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PANEL 3

Federalism and Democracy: Notes for a Discussion.

This short text is an input to a discussion whose relevance is yet to be duly assessed in Latin America. In a nutshell, this is the issue I intend to discuss here: “Is there a relationship of cause and effect between federalism and democracy? In other words: can the development of federative arrangements help consolidate democracy in Latin America?”.

I believe that a satisfactory answer should take two aspects into consideration: the historical origin of federalism as an organizational approach of contemporary states and the problems caused by the introduction of federalism into the Latin American context. My contribution to the discussion on this theme will be divided in three parts: first, I will briefly discuss the historical origin of federalism as an institutional arrangement designed to address the quandary in the configuration of the North American national state; then I will discuss the problems caused by the attempted introduction of federalism in the context of the configuration of Latin American states; and finally I will provide a quick analysis of obstacles and achievements associated to consolidation of federalism, in particular in the case of Brazil.

It is quite notorious that federalism, as an approach to political organization consistent with the modern state, was devised by the North American political elite in the 18th century. Before 1787, it was impossible to think of a non-unitary sovereign state, i.e., a state run by the will of a single

political subject. The very North American confederative experience of 1776-1787 showed how fragile this type of arrangement was.

The genius of North American policy makers was to conceive a political system underpinned by a sovereign state, but not a unitary one. After the 1787 Constitution was implemented, the three branches of power started to concentrate the competency of sovereign discretion, i.e., without recourse to, regarding the competencies that are fundamental to the existence of a modern state: foreign policy (especially war), foreign trade, but mainly tax collection and dispensing of justice for affairs of national interest. States have maintained sovereignty over residual competencies, at least as long as these were not against national interests.

Federalism allowed the North American democracy to follow an extremely complex path: at federal level, we have witnessed the consolidation of a competitive and increasingly nationalized political system; in the industrialized states in the North, competitive systems were created that had a great ability to absorb ethnic minorities, along with encompassing social policies; the Southern states, still heavily dependent on slave labor, maintained restrictive electoral systems and discriminatory social policies.

In short, while on the one hand federalism had a restrictive, or moderating, effect over the pace and intensity of the development of a democratic system in the United States, on the other hand it made it possible to harmonize the interests of the national modern elites with the various political projects of the regional elites.

The North American federative experience had a limited influence during the development of Latin American republics. The groups that desired a decentralized state more intensely belonged to segments of liberal elites and regional oligarchies. Both did so for opposite reasons, however. The former, comprised of groups excluded from the development of Latin American states, sought alternative routes to power. The latter intended to legitimize the power they already had over the most distant regions from the newly established nations.

The fact is that in Latin America federalism was regarded with suspicion by progressive political elites as an arrangement that favored those groups that were against the creation of a national developmental state. Politicians and intellectuals who were fundamental to the establishment of the Brazilian state, such as Visconde de Uruguai, during the empire, and Oliveira Vianna, during the first half of the previous century, argued that the political and administrative autonomy

granted to provinces (which later became states) strengthened the most conservative regional oligarchies and weakened the national state.

The net result of federative experiences during the development of Latin American states is quite negative. In none of the countries where federalism was introduced, such as Mexico, Argentina and Brazil, was it able to replicate the performance of the original North American model. In the first case, it was soon suffocated by the 1911 Revolution, and in the 1930s it became the most centralized and authoritarian state in the region. In Argentina, federalism was the only way to build a central government, which was viewed with suspicion by the powerful provincial oligarchies. Emergence of a competitive democracy in the early 20th century and Peronism suffocated the Argentinean oligarchic federalism for over forty years, but as a backlash to the crisis in the 1980s, the provincial governors made a return.

In Brazil, federalism had a tardy introduction (1889), after failure of an attempt to reconcile the regional elites and the national elite during the empire. Yet its performance was not any better. It seems that the long centralization and decentralization cycle was not overcome until the mid-1990s, under the Fernando Henrique Cardoso administration, after a period of "predatory state system", which went a long way to aggravating the fiscal crisis of the Brazilian state.

In short, the results generated by the previous experiences regarding federalism in Latin America were far from being positive. Can we expect something new from this new cycle of decentralization the continent is going through?

The current wave of revamped federalism is linked to two distinct, but somehow correlated, phenomena. First, the crisis of authoritarian states and the emergence of an organized and active civil society infused a new legitimacy into the historical demand of regional political elites for more political and administrative decentralization. Secondly, the fiscal crisis suffered by Latin American states, along with the new wave of internationalization of the capitalist economy (globalization, that is), crippled the fiscal ability of federal governments and, as a result, policies of a centralized nature were dissolved.

Under such hard conditions, how has federalism been performing here?

Although my analysis focuses on the case of Brazil, I believe that it can be applied to other federated states, such as Argentina and Mexico.

The main obstacles to the development of federalism in Brazil are of socio-economic and institutional nature. Below I will try to list a number of problems that affect federalism's performance and that should be addressed so that it can generate the expected results.

1. IDEOLOGY OF DEPENDENCY – Latin American federalism is not backed by an ideology supportive of self-government. In other words: regional elites claim political and administrative autonomy, but they do not seem to be willing to take on full responsibility for their actions and, above all, their shortcomings. This pattern of behavior has deep roots in the local political culture and it has had negative consequences both for overcoming the fiscal crisis and for the development of new systems to fund and run public policies.

2. BIASED REPRESENTATION – Partly because of the poor appreciation of self-government, federative representation has traditionally been biased in favor of smaller and poorer states/provinces. Since these are the poorest governments and so they depend more on federal funds, it is critical for their survival to have a power of veto over federal policies that could be a risk to their existence.

3. FISCAL CRISIS – The fiscal crisis of Latin American states crippled their federal governments' ability to provide funding. As this was the primary "welding" mechanism of these federations, this phenomenon had a negative impact on the political legitimacy of these governments. In some cases, external indebtedness was associated to a need to maintain a certain spending capacity to ensure a minimum level of support from state/provincial governments.

4. FISCAL WAR – This set of factors had an adverse impact on regional and interpersonal income distribution in these countries. As a response to this, the poorest or developing states/provinces implemented fully disorganized tax exemption policies with a view to attracting both domestic and foreign investments. This came to be known as the "fiscal war", which is waged by the poor states against the rich ones (such as the state of São Paulo), thereby aggravating even further the fiscal condition of these countries.

5. DISORGANIZED DECENTRALIZATION – In this adverse context, federal governments have been facing a number of difficulties to pursue fiscal, political and administrative decentralization actions now underway. In general, these very governments have been partly responsible for the "dismantlement" of the social policies that were once centrally managed. The fact is that

responsibility for policies designed to reduce social and regional inequalities were discontinued or delegated to state and local governments without a matching transfer of funds.

6. INTERGOVERNMENTAL CONFLICTS – Finally, the institutional deficiency of Latin American federalism, which is the source of all these problems, is the absence of mechanisms for the negotiation and resolution of conflicts. The institutional deficit is linked to a long tradition of power centralization associated to the non-public nature of political negotiations between the federal government and state/local governments. Short of institutional mechanisms to encourage cooperation and discourage predatory competition, the institutional foundations of federalism remain fragile.

Although the analysis has been negative so far, some ongoing phenomena point to successful cases of public policies that deserve more careful consideration. I will mention a few examples specifically related to the case of Brazil.

The Unified Health System is the most successful case of a cooperative intergovernmental policy. It involves a large amount of funds and covers the entire national territory, thus showing that it is possible to develop policies with high social impact based on cooperation among extremely heterogeneous states.

Another interesting case is the Fund for Primary Education Development and Maintenance and Enhancement of the Teaching Profession (FUNDEF), established in 1996. Even though this is not an instance of voluntary cooperation between the federal government and state/local governments, FUNDEF has brought about a broad reallocation of funds for public education.

Finally, the Fiscal Responsibility Law (LRF), passed by the Congress in 2000, stipulated limits for spending by states, thereby helping undermine a political culture of fiscal irresponsibility which has been such a big burden on Brazilian federalism.

In all of these cases, the key to success lied in two factors: transparency of gains and losses of each state and some type of intergovernmental negotiation that sustains legitimacy of decisions.

In closing, a clear answer can be given to the original question. To help strengthen democracy in Latin America, federalism itself must be conducted under democratic principles. Hence, more

than bearing a unilateral relationship of cause and effect, federalism and democracy must stand on an equal footing.