As in any other policy arena federalism presents a set of challenges distinct from those faced by unitary systems. In federal states that task is further complicated by the presence of multiple levels of government that enjoy autonomy within their realm of constitutional jurisdiction. Federal citizens continuously negotiate both, the limits and powers of state intervention to ensure a free, safe, and prosperous society, and how these are to be assigned to different levels of government. How much independence is one to surrender to the state, and what protection does one want to gain in return that only a social existence can provide? The ensuing constitutional and legislative arrangements necessitate that governments coordinate amongst themselves, and with civil society and the private sector.

The federal case studies in this book represent different federal responses to security challenges of differing quality and quantity: the Naxalite rebellion in India, terrorist activities of Basque nationalists in Spain, seemingly ungovernable urban spaces in Brazil, skyrocketing crime rates in South Africa, violence by Mexican organize-crime syndicates, increasing criminal police competences of federal authorities in Switzerland, and local implementation of federal counter-terrorism priorities in the United States, Canada and Germany. Initially, however, this introduction will present the framework that guides this book. The first section will establish the research problem, explain the scope of the selection of country case studies, introduce methodological caveats about comparability owing to endogenous historical and institutional effects, and explain the common structure that guides each of the case studies for the purpose of facilitating comparison. The second section operationalizes the contentious concept of security for the purposes of this study. The third section situates the concept of security within federal theory in general, and comparative federalism in particular. Finally, the fourth section concludes with two different findings: after a survey of the highlights of each of the nine country case studies presented in chapters 2 through 10, that final section also gives the reader a preview of key comparative findings as analyzed in chapter 11, which concludes this volume.

1. ABOUT THE BOOK

This study compares public security across federal polities with the aim of identifying commonalities and differences, best practices, lessons learned and controlling for endogenous effects by distinguishing those aspects that are unique to any one federal system from those that may be transferrable to others. The nomenclature is quite deliberate, and meant to problematize the concept of "security," how it is exercised, and in whose interest. Thomas Hobbes famously

writes that life without the state (that is, in the State of Nature) is "nasty, brutish, and short." In this vein, security is commonly provided by a third party, which, in return for ceding certain rights, provides "freedom from" actual occurrence of danger, injury, fear, loss, anxiety, crime, attack, etc. By contrast, safety is the general condition that gives rise to feeling secure. Public safety, then, is the welfare of the general public. Public security, by contrast, refers to concrete measures of protection: policing activities aimed at protecting goods and people, which encompasses public and private actors with intent and strategic capacity to fulfill policing functions with the objective of maintaining order, public safety over a defined territory, and the application of the rule of law.

As a heuristic device, this security function has two basic dimensions: preventive and repressive and, as such, includes everything from the fight against delinquency and transnational crime, different police forces (federal, substate, local), borders and border guards, as well as private actors. To this end, Jean-Paul Brodeur famously distinguishes between "high" and "low" policing, while James Sheptycki (2011) surmizes that the evolution of policing must be understood as a dialectic between top-down dynamics as well as internal bottom-up ones. National security is premised on high policing: centralized norms, interests, and priorities along with a hierarchical arrangement where some conceptions of security are eliminated or neutralized in favour of others by the coercive apparatus of the predatory (nation-)state that enforces, protects and seeks to legitimate its monopoly over the management of (physical) violence (Tilly 1985). In the famous words of Arnold Wolfers: "national security, in an objective sense, measures the absence of threats to acquired values, in a subjective sens, the absence of fear that such values will be attacked" (Wolfers 1952, 485). Its quintessential symbol is the police protecting and enforcing state sovereignty across a territory delimited by state borders: the state

whose agents are authorized to use physical force to guarantee order and public security (Althusser 1976, Bittner 1979, Bayley 1983). Through the surveillance and control of space and the spatial strategies put in place to this effect, space becomes an instrument in the service that of the particular mission that has been devolved to police activity (Germes 2011). This mission and its accompanying spatial strategies differ among federations and their substate governments, and police activities are necessarily a function of territorial specificities. Federal territory and institutions thus constrain and enable police competencies and activities. Inherent in the idea of public security is the notion of low policing: the concept of public security is meant to signal an ongoing negotiation among competing norms, interests, and priorities. In this book, public security is thus conceptualized as reconciling competing norms, interests.

Federal states effectively institutionalize this tension. Although institutions, including those that envelop federal structure, can affect federal structure by converting incentives to behave opportunistically into a motivation to cooperate, federal process does not follow perforce from federal structure. Ergo, the underlying normative assumption that guides the study is that the process intrinsic to democratic constitutionalism is a necessary condition for a robust state to generate political order as a legitimate outcome, where democratic constitutionalism is understood in the form of two bedrock principles (Fukuyama, 2012): (1) the rule of law to which the state is subordinate (in the form of (i) the independence of the judiciary, (ii) the application of the law through the impartial administration of justice, and (iii) the legality, legitimacy, impartiality and proportionality of police investigations); and (2) political accountability in the form of democratic oversight of the exercise of the power of the state to ensure that it is not corrupted. Federal political systems are both the result and the cause of differences over these principles and the way they are operationalized.

The delivery and administration of security to the satisfaction of *all* members of a federal community is predicated on an appropriate balance between shared-rule and self-rule in governance arrangements.[2]  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 constituent units to respond to local preferences.  With respect to security, shared-rule thus effectively amounts to sharing not only the state's monopoly of the legitimate use of physical force in the enforcement of its order, but also the constitutional framework and rule of law that govern its use, and the ability to hold security actors to account.

Realizing federalism as an institution and a process to generate security outcomes is thus fundamentally political: In balancing self-rule and shared-rule, how are responsibilities and powers to be divided yet shared between the central government and constituent units?  Since this research question is ultimately driven by a state's capacity to reconcile freedom and security, only federations that qualify as democratic are included.  Still, space in insufficient to include them all.  Some readers may take issue with the inclusion of some countries and the omission of others: Australia, Belgium, and Iraq, for instance, at not included, even though security features prominently in each.  Whilst would-be federations such as Cyprus, Yemen, and possibly Libya where security is a first mover do not feature either among the case studies, the comparative findings in the conclusion are meant to advance the underlying body of knowledge that informs constitutional negotiations that envisage a federal endgame.  All cases in this volume -- Brazil, Canada, Germany, India, Mexico, South Africa, Spain, Switzerland, and the United States -- have previously figured prominently across the Forum of Federation's aforementioned Global Dialogue series, are either member countries of or closely associated with the Forum of Federations, and share three quintessential features: de facto constitutionally enshrined (1)

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[2] The epigram of federation as "regional self-rule plus shared rule" was introduced by Elazar (1987).

jurisdictions with (2) a combination of shared- and self-rule (3) by at least two agents in the form of autonomous levels of government.

In each country case study, federalism and security have undergone quite particular and highly contingent developments. That limits comparability. Perhaps that is precisely why no effort has thus far been made to compare public security across federal polities. Nonetheless, that caveat has not impeded systematic comparison in other policy areas, as exemplified by the Forum of Federation's Global Dialogue. Endogenous effects and each state's particular manifestations of security notwithstanding, they share federalism's basic structure within a democratic framework.

Brazil and Mexico exhibit the challenges of democratization in a federal polity confronted with large-scale violence as a result of organized crime, and the struggle central governments face when trying to resolve security issues that are ultimately local in nature. These federations face a dilemma in administering and delivering security: Central intervention is driven by insufficient security capacity at the local level, yet further calls into question the ability to bolster local capacity and reinforce local jurisdiction in the area, thus precipitating suboptimal outcomes for the federal arrangement as a whole. India faces similar administrative challenges as a result of local under-delivery and capacity, but these play themselves out different because security issues are largely driven by local insurgency and various forms of terrorism. South Africa is particularly illustrative of the way the division of powers can exacerbate security problems; the case study is highly suggestive of the importance of institutional design. Canada and the United States contrast the symmetric with the asymmetric delivery and administration of security. The American case shows the perils of not finding an adequate equilibrium between shared-rule and self-rule, and the disjuncture between federal and local security priorities. The

Canadian case, by contrast, demonstrates that, contrary to widespread belief, decentralized and asymmetric delivery and administration of security can not only yield effective and efficient security outcomes, but may in fact be a precondition of such outcomes in large, diverse societies. The German federation is witness to the creeping centralization of security in a country whose security structure was intentionally designed to curtail the central government's purview over security through decentralization. Similarly, security has also seen (limited) centralization in the Swiss federation. The Spanish case illustrates the problems of inefficiency to which overlap and coordination give rise in a decentralized polity where the division of powers and labour between the central and constituent governments with respect to security are often unclear and competitive.

The case studies include two Anglo-Saxon systems of government along with a number of system that are foreign to Anglo-Saxon liberal democracies. While some of these cases are also advanced democracies, and their ideas happen to be somewhat liberal and republican akin to those that inform the United States, most are not modelled on Anglo-Saxon principles or institutions of government. The distinct legal histories of each country case study have a path-dependent impact on contemporary policy choices as mediated by current constitutional and legal frameworks. In Brazil, for instance, American legal and philosophical legacies influenced the way Brazilian federal was designed and the division of powers among federal, state and municipal levels. At the same time, these ideas were grafted onto primarily Portuguese conceptions of colonialism that necessarily affected how power was understood, divided, and operationalized organizationally. Similar provisos apply to Mexico with its Spanish colonial influence, India and its British colonial history, South Africa, with its Dutch and British legacies as well as the aftermath of the Apartheid regime. These are all circumstances under which

power, control, and security are quite particular, and distinct from the book's other case studies. That is, they differ fundamentally from the liberal ideas and value systems that gave rise to Commonwealth and North American constitutionalism, which in turn are different from social-democratic principles in continental Europe. By way of example, liberal democracy in the Anglo-Saxon world is premised on limited state intervention, and the state as an arbiter that adjudicates competing interests; by contrast, social democracy in continental Europe is much more comfortable with state intervention for the purpose of directing society, the market, and their development. In the same way that these nuances have enabled the emergence different varieties of capitalism (Hall) in Europe, they have given rise to different and particular varieties of federalism on the one hand, and security on the other hand.

Concerns about the methodological nationalism that pervades comparative federalism notwithstanding, the nine country case studies in this book actually comprise over 200 provinces, 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 U.S. dependencies are counted in the sum total. In Brazil and South Africa municipalities have constitutional status as bodies politic distinct from provinces; in other federations they are mostly appendages of provinces, states or cantons. Yet, in the case of three German city states and Mexico's Federal District, some municipalities have the same standing as states whereas in India National Capital Territory of Delhi enjoys the status of a union territory rather than a state.

First, to ensure comparability, the chapters broadly follow a similar structure. However, some latitude is dictated by circumstance and leeway for flexibility and adaptation. Initially, each chapter surveys the country's principal public security challenges, their federal dimensions and related institutional structures and intergovernmental processes.

Second, the chapters map each country's constitutional and legal foundations for legislative competencies and the provision of public security in the federal polity, including the division of powers, exclusive, concurrent and paramount powers. This part surveys the principal security mechanisms of each level of government, the extent to which these mechanisms actually reinforce or undermine the constitutionally ordained division of power, and how well mechanisms are matched with oversight. It goes on to examine the extent to which these mechanisms are the result of explicit provisions in the Constitution as opposed to political practice in the form of conventions. In the process, the section situates the federal arrangement along the symmetry-asymmetry and centralization-decentralization continua. It closes out by examining the public trust and perception of different levels of government as a function of their contribution to public security.

With an eye to investigating the importance of a federal political system's adaptability and flexibility, the third section analyzes the way each public security system actually works in practice, whether it is plagued by overlap and duplication, how well it actually works, the way the system has changed over time, and the explanations for change and inertia. To this end, this section also delves into the reasons for the system's institutional design, including whether security was a major driver in the establishment and evolution of the federal system. That is important if we are to learn about the conditions that enable public security in federal polities in the first place. It asks about the role of municipalities, especially in federal polities, the extent to which the federal government's role has waxed and waned over the years, and the causes for any oscillation observed. One of the goals is to measure the extent to which public security arrangements adhere (or depart from) the principle of subsidiarity.

The fourth section seeks to gather fiscal data on public security. This is less a matter of ascertaining whether the system per se is funded adequately than it is to gauge the adequacy of financial resources within and among the different levels of government. Part of the issue here is to measure the degree of interdependence, the extent to which political autonomy is reflected in fiscal autonomy, and the proliferation of unfunded mandates where one level of government can obligate another to take certain action without (adequate) fiscal compensation.

To identify the dynamics that make intergovernmental collaboration successful, the fifth section surveys the available intergovernmental mechanisms, their effectiveness and whether they set appropriate incentives for cooperation. It gauges how politicized these mechanisms are so as to understand whether it makes a difference if they are run by politicians or bureaucrats.

For illustrative purposes, one or two critical policy case studies follow in the sixth section before rounding out each country study with an overall assessment of the adequacy and appropriateness of public security arrangements in that particular polity by assessing the federal polity's performance in delivering and administering security. It summarizes the drivers of change and unintended consequences to which they may have given rise. Since federalism and democracy are functionally dependent, this assessment is also meant to discern how well the federal system and its operation actually conform to basic liberal-democratic values – freedom, equality and justice – and operating principles, including the rule of law and representative government as a manifestation of popular sovereignty.


2.  THE COMPARATIVE STUDY OF PUBLIC SECURITY

First, security is a function of the state's ability to constrain – and enable – human behaviour. The state is any "human community that successfully claims the monopoly of the

legitimate use of physical force within a given territory"; thus, "the modern state is a compulsory association which organizes domination" (Weber 1919). The modern state is premised on an "implicit contract" between the state and society, whereby the state provides "security, law and a reasonable amount of order" to the population (Holsti 1998: 94). States, then, are instrumental to social order; but only democratic states are equally instrumental to public welfare. Democracies distinguish themselves by virtue of factoring considerations of individual and collective freedom, equality, justice, well-being, and prosperity into the equation. To capture this more precise notion, for the purpose of this book the concept of security is qualified as public security. Public security comprises acts ranging from the ordinary measures taken by law enforcement authorities within the framework of constitutional and relevant special laws to extraordinary measures to safeguard human rights and fundamental freedoms.

Second, security (and insecurity) comes in many forms: national, regional, international, global, collective, local, social, and so forth. This problématique is compounded by the way epistemic communities perceive in/security: security is ultimately in the eyes of the beholder. Even the vernacular is commonly problematic: does the term 'national' security make much sense in a context where most states are actually multi-national. Or does it implicitly acknowledge that security provided in the interests of one 'nation' may not be in the interests of another? Or perhaps that the purpose of security is as much 'national defence' as it is to build, construct, and unify diverse states – through coercion and the imposition of force if necessary. Charles Tilly (1985) famously likened the state to an organized crime syndicate that eliminates internal opponents and extracts resources to protect its supporters. Institutions, patterns, and processes that reinforce security for some groups thus inherently raise the prospect of making others – or making them feel – less secure.

Third, security, and how it is operationalized, is controversial and contingent. The way the United States and Canada commonly understand security is broadly steeped in the prevailing approach of neorealism, where the role of state institutions places the armed forces in particular and security institutions in general – such as intelligence and law enforcement -- at the core of security policy. They distinguish between security and safety: security is commonly understood as the actual services the state provides, such as law enforcement, whereas safety is commonly associated with the broader role and obligations that the institutions of the state have in fostering an environment where citizens, organizations, as well as private and non-governmental institutions can flourish and prosper.

In Europe, by contrast, security tends to be understood as more multifaceted and complex, and dependent on a much wider range of bureaucracies beyond the armed forces, law enforcement, and intelligence services, to include health, infrastructure, and social development. Perhaps the best-known academic manifestation of this Atlantic divide is the critical turn in security studies, especially the so-called Copenhagen School of security studies and its interest in the multiplicity of discourses concerning security, and the role that discourse by different security, public, and political actors plays in the construction of threats (Buzan, Wæver, and de Wilde, 1998). Although not discussed explicitly, the different meanings denoted by the referent 'security' emerge somewhat implicitly from the various chapters. So, while all chapters use the common referent of 'security', there are important nuances in what they understand by that referent, and what that referent signifies in a particular political, social, institutional, historical, and discursive context.

This raises a dilemma: broaden the scope 'security' beyond institutions and processes to include critical perspectives along with less traditional takes on security, and the chapters

become unwieldy in their expanse; cast the remit too narrow, and risk being criticized as a traditionalist for reducing security to state actors and institutions.  The referent 'public security' was chosen to bridge this divide, however imperfect: to signal on the one hand that the state has a broader role in security than simply fielding domestic security actors such as police while, on the other hand, reining in the temptation to stray too far from the conventional understanding of security.  While the term 'public security' may not be English vernacular – for precisely the aforementioned reasons – for the purpose of this book it strikes a balance, however inchoate, between competing conceptions while at the same time intimating an understanding of and respect for a phenomenon that variegated and contingent.

In the panoply of the machinery of modern democratic government, no relationship is more fraught with difficulty than that between government and the citizens, organizations and institutions – broadly referred to as society -- it needs to protect from both external threat and internal disorder.  The principles that govern it are universal to democratic government, but their application in the way security is administered to citizens is controversial because they authorize and legitimate the expectation and right of the use of coercive force in the assertion of the state's monopoly of violence.  Security forces -- police, para-military or military units -- maintain order, protect people and property and/or uphold legitimate (or, as the case may be, illegitimate) governments.  One of the hallmarks of democratic federations is that they divide these.  Authoritarian regimes, by contrast, centralize control over all security forces because they want to monopolize violence.

In democratic states, security external to the state largely is the purview of the armed forces and such protection, according to Hamilton, Madison and Jay in *The Federalist Papers*, a major benefit of federating.  Central governments seek jurisdiction over security instruments

where power is scaled up to avert collective-action problems and harness economies of scale, such as defence from external attack and preservation of territorial integrity: armed forces, national or federal enforcement agencies, such as customs and immigration, coast guard, federal police, security and intelligence services and criminal investigation agencies. By contrast, internal security -- security within the territorial confines of the state -- is usually the task of police agencies. Federated units are likely to have at their disposal their respective civilian police services, special police or militia forces. In practice though, assignment of responsibilities can be controversial. Overlapping mandates, mission creep and different institutional cultures can give rise to inter-service competition and thwart cooperation. This in turn creates potential operational problems and hinders the effective provision of security. Other actors, state and non-state, have an expanded public security mandate: building inspectors, firefighters, rescue workers, emergency planners and health care workers. This expanded concept of security includes not just the maintenance of public order, but also the mitigation of risk and making communities resilient (Ferrier, 2008).

In the provision of security, the state is thus complemented by other agents[3], institutional[4] structures as well as social and cultural norms. The state's role is to enforce and codify security by means of legislative and social boundaries.[5] Security, then, is the result (outcome) of a

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[3] Agency refers not only to individuals, but also to groups of individuals who act on behalf of others (Onuf, 1998: 59-60). Agents are defined by their participation in society, to the extent that rules exist that allow for that participation. Thus, individuals, and groups of individuals, such as policy makers, participate as social actors within the bounds and limits set by rules. Scott (2001, 76) takes the definition one step further by arguing that agents have the capacity to affect some change on the social world around them either through altering the rules or the distribution of resources. In short, agents have the capacity to take action.

[4] March and Olsen (1998: 948) define institutions as a "relatively stable collection of practices and rules defining appropriate behaviour for specific groups of actors in specific situations". Practices and rules are embedded in "structures of meaning and schemes of interpretation that explain and legitimize particular identities and the practices and rules associated with them". Moreover, they also assert that practices and rules are embedded in resources, and their allocation, that make it possible for individuals and collectivities to act in a certain way, and to penalize deviant behaviour.

[5] Government in failed or failing states does not have the capacity to enforce legislative and social boundaries pertaining to the provision of public security.

political process (input) that requires the support of a social collective that acknowledges a threat and the need for decisive action to deter, contain or eliminate it (Buzan, Wæver, de Wilde, 1998). Security thus understood is a social construct: threats are identified, plans are made, and actions taken. 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. Structure is dynamic and change occurs when actors, responding to a stimulus (broadly defined as the social collective) redefine their conceptualization of security (Wendt 1999). 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 will change over time. Owing to variation across time and space, conceptions of security across any state are never monolithic. In unitary states, however, the government has the capacity to enforce a particular conception of security. Not so in federations where, by virtue of the constitutional division of sovereignty, variation in the conception of 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 security.

Bounded by a set of cultural, political, economic or social understandings that are particular to any given unit of a federal polity, security will vary horizontally and vertically. The extent of variation is a function of differences in these understandings. By virtue of their fundamentally different expressions of sovereignty, their instantiation differs in federal as opposed to unitary countries. As a result of this dialectic, security needs to be understood not

only within the context of what is being securitized but also who is securitizing. Security, then, has a number of important attributes that are critical to understanding how it is provided, articulated and becomes manifest within federal polities and their constituent units.

### 3. COMPARING PUBLIC SECURITY ACROSS FEDERAL POLITIES

The purpose of this book, then, is to examine federalism not as an end, but as a means to the provision of public security. It is not the existence of the federal system per se that matters, but its performance, measured, in part, as a function of decentralized institutions . The study systematically compares the complementarity of functional capacity -- rather than the mere existence of particular institutions per se. In the process, the book strives to identify ingredients and designs to address adequately endogenous security contexts and how to engineer just distributive effects of both safety and security, and individual and collective freedoms of all citizens. What makes security in federal systems robust so that citizens can live in security while enjoying the spoils of constitutional democracy? What aspects of the constitutional architecture of different models of federalism that are thought to be striking this balance effectively are (not) transferrable to federations that are struggling to provide security for their citizenry? And to what extent are federal security institutions, practices, and outcomes a function of federalism per se as opposed to other general governance and societal factors?

The notion of federal polity is meant to capture a federation's institutional ecology as well as institutional variation. The high degree of structural variation among federations is also a function of any number of subsidiary dynamics: (1) federations are generally the result of compromises that arise in circumstances where a unitary system is simply not feasible; (2) a tension, inherent to the structure of federations, between the central governments' tendency to

impose common values and standards, and efforts by federated entities to protect their own sphere of powers; (3) "the growth of 'big" (usually central) government in most federal states; and (4) a tension between different normative conceptions of federalism (Karmis, 2009: 53). As a result, federations sustain themselves through a permanent state of optimization.

Optimizing freedom, equality and justice on the one hand and security on the other hand is necessarily controversial: how to deliver both efficiently and administer both fairly. Federal polities premised on the principle of subsidiarity (a principle of vertical power-sharing that vests a political decision with the lowest level of government best able to deal with a particular issue) take a "bottom-up-approach" where security is ultimately understood as local, as is the case in Switzerland where the cantons have to come up with the necessary security resources; or they may take a "top-down" approach as is the case in India and Mexico where security resources are largely centralized, to the detriment of subsidiarity. The problem of delivery is one of contributing enough so that all governments have an incentive to partake and not monopolize divisible goods for themselves. The problem of administration, by contrast, concerns the distribution of divisible goods to the satisfaction of all members. Whether a federal structure offers an incentive to governments to free-ride on others' investments in delivery is a function of the possibilities that federal structure offers for democratic decision-making.

Since security is very expensive, governments may be tempted to shirk their responsibilities in delivering security by offloading costs of delivery on another level of government. If security is under-delivered, the performance of the federal government is likely to suffer and/or governments may simply attempt to skirt the division of powers and enact policy that exceeds their constitutional competence. An institutional structure that is unable to reduce the degree of shrinking may become, according to Riker's (1964) terminology,

"overperipheralized." Under such conditions, constituent units will accrue an advantage over the central government and the benefits of coordinated action will be impaired. The federal government will be tempted to compensate for under-provision by centralizing security but, in the process, risks encroaching on competencies that are beyond its constitutional jurisdiction. Yet, the central government knows that to be a moral hazard that might encourage further under-investment by other levels of government. Moreover, it may precipitate a shift from coordination to zero-sum bargaining among governments (Scharpf 2001): pure-coordination problems can be resolved by any mode of governance, but zero-sum conflicts, such as those involving security, require a hierarchical authority. Although constitutional and supreme courts have the constitutional and legal duty to adjudicate intergovernmental disputes over the distribution of divisible goods, they are usually reticent to do so. Alternatively, the central government could just abrogate responsibility and shift the burden away from the centre.

How, then, to optimize the delivery and administration of security in a democratic federal polity? In *Federalist Paper 17*, Hamilton observes that federal arrangements attribute powers related to local interests to federated entities, while powers over general matters and matters that are more remote from the immediate interests of citizens belong to the central government. On the one hand, economies of scale stand to be harnessed through coordination and centralization. On the other hand, security is ultimately local, because local communities are best positioned to make credible commitments under conditions where efficient delivery has to reflect different values, interests and preferences, and transaction costs for reconciling diversity grow exponentially the higher the order of government. Public security is thus premised on the principle of subsidiarity: ultimately, local communities are best positioned to ensure public security. They know their values, priorities, interests and preferences. However, these may not

necessarily be coincident with those of the central government. In fact, in a federal polity, they are bound to differ: while local communities, for instance, are concerned about crime, the central government is preoccupied with terrorism. John C. Calhoun observes that the larger a country, the more likely it is that its population faces different circumstances that give rise to different characteristics and interests. Political community, Calhoun (1811: 23-24) suggests, is "made up of different and conflicting interests, as far as the action of the government is concerned." Since each level of government embodies a distinct set of values, interests and preferences, we would expect it to affect the quantity and quality of delivery. Controversy over the efficient delivery and administration of security in federal polities gives rise to a set of hypotheses:

$H1_a$: The degree of competitiveness over security between a federal polity's central and constituent governments is a function of the extent to which values and preferences differ among governments and their constituencies. That is, the more heterogeneous a federal policy, the more difficult a centralized, top-down approach to security.

$H1_b$: Conversely, the more values and preferences differ by community, the greater the incentive for a decentralized, bottom-up approach if the gap is vertical between the federal and some or all other levels of government, and

$H1_c$: the greater the incentive for asymmetry if the gap is horizontal.

$H2_a$: In federal polities where values and preferences are fairly homogenous, we would expect security to be less contentious to administer and thus be more likely to find security more centralized

$H2_b$: than in heterogeneous states, such as pluri-national federations where, depending on the variation in differences, we would expect a more bottom-up and asymmetric approach to security

(if differences are distributed vertically) to be administered less centrally, asymmetric (if differences are distributed horizontally), or both.

H3: Although the administration of public security may be relatively uncontroversial as long as a federal polity is highly efficient in generating ample security, we might expect decentralized institutions to perform better – measured as a function of public satisfaction with security outcomes -- than centralized ones.

H4: Heterogeneity may encourage opportunistic behaviour that instrumentalizes security, thereby reducing the efficiency with which a federal polity delivers security and exacerbating problems of administering security to the satisfaction of all members.

However, just because security is delivered efficiently does not necessarily mean that it is administrated effectively. Efficiency in delivery can be measured in terms of stability; effective administration, by contrast, can be measured in terms of the satisfaction of citizens a federation's constituent territories. Administrative and redistributive decisions are necessarily political and give rise to different federal outcomes: centralized or decentralized, symmetric or asymmetric. Those who see opportunistic behaviour by member governments as a destructive but natural tendency created by the decentralized structure that is inherent to all federations are inclined to centralize security in an effort to protect the union. They reckon that opportunism runs counter to cooperation between governments that flows from the respect for the terms of the federal constitution, treating it like it is a covenant. Due to a 'natural' tendency towards particularism, fragmentation, factionalism, and disorder that gives rise to a propensity towards dismemberment or instability and the progressive weakening of central governments, universal federalists, including James Madison, Alexander Hamilton, John Jay and Alexis de Tocqueville, insist on the

virtues of central institutions and on the political and institutional necessity to subordinate, to various degrees, federated units to central institutions.

Since the way in which the state administers security to some citizens creates insecurity for others, the "public" order provided by the state has the potential to be both discretionary and discriminatory. That explains why the genesis of many a federal polity is rooted in disagreements over the way security is administered, skepticism about letting the central government monopolize security, or both. Security, after all, always runs the risk of being instrumentalized as an expedient means of policing views that those in power deem politically deviant. Any government, Madison famously writes in *Federalist Papers 10*, can be taken over by the interests of a faction, and can thereby jeopardize individual liberty. To preserve the republican character of its constituent elements and protect and safeguard community interests, powers given to central institutions need always be limited and conditional; hence Tocqueville's idea of "divided sovereignty": constitutionally, powers are divided between at least two levels of government precisely to forestall this eventuality. The fundamental interests of territorialized communities – whose populations necessarily find themselves in the minority – have a "right of self-protection" against central institutions that can become an instrument of tyranny by the majority. Such a theory of a compact of sovereign entities attributes a moral superiority to the institutions of federates states over the institutions of the central government and supports a political and constitutional subordination of central institutions.

This conception of federalism, however, confers moral superiority to strong common (central) institutions that are thought to be more universal in terms of values and identity. A 'natural' tendency towards particularism, fragmentation, factionalism, and disorder is thought to give rise to a propensity towards dismemberment or instability and the progressive weakening of

central governments.  This type of universal federalism (Karmis, 2009) insists on the virtues of central institutions and on the political and institutional necessity to subordinate, to various degrees, federated units to central institutions.  Universal federalism regards demands for asymmetry as the manifestation of particularism, which contradicts the principle of equality between federated units, threatens minorities, and jeopardizes the unity of the country – which is why universal federalists are loath to decentralize security, let alone tolerate the asymmetric allocation of powers over security.

4.  FINDINGS

Political unity of the federal polity is thus premised on the capacity to reconcile and overcome diverse conceptions of security.  The study 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 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 conceptions of multiple constituent entities are constitutionally entrenched, legitimated and institutionalized within their respective geographic, institutional and social constraints.  To this effect, a brief summary of each chapter follow.

In Brazil, as chapter 2 points out, public security has long been understood almost exclusively as protection against armed violence. However, a recent shift in public security policies has gradually been replacing militarized approaches based on repression with policies based on citizens' rights to the provision of services. This shift has begun to alter the relations

within the country's federal system of government. The past strict focus on centralized policing—often using force, and carried out by state-level governments—is slowly giving way to a more comprehensive understanding of security through education and health. Since these are under municipal jurisdiction, the realization of these integration programmes has engendered invigorated intergovernmental relations.

Chapter 3 on Canada's asymmetric, decentralized approach to public security documents a system of local control that is flexible enough to meet diverse demands, yet centralized enough to benefit from federal support in times of need. An equilibrium of de/centralized service delivery makes possible a relatively standardized albeit asymmetric service delivery in day-to-day operations and during times of disaster or emergency relief. The functionality of the Canadian public security model is premised on local engagement and accountability. Apolitical federal bureaucratic coordination encourages and supports national standards and provides surge capacity in times of crisis. The chapter discusses challenges of intergovernmental affairs and coordination caused by the multilevel provision of public security in Canada, notably the difficulties of shared sovereignty in security governance. These are manifest in coordinating priorities and disconnects that arise when much of the first-response capacity resides with municipal and local governments whereas jurisdictional authority is vested with provincial and federal authorities.

Chapter 4 on Germany focuses on the constitutional configuration of public security within the federal system. Cooperation between the Federation and the Länder is described by way of example of the Interior Ministers' Conference. Recent years have seen greater functional integration, as well as integration of competencies and structures in the public security sector. The chapter discusses the evolution of the relationship between Federation and Länder and

concludes with the current debate on (re)structuring federal and intergovernmental security arrangements.

As Chapter 5 shows, public security in India is a task neatly divided between the Union Government and the states, but with plenty of overlapping and conflicting responsibilities. Despite a clear division of power, the Constitution authorizes the central government to intervene in public security. Yet, the Centre has not always been able to perform self-assigned role. Reform of the police that is managed by the 29 states and seven Union Territories has been capricious. The police have organizational, personnel and training deficits, while security challenges mount. The chapter finds centre-state synergy deficient in streamlining public security.

Mexican federalism is confronted by pervasive violent crime associated with organized-crime syndicates. Chapter 6 decries corruption and insufficient capacity within law enforcement agencies at all levels of government in Mexico, but especially at the municipal level in regions with a strong presence of organized crime. Mexico's public safety crisis has given rise to tensions within the current intergovernmental arrangements of the security and public safety system, which has given rise to a re-centralization of authority and resources at the federal level. These major reforms seek to reshape the distribution of power and the governance of Mexico's security and public safety system. It is a volte-face from reforms in the 1990s that promoted decentralization and multilevel governance that had been triggered by a democratization process after decades of a federation characterized by a strong central government and dominated by a single hegemonic political party.

Chapter 7 depicts a major public safety crisis threatening its constitutional democracy in South Africa: violent crime is among the highest in the world, the public service is rife with

corruption, violent public protests about poor service delivery are frequent, xenophobic attacks are on the rise, and industrial strike action is common. In South Africa, institutions concerned with public safety and corruption are mainly located at the national level, but perform poorly to meet the challenge. The national government's response to crime has largely focused on law enforcement, while neglecting primary, secondary and tertiary crime prevention of a socio-economic nature. The South African Police Service (SAPS) has been demoralized by corruption, politicized, and its public order policing is ill-equipped and inadequately trained to deal with public disturbances. The National Prosecuting Authority (NPA), too, has been politicized, and its success rate is declining. The court system is backlogged and the national Department of Correctional Services reduced to warehousing a large and growing prison population. Sentenced prisoners seldom receive the necessary services to reduce the risk of re-offending. Against this backdrop, the provinces play a very limited supervisory role over the SAPS but metropolitan municipalities are increasingly complementing the SAPS's efforts through their own metropolitan police forces.

Chapter 8 starts with Spain's process of decentralization after the Franco dictatorship that accompanied with the transition to democracy. The original objectives included the accommodation of Basque and Catalan nationalists, a reform of the concept of public order to public security, and a redefinition of the role of police. However, self-government enjoyed broad support and practically all Spanish constituent units - Autonomous Communities (ACs) – sought it. Although the transition to democracy was characterized by a broad compromise among all political forces, ETA terrorists made raised the specter of public security in the new democratic state. While the impact of ETA terrorism on the initial debate about the distribution of responsibilities was limited, the 2004 Madrid train bombings had a bearing on reforming the

decentralized model. Spain's recent economic and institutional crisis has been decisive in spawning reforms to decrease redundancy, overlap, and duplication.

Switzerland's pluralist cooperative federal system that reflects *diversity in unity* of languages, religions, cultures, and traditions is the focus of Chapter 9. Swiss security policy is generally perceived as adequate but with significant weaknesses: Law enforcement at the federal and cantonal level is understaffed to confront legal and illegal immigration and trafficking, crime, emergencies, and growing demands. At the same time, the competencies between federal and cantonal authorities are not always clear-cut which can occasion uncertainty and conflict between jurisdictions.

Chapter 10 concerns the United States of America with its precepts of separating and sharing governmental powers. The challenges the Founders faced in the 1700s are not all that different from today's: how to balance security threats and the preservation of national unity with respect for autonomy amongst individual states, and protection of civil liberties and civil rights, especially given how decentralization has enabled past and present abuses of human rights in some states. Historically, public security concerns have trended toward an increased role played by the federal government at the expense of local communities and states. Federalist arguments in the 1700s for a stronger central government to defend the collective interests of the thirteen individual states from outside aggression, fragmentation, and even internal rebellion, have reverberated throughout subsequent centuries as a function of the nature and imminence of the threat.

Since each of the nine cases is historically and institutionally contingency, there is perforce no single 'solution' to the multifaceted problem of public security. Nonetheless, the

conclusion Chapter 11 identifies some distinct patterns emerge from the limited sample of cases: a check-list of variables to consider, and their bearing.

First, the findings validate the hypothesis that federations are prone to centralize public security when confronted with looming internal or external security threats. Second, public security tends to be more centralized in heterogeneous countries than in homogeneous ones. This finding is indicative of the importance of endogenous effects: the extent to which contemporary security policy choices are contingent on particular legal histories that continue to influence current constitutional and legal frameworks. However, the effect appears to be not entirely path-dependent. Rather, centralization appears to oscillate with the nature and extent of security threats, since even homogeneous countries have seen a propensity towards centralization of public security in the aftermath of 9/11. However, the division of powers in the Constitution may not reflect the potentially overbearing security capacity of the federal level. At the same time, their more limited constitutional competencies notwithstanding, substate and especially municipal levels seem to fill some of the void when federal will or capacity are found wanting. In homogeneous countries, the principle of subsidiarity seems to prevail: public security is fairly decentralized but scaled up selectively for the purpose of overcoming collective-action problems or resource constraints. In fact, the necessity to ensure that substate constitutional jurisdiction over public security is accompanied by a commensurate jurisdictional capability to raise resource, or at least benefit from a guaranteed transfer of resources by the federal government, is a recurring theme. In other words, public security and its decentralization go beyond mere division of powers and require a genuine commitment by all levels of government.

Third, whether a federation has a top-down or bottom-up approach to security seems to be driven both by whether they were once unitary states, and how homogenous they are. Fourth,

the decentralization of security and prospective inequitable distribution of resources gives rise to concerns about asymmetry in public-security outcomes across constituent units, including inequitable human-rights outcomes. The developing countries in our sample seemed to be particularly prone to asymmetry in the delivery of public security, which ends up being indicative of deficient federal commitment in this area. Conversely, equity in public-security outcomes emerges as a litmus test for the maturity of public security in a federal polity. However, equity does not necessarily imply symmetry. On the contrary, in deeply diverse societies asymmetry the delivery of public security may actually be a precondition to equitable outcomes because extensive variation in values, interests and priorities across substate units.

Fourth, the impact of the degree to which intergovernmental relations are politicized only has a bearing on vertical and horizontal coordination if there is not a concomitant level of maturity and trust among politicians and bureaucrats at various levels of government. Fifth, where institutional capacity and legitimacy are low, who citizens tend to trust with matters of public security depends on the level of government more closely associated with their interests: while minorities may tend to mistrust the federal government when they reside in a substate unit where that minorities comprises the majority, they may tend to place greater trust in the federal government when they reside in a substate unit where they, too, are in a minority. However, low levels of accountability and transparency need not necessarily occasion mistrust as long as public-security outcomes are adequate. Sixth, good intergovernmental relations, high levels of mutual trust, and robust institutional capacity, give rise to more proactive policy making and prevention; where the converse obtains, policy response tends to be reactive and the central government, preoccupied with enforcement, emerges as the sole guarantor of public security. In other words, proactive, preventive measures are difficult to operationalize, let alone sustain, in

federations whose constituent units lack the necessary capacity, resources or competencies and the concomitant intergovernmental relations and mechanisms.

Public security outcomes are as much a function of institutional design and operational differences as they are of the nature of the security threats as well as federal and democratic culture and commitments. In their absence, public security institutions, practices, and outcomes are more likely to be centralized, less responsive local values, interests, and priorities, and less focused on proactive policy-making and prevention. The less optimal the performance of the federal system, the less likely it is that the federal system will be able optimize for public-security outcomes, and the more different levels of government are likely to compete rather than cooperate with one another. On the one hand, then, serious security threats and colonial legacies of power and security seem to diminish the ability of a federal system to optimize of public security. On the other hand, the greater the consensus around collective conceptions of public security, the better aligned public security is likely to be with divergent values, priorities and interests across the whole of the federation.

However, because variables such de/centralization, a/symmetry, intergovernmental relations, and resource allocation can be constitutionalized and institutionalized differently, optimizing the federal machinery for security with democratic ends in mind is a differentiated process that is highly constrained by endogenous effects. Still, the comparative findings from the country case studies in this book suggest that there are better and worse ways to achieve these ends; so, identifying and breaking down the component variables, the range of options for their assemblage, and the advantages and disadvantages that are likely to accrue at least establishes as much of a manual as it does a benchmark to provide and improve security in federations while safeguarding and enhancing democratic outcomes. Federal governance is

never easy; but without effective institutions and processes to respond to diverse local values, interests, and priorities for freedom and security, neither federalism nor governance are likely to succeed.

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