

Book Review

The Robust Federation. Principles of Design, by Jenna Bednar. Cambridge: Cambridge University Press, 2009, 242 pp., \$28.99 paperback.

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Jenna Bednar's book revisits the Madisonian theory of federalism in an attempt to update and extend it with the help of novel tools and insights from contemporary political science and institutional theory. In a sense, Bednar's work may be seen as a continuation of the line opened by Vincent Ostrom's *The Political Theory of a Compound Republic* (1971). Each generation of political science scholars updates its interpretation of federalism theory in the light of the progress made by the discipline. Ostrom reconstructed the political theory implicit in *The Federalist* using the pioneering insights of the "Public Choice Revolution" in full swing in social sciences at that time. Bednar is redoing the same exercise (the reconstruction of the federalism model seen as political theory system) employing but going beyond the insights of the first generation public choice models, to incorporate the broader institutional theory perspective inspired by the second generation public choice scholarship.

Although gracefully nonpolemical, Bednar is rather clear in this respect: "The public good provision literature is helpful but we need to expand the literature's lessons to fit federalism's complexity." That is to say, "to frame federation's challenge as a single production problem grossly simplifies what is instead an interconnected web of collective action problems." To claim that "the complex interactions between member states (...) central government (...) and among institutions that mediate those interactions such as courts, party systems, bicameral legislatures and constitutions can be explained by the same model that captures the grazing of sheep on a common field seems and is a stretch" (p. 133). Unlike the stylized facts of classic public goods or commons models, a federation involves a multifaceted institutional architecture and a complex social process. Hence it requires a more subtle and versatile theoretical approach.

Bednar's book responds to the challenge. While maintaining a line of continuity with the rational choice tradition (via the type of institutional theory inspired, among others, by V. Ostrom), it is integrating the work of an entire generation of scholars of federalism of different persuasions and backgrounds. Yet, the presentation is not stultifying academic, overburdened by pedantic references to the literature. Neither falls it into the trap of ultimately irrelevant technical digressions for the sake of demonstrating an illusory formal precision. Good use is made in this respect of the chapters' appendices. All in all, it is a real pleasure to read this book. Clear, focused, and extraordinary well written. But the most significant thing

about it is its substance: It consists of an extended original argument that coherently and methodically evolves in multiple ramifications throughout the entire volume, step by step, chapter by chapter.

The structure of the book follows a nuanced elaboration of the logic of federalism, building almost axiomatically from the traditional postulate that federalism is an approach to governance based on the division of authority and the design and management of the ensuing checks and balances processes. Two possible directions may be taken from there. First is “the science of distributing authority.” This, notes the author, is a developing domain “as social scientists uncover new causal relationships” and “begin to map authority to performance with more confidence” (p. 56). The book is however about the second direction: The study of “the principles for constitutional design that protects the distribution from manipulation while allowing beneficial adjustments” (p. 56). The book starts hence from the assumption that a reasonably optimal distribution of authority has already taken place. Yet opportunism is inherent to the system (p. 78). There is an intrinsic tendency to deviate from the assigned (proper, healthy, optimal) authority allocation (p. 63). The question is then: How could one maintain the distributed authority within parameters that make the federation functional, viable, and robust?

To answer the question, Bednar proceeds with an analysis of the incentives leading to deviations and transgressions. She outlines a typology of opportunism in federal systems, plus an ingenious analytical apparatus aiming at conceptualizing and charting compliance and the forms of deviation from the allocation and enumeration of powers. This section is a remarkable contribution to the literature, by itself. Based on the insights produced by it, the argument moves to the crucial conclusion that intergovernmental retaliation is not sufficient to eliminate or keep under control transgressions. It is a too rudimentary mechanism. The question becomes: “how the primitive mechanism of intergovernmental retaliation could be supplemented to boost compliance” improving thus the robustness and performance of the federation. Additional safeguards are needed. One thus can see how the author, following the structural and functional logic of federalism, masterfully leads to the point where the problem of safeguards, the major theme of the book, is introduced not by definition or postulate, but as placed in its logical and operational context, as seen through functionalist and institutional analysis lenses.

The rest of the book is dedicated to the problem of safeguards, the mechanisms that increase compliance controlling the allocation and dynamics of authority in the system. In addition to the retaliation of government units, four other types of safeguards are introduced: Structural (enumerated powers, fragmentation, state incorporation); Popular (citizenship control via public opinion); Political (parties and party systems); Judicial (courts and constitutional review). After analyzing each thoroughly, Bednar demonstrates why we should “reject the theories that deposit the main thrust in any single safeguard” (p. 87). Each is imperfect, unreliable and the federation should not be based uniquely on one of them. Moreover, she explains why, given that they are interdependent, the assessment of each safeguard’s efficacy requires a systemic approach: each needs to be evaluated “within the fuller institutional context” (p. 165), a context that involves, indeed, all the other safeguards and their interactions. The theory of institutional remedies must hence be expanded to a systemic vision focused on how safeguards work together, supplementing each other in three functional domains of special interest: coverage, complementarity, redundancy. Safeguards must provide complete coverage, simultaneously to all types of opportunism. At the same time, they should be complementary in their operations—sensitive to different transgression and compliance thresholds and able to calibrate

appropriate sanctions—while generating and overlapping redundantly in case one may fail to “fire.”

The result is fresh and profound perspective on federalism as a complex and dynamic system created by the constitution but that extends beyond the realm of formal institutions into the realm of the informal. As Bednar put it in the introductory chapter, “the theory built in this book exploits the superadditive properties of institutional safeguards” (p. 16). It should not be a surprise then that in this view, in which “form follows function” (p. 61), federalism comes to be seen, sooner or later, as a process. Federalism, far from being a mere problem of structural optimization, is also one of adaptation, involving rivalry, accommodation, negotiation, and compromise (p. 55). The distribution of authority is not and cannot be frozen structurally. It evolves in an intricate set of formal and informal socio-institutional processes. Bednar’s merit is to show how this perspective could be built methodically using standard contemporary institutional theory and political theory instruments (and not simply postulated via rhetorical appeals to complexity and process theory). The limits of the book are the limits of this type of approach that leads to the threshold of process theorizing but does not advance notably into its domain.

Summing up: A remarkable book highly relevant not only for the students of federalism and constitutional political economy but also for all scholars of institutional analysis and design. One of the most reassuring features of Bednar’s intellectual stance is that she—while writing a book on institutional design—manages to avoid the hubris of social scientist as social engineer, being fully aware of the limits of our capacities to design and plan social systems. Speaking of the mirage of institutional perfection, she warns that “constitutional design needs to leave illusions of precision behind because the components of a constitutional system are inevitably flawed” (pp. 214–15). The truth, she writes, is that “there is no guarantee that an optimizing dynamic will emerge. . . . Optimality may not be reached. But with the design considerations offered [in this book], we can encourage it” (p. 212). The readers of *Publius* will find that, indeed, the considerations offered in this excellent book are an outstanding and constructive contribution to the field.

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