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Patterns of Multilevel Parliamentary Systems.
Varieties, Dynamics and Democratic Legitimacy

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First Draft

Abstract

Multilevel parliamentary relations have drawn attention among scholars in the European Union, but they hardly are studied in federal states. This paper suggests to extend research to comparative federalism. Taking the concept of the Multilevel Parliamentary Field as a point of departure, it will outline a framework for comparative research. Although introduced as a ‘heuristic for capturing the distinctive traits of the EU’s structure of democratic representation’ (Crum and Fossum 2009: 250), this concept can help us to better comprehend emergence, structures and evolution of democratic governance in multilevel (confederal, federal and regionalised) systems. In a comparative perspective, we need to distinguish and categorise pattern of relations between executives and parliaments at different levels, depending on the extent of institutionalisation of multilevel governance, the effective power of parliaments to control the executive and the relations between parliaments (in the vertical as well as in the horizontal dimension).

This framework should allow us to cover varieties of parliamentary systems in federal or regionalised states. Moreover, it can be used to describe changes and dynamics in multilevel parliamentary relations which shift between the different types. As will be explained in the paper, multilevel structures provide opportunities for strategic action for actors interested to make policies and extend or maintain their power. Therefore we should not expect a stable constellation but an ever changing field. This dynamics must be taken into account when we qualify the democratic legitimacy of multilevel governance. Experiences from Canada, Germany and the EU will be used to illustrate the argument.
1. Introduction

In federal states, scholars have for a long time studied intergovernmental relations linking political process in two or more levels of government. Usually, these relations are said to include executives and often also interest groups and experts. As indicated by the common notion of executive federalism, multilevel patterns of policy-making tend to exclude parliaments at all level of government.

Research on the European Union has drawn a slightly different portray of a multilevel polity. For a long time neglected, parliaments are meanwhile a central topic in political discussions on European democracy and in European studies. In reality, we not only observe the rise of the European Parliament and an increasing role of national parliaments, we also became aware of extending relations between parliaments both between levels and between member states. So far, studies on the dynamic "multilevel parliamentary field" (Crum and Fossum 2009) have focused on the EU. Only a few recent publications extended the field of research to other federations (Benz 2011; Bolleyer 2010). Corresponding comparative research is still in its infancy, both regarding theory and empirical research (Eppler 2012).

The reason why we lack research on inter-parliamentary relations in federal states seems to be obvious: At a glance, these relations simply do not exist in an intensity which is comparable to what we find in the EU. As far as parliaments cooperate, their joint activities hardly seem to matter in politics or policy-making, but rather serve to exchange experiences on institutional or procedural matters. However, as a closer inspection of politics in federal states reveals, parliaments may interact in channels existing outside the formal institutions. In some federations, party linkages in vertically and horizontally integrated party systems are the most effective channels of communications. Moreover, the role of parliaments at the different levels varies, depending on the policies on the political agenda. As institutions in a division of powers, parliaments play a role in the dynamics of politics. Although federalism and intergovernmental relations regularly strengthen the executive, they never fully exclude parliaments from decision-making. Parliaments always are engaged in a struggle for power with the executive, even under the complicated conditions of multilevel or federal systems. In response to the tendency of intergovernmental policy-making or multilevel governance, inter-parliamentary relations emerge as an important strategy in this power game.
This paper starts by explaining the relevance of multilevel parliamentary relations in federal systems, including the EU. Based on an analytical framework, it will discuss varieties and dynamics of these relations. As I will show, both the concept of executive federalism and an optimistic expectation of multilevel parliamentarism underestimate the volatility of structures. But so do studies explaining the role of parliaments as determined by structures or features of federalism. In contrast, I regard parliaments in federal and multilevel political systems as constituent units in a dynamic balance of power. Federalism is notoriously instable, but democratic federalism implies - in principle - countervailing forces against an imbalance of power (Bednar 2009). Imbalances result from particular conditions, either institutions or the economic situation. Comparative research should aim at identifying patterns of dynamics and conditions for balance or imbalance in democratic federations. This paper is meant as a first step in this research.

2. The relevance of multilevel parliamentary relations in federal systems

Debates about the role of parliaments in federalism started, when scholars observed the rise of intergovernmental relations. Being the domain of the executive, cooperation cutting across jurisdictions has been said to imply a deficit in parliamentary scrutiny and, consequently, accountability and democratic legitimacy. With rare exceptions, scholars have identified intergovernmental relation with "executive federalism". Certainly, evaluation and conclusions differed in federal countries with a presidential system like the U.S or a consensus democracy like Switzerland, compared to a federal country with parliamentary democracy like Canada or Germany, where for a long time federalism and parliamentary government were regarded as a contradicting concepts (Ritter 2005; Simeon and Cameron 2002). Nonetheless, the general reasoning hardly have differed. In general, parliaments have been characterised as losers of federal evolution.

Yet, parliaments are institutions and collective actors. As institutions they are legitimised to fulfil functions and enjoy specific rights against the executive, in particular the right to finally decide on legal acts and to control the executive. As collective actor, parliaments try to maintain or extend their powers and hence are involved in a continuing fight for asserting their rights. Therefore, if parliaments realise that they are losing power in the evolution of multilevel governance, we have to expect them to "fight back" (Raunio and Hix 2000). It is unlikely that they simply surrender, even if they might profit from the opportunity to avoid
being blamed for policy failures or redistributive decisions at the costs of significant groups of voters in a multilevel structure.

In order to understand the existence or lack of inter-parliamentary relations or the dynamics of a multilevel parliamentary system, the ongoing struggle for a balance of power must be taken as a fundamental fact in the operation of democratic federalism. From this point of view, communication or coordination between individual parliaments at the central level or in lower-level governments result from strategic actions responding to executive intergovernmental policy-making. They signify efforts of parliaments to pool their powers against the executive and to avoid decision traps looming in multilevel governance.

Like the allocation of power between levels of government in federal systems, the balance of power between parliaments and the executive is notoriously instable. And like lower level governments when they are confronted by centralist trends, parliaments can try to maintain their power against executives by concerted action when they feel weakened by the executive. Horizontal intergovernmental relations result from regional governments' strategies, and inter-parliamentary relations express reactions of parliaments to intergovernmental policy-making. Like an integrated party system (Riker 1964: 136; Filippov et al. 2004), which contributes to prevent political actors from entering in a competitive power game between levels, relations between parliaments at the different levels can maintain the balance of power between levels and institutions of democracy.

Certainly, not all parliaments respond in this way. The balance of power has to be maintained under different institutional conditions, and parliaments may try different ways to restore their power. Moreover, the joint interest of parliaments to preserve democracy is often undermined by competition for power between the central government and regions or member states. For this reason, we find different patterns of multilevel parliamentary systems. Anyway, parliaments can mobilise countervailing forces against executive federalism and we must assume them to be motivated to react accordingly.

The second reason why multilevel parliamentary relations might develop has to do with the dilemma of parliamentary control in multilevel policy-making. In democracies, parliaments hold the final power in policy-making, either by ratifying policy proposals of the executive, by deciding on the budgetary resources appropriate for particular policies, or by holding the executive accountable for its decisions. The logic of executive-parliament interaction in parliamentary systems where powers are concentrated in a majority government differ from
systems where powers are divided (e.g. presidential system). Nevertheless, in both cases legitimacy depends on the assent of a majority in parliament. As a rule, the executive can rely on parliamentary support in the first type of government, while it has to negotiate agreement in the second type.

In multilevel governance, executives, the majority parties and the opposition groups in parliament now find themselves confronted with particular dilemmas (Benz 2004): The executive negotiates policies in intergovernmental relations, but the more it makes concessions to other governments, the more it risks losing the support of its parliament. The majority parties in parliament should control whether negotiated policies meet the interests of their constituencies, but if they tie the hands of the executive, the latter lacks discretion to negotiate agreements or coordinate policies in intergovernmental processes. The opposition parties have to consider that they may be blamed for undermining their government’s standing in intergovernmental negotiations if they expose the executive’s position to public debates, while they cannot convince the electorate to vote for a political change if they avoid challenging the incumbent government’s policy.

This dilemma can be avoided if parliaments in the constituent units of a multilevel system consider policy positions of their counterparts in other units and are able to estimate the zone of agreement in intergovernmental negotiations. By engaging in inter-parliamentary discourses they receive the necessary information and get a sense for the common interest. Consequently, they argue from an "enlightened" perspective when calling their executive to account. Members of parliaments are well aware of the problems caused by tight controls of intergovernmental negotiations. They act as "strategic veto players" (Benz 2004) and avoid to run into the traps of multilevel governance. One of their strategies, and probably the most effective one, is to improve information and evaluate policy options available in multilevel inter-parliamentary relations.

3. Varieties of multilevel parliamentary systems - a conceptual framework

As mentioned above, multilevel parliamentary systems vary to a considerable extend if we compare federations. Motives, strategies or functional requirements alone cannot explain whether and how parliaments interact. In order to cover the different patterns, I use the concept of the "Multilevel Parliamentary Field", introduced by Ben Crum and John-Erik Fossum (Crum and Fossum 2009), as a point of departure. The field concept takes into account both variations and dynamics in formal and informal, vertical and horizontal relation
between parliaments, as well as the functions and role perceptions of representatives in the parliamentary institutions. I suggest to extend this concept by including executive-parliamentary relations and the character of multilevel relations among executives. Both constitute a decisive condition for the emergence and working of a multilevel parliamentary system.

Patterns of a multilevel parliamentary field are defined by the type of intergovernmental relations among executives, the power of central and lower level parliaments to effectively control the executive in intergovernmental policy-making, and the intensity of inter-parliamentary relations. Executive intergovernmental policy-making can be institutionalised or informal. In the first case, governments are compelled to find an agreement in order to avoid deadlock in policy-making. Informal relations can fluctuate between competitive and cooperative modes of governance. The effective power of parliaments to control the executive can vary between the right to confer binding mandates or to scrutinise intergovernmental policies, the right to ratify intergovernmental accords (veto power), the opportunity of public critique based on ex post evaluation, and - as the weakest form - the non-involvement or symbolic participation. The intensity of inter-parliamentary relations can be measured according to two types of linkages. First, parliaments can interact as institutions, with regular institutionalised meetings (inter-parliamentary committees) being the strongest form, whereas regular exchange of information on policies or consultations on general problems of parliaments, usually taking place in meetings of speakers of parliaments establish weaker links. Second, members of parliaments can also interact inside their parties. Strong linkages exist in an integrated party system, while a weakly integrated or separated (e.g., regionalised) party system provides limited or no opportunities for communication or coordination of opinions. In federations with a vertically divided party system, interaction between parliaments as institutions are unlikely to emerge. The same is true in an integrated party system, where strong linkages exist between parliaments controlled by the same parties, but parliaments with divergent majorities tend to translate party competition into intergovernmental competition.

Applying these characteristic features, we can distinguish constellations of multilevel governance. The following categorisation takes account of those which seem to be relevant in real federations. It does not rule out that other types are discovered in comparative research.
Table 1: Varieties of Multilevel Parliamentary Fields

<table>
<thead>
<tr>
<th></th>
<th>intergovernmental relations</th>
<th>central parliaments' control of the executive</th>
<th>lower level parliaments' control of the executive</th>
<th>intensity of inter-parliamentary relations</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Multilevel Parliamentary Politics</strong></td>
<td>institutionalised</td>
<td>strong</td>
<td>strong</td>
<td>strong (in particular institutional)</td>
</tr>
<tr>
<td><strong>Compound Democracy</strong></td>
<td>informal</td>
<td>medium</td>
<td>medium</td>
<td>weak</td>
</tr>
<tr>
<td><strong>Joint Decision-Making</strong></td>
<td>institutionalised or informal</td>
<td>strong or weak</td>
<td>strong</td>
<td>weak</td>
</tr>
<tr>
<td><strong>Divided Multilevel Government</strong></td>
<td>institutionalised or informal</td>
<td>weak</td>
<td>weak</td>
<td>strong (institutional and party political)</td>
</tr>
<tr>
<td><strong>Executive Politics</strong></td>
<td>institutionalised or informal</td>
<td>weak</td>
<td>weak</td>
<td>weak</td>
</tr>
</tbody>
</table>

1. The concept of ‘Multilevel Parliamentary Politics’ characterises a constellation where executives cooperate in institutionalised intergovernmental policy-making, where they are subject to effective parliamentary scrutiny, which may include veto power, and where parliaments at the different levels intensely interact across boundaries of their jurisdictions. Ideally we find a balanced structure in horizontal relations between executives and parliaments, but asymmetric structures of multilevel parliamentary politics may also exist. Parliaments are assumed to decide on legislation at the different levels, to hold executives accountable and to define their policy positions in meaningful parliamentary discourses open to the public. Communication between parliaments may be organised in regular meetings or by special organisations (like the COSAC in the EU). It may also be supported by an integration of party organisations across levels of government. Finally, the interpenetration of central and decentralised discourses (for the EU: Schmidt 2006) supports the evolution of multilevel parliamentary politics.

2. In cases, where inter-parliamentary relations are weak both between levels and between jurisdictions, but where parliaments have meaningful powers against the
executives at each level, the structure of multilevel democracy comes close to what we has been labelled as ‘Compound Democracy’ (Fabbrini 2008). Here, powers both between levels and between executive and legislative institutions are divided. Policies are coordinated across levels in informal executive relations, and inter-jurisdictional competition for resources or powers is highly probable. The role of parliaments is significant. Yet the executive does either not depend on the support of a majority faction or coalition and negotiates approval of its parliament in policy-specific processes, or it can rely on the support of a majority party in parliament. Division of power does not rule out inter-parliamentary relations, but they tend to be weak, and not supported by institutions or an integrated party system. Nonetheless, like Multilevel Parliamentary Politics, Compound Democracy can provide a basis for a rather balanced structure of power, although the weaker position of individual parliaments may be exploited by the cooperating executive.

3. A similar constellation, but with strong parliaments at least at lower levels, can be labelled as ‘Joint Decision-Making’, according to the model elaborated by Fritz W. Scharpf (Scharpf 1988; Scharpf 1997: 143-145). He introduced this term to characterise German federalism and the European Community as it existed in the 1970s and 1980s. In this case, executives have to coordinate policies in institutionalised intergovernmental relations. At the same time, executives of member state or regional governments are bound to the will of a party coalition in parliament which determines policy positions. Formalised inter-parliamentary relations do not exist or are rather weak. In contrast to the first two models, this type of a multilevel system is problematic both regarding effectiveness of policy-making and democratic legitimacy. Parliaments, often controlled by parties from competing political camps, tie the hands of executives which are compelled to find compromises and therefore cannot effectively solve problems. In the face of deficient problem solving, parliaments tend to shift the blame thus damaging transparency of policy-making and accountability of executives.

4. Strong inter-parliamentary relations may contribute to solve this problem. But they also cause a divide between parliaments and their executive, a situation which has been described as ‘Presidentialisation’ in parliamentary democracies (Poguntke and Webb 2005). In contrast to the Compound Democracy model, this constellation arises due to a divergence between formal rules and effective power. In the U.S., powers are separated between legislatives and executives but they are also balanced with the
legislature being in a fairly strong position. This position is strengthened, if parliaments cooperate across levels and borders of states. However, this development tends to result in a 'Divided Multilevel Government' where a parallel evolution of parliamentary and executive intergovernmental relations reflects different party political orientations.

5. Finally, where parliaments are weak in all dimensions, we have the constellation of ‘Executive Politics’, which has often been assumed as typical for cooperative federalism (Watts 1989). In the EU, common foreign policy comes closest to this pattern of the two-level game, where the EP has no right to participate in decisions, national parliaments play mainly a symbolic role, and inter-parliamentary relations are hardly relevant. In federal states, intergovernmental relations often tend towards this model of executive politics, in particular when they are determined to implement regulation or to allocate federal grants. While policy-making in executive politics may be effective, it lacks accountability to parliaments.

These five constellations are here described as "models". In reality, they exist in combinations and variations. Real federations tend towards one or another model, due to the different institutional conditions. Yet since relations cutting across territorial jurisdictions combine formal and informal processes and are less institutionalised compared to democratic governments in the constituent units, no federation is bound to one model of a Multilevel Parliamentary Field. In contrast, different models are likely to emerge depending on the policies at stake. In view of the different motivations of parliaments to interact, mentioned in the previous sections, we can expect Multilevel Parliamentary Politics or Divided Multilevel Government in constitutional policy, i.e. when powers of parliaments are at stake, whereas in policies causing redistributive or identity conflicts dividing lower level governments, Compound Democracy or Joint Decision-Making seem to be more likely. Executive Politics typically is practiced in regulative policies requiring expertise and causing less conflicts, but also in crisis situations when fast and bold decisions are called for.

Regarding variations, the degree of symmetry or asymmetry in powers of executives and parliaments is of particular importance. Some democratic federations are more centralised and others more decentralised, and this affects the role of parliaments. Moreover, the inclusion of lower level executives or parliaments in multilevel relations can vary between bilateral (highly exclusive) and multilateral (inclusive) patterns. The more a federation decentralises power, the more horizontal symmetry must be achieved in order to guarantee equality of
citizens' solidarity. Therefore, it has to be regarded as a decisive condition for democratic legitimacy. On the other hand, asymmetry in favour of the centre or of a limited number of constituent units of a federation may increase the chances for intergovernmental decisions. This tension between inclusion and costs of decision-making manifests the typical trade-off between effectiveness and legitimacy in multilevel governance. In practice, it creates a source for dynamics in the power structures.

In order to advance these theoretical reflections and provide some empirical illustrations, the following section describes dynamics of multilevel parliamentary fields in three different cases: Germany, Canada and the EU.

4. Dynamics of Multilevel Parliamentary Fields

Germany, Canada and the EU are selected as federation revealing contrasting patterns of democratic government and multilevel executive or parliamentary relations. Democratic systems vary, with Canada representing a typical parliamentary system where the parliament is sovereign, while in the EU a consensus democracy has evolved at the central level while most member states have parliamentary systems. This constellation is not unlike the German case although the executive chamber representing the member states (Länder), the "Bundesrat", is not as powerful as the Council of the EU, and party competition at the centre much stronger. Regarding intergovernmental relations, the EU and Germany stand for a federal system with power sharing and strong institutionalised policy-making between levels. In Canada, powers are divided and intergovernmental relations mainly informal. In contrast to the EU, Germany has an integrated party system, while in the EU, institutionalised inter-parliamentary relations play a stronger role. They hardly exist in Canada. Despite these distinct characteristics of the federal systems, we can observe variations and dynamics in the Multilevel Parliamentary Fields both between policies and over time, as the case studies illustrate.

a) Germany

German federalism resulted from a historical sequence, where early state building in the Länder preceded nation building and late democratisation in the 20th century. When the German nation state was created in 1870, this was a unification of established states with a fully developed administration. In bargaining on the federal constitutions, the states (Länder) retained executive powers including rights to implement federal laws, but also achieved veto
powers in federal-level legislation via the Federal Council, the Bundesrat (Ziblatt, 2006). After World War II, German "cooperative" federalism was revived. The federal regime increasingly reflected a functional division of power between centralised legislation and decentralised administration. Accordingly, many policies require co-decision of the federal parliament and the Bundesrat, which implies de facto the need to coordinate policies of federal and Länder governments. Democracy was re-established according to the model of a parliamentary system. Therefore, executives involved in joint policy-making are accountable to majorities in their parliaments although the constitution did not subject Länder executives to binding mandates when participating in federal legislation. Until the 1980s, the party system still reflected the "frozen" cleavage structures of the industrialisation, with a dominating left-right divide. As a consequence, the representation of regional interests at the federal level via Länder governments' participation in the Bundesrat was shaped by cross-cutting party politics, and confrontation between parties overshadowed federal-Länder-negotiation in legislation. As a consequence, intergovernmental relations have turned into and “antagonistic cooperation” (Scharpf 1989: 132). This pattern continues to influence policy-making in German federalism despite a recent pluralisation of the party system.

These structures constituted a system of Joint Decision-Making which turned out as a characteristic feature of German federalism. Given the confrontation of party position in intergovernmental negotiations, threatening deadlocks in policy-making had to be avoided by compromises settled in informal negotiations (Scharpf et al. 1976). For this reason, cooperative federalism in Germany came under critique as causing both intransparent and ineffective governance. Yet all attempts to change the constitutional framework of shared powers turned out as futile.

From a comparative point of view, German federalism proved as rather stable. In contrast to many negative evaluations, it never has obstructed changes of policies in general. In fact, the effectiveness of intergovernmental policy-making varies, and the role of parliaments is an important factor explaining different outcomes. One reason for stability and effectiveness is the integrated party system which provides venues for meetings of members of federal and Länder parliaments. In contrast to what Gerhard Lehmbruch called a structural incongruence between cooperative federalism and parliamentary democracy-- an interpretation he later revised (Lehmbruch 2000) --, intergovernmental policy-making and party competition in the parliamentary system indeed have caused antagonism in highly politicised issues, like in tax policy or education policy, but have interacted as cross-cutting cleavages in many other
policies. Communication between members of parliaments facilitated by vertically linked party organisations and congruent party constellations at the different levels has moderated confrontation in intergovernmental negotiations. Moreover, the party complexion of executives has allowed voters to identify the positions of incumbent governments when they cooperate in Joint Decision-Making.

German constitution does not establish rules for inter-parliamentary relations. Nonetheless, Ländere parliaments cooperate as institutions in order to defend their powers in German federalism (Kropp 2009: 199-201). Meetings between the speakers of Land parliaments or heads of party groups, but also joint meetings of committees have contributed to establish a kind of network between parliaments in German federalism. This informal inter-parliamentary dimension for a long time remained nearly invisible, but it became relevant after the turn of the century, when Ländere parliaments organised a convention, promoted a reform of German federalism and published proposals for such a reform. Although this reform was finally negotiated in the traditional patterns of federal-Ländere legislation, representatives of Ländere parliaments could participate with a right to speak in the Joint Commissions of the Bundestag and the Bundesrat (6 in the first commission and 4 in the second commission). Therefore, in constitutional policy, a moderate form of inter-parliamentary dialogue surfaced, following similar practices in earlier reform processes. During the current negotiations on a revision of fiscal federalism, members of parliaments communicate in party groups, and the Christian Democrats, the Social Democrats and the Green Party meanwhile have publish their first proposals. In view of these tendencies towards Multilevel Parliamentary Politics in constitutional policy, inter-parliamentary relations in Germany conform to the assumptions derived from of theoretical considerations in the previous section. Accordingly, the Multilevel Parliamentary Field varies from policy to policy.

Another variation of the multilevel system has contributed to stabilise the balance of power in German federalism and to make governance fairly effective. While the general pattern of Joint Decision-Making prevented significant institutional change and policy innovation, reforms and effective policy-making resulted from shifts to particular forms of Executive Federalism. For instance, important reforms have been achieved in sequential procedures, with proposals having been prepared by specialists of federal and Ländere governments cooperating with expert from associations or the academic sector, before they have been discussed in the intergovernmental and the legislative arena. The welfare state reforms under chancellor Schröder is a case in point (Trampusch 2005). In the joint tasks established by the German
constitution, similar patterns of "evidence based" executive federalism emerged, like in research and education policy where councils of scientists influence decisions on the allocation of federal-\textit{Länder} funds. In crisis situations like German unification (Lehmbruch 1990) or the Euro crisis, Joint Decision-Making regular has actually been temporarily suspended by governance from the center with the chancellor having taken the lead. But in the parliamentary system, the executive never can ignore that they can be called to account by parliaments and that they have to consider competition with opposition parties, at least in policies which are crucial for elections.

\textbf{b) Canada}

Accountability of the executive to parliament and party competition is even more relevant in the Westminster system, which Canadians emulated during the 19th century from Great Britain. But they implemented this competitive democracy in a federal system which from the beginning was burdened by a territorial divide between Anglophone and Protestant provinces and the Francophone and Catholic province of Quebec. The original allocation of powers and resources in Canadian federalism did not conform to the needs of an industrialised state. Hence, like in the U.S., dual federalism turned into intergovernmental policy-making, initiated and led by the federal government. When Quebec nationalism emerged, it clashed with the Canada-wide patterns of governance. Hence intergovernmental relations not only remained under the provision of parliamentary sovereignty, but also had to allow opting out of individual provinces in matters affecting the distinctness of regional societies. They never turned into institutionalised cooperation like in the German case.

For this reason, the multilevel system of Canada followed the lines of the U.S. model, and tended towards a Compound Democracy. However, a significant difference has to be noted. Whereas the executive in U.S. federalism can cooperate independent from direct control of policy-making by legislative institutions, Canadian executive is - in principle - responsible to parliaments holding the power of the last resort. According to the principle of parliamentary sovereignty, accords between the federal and provincial governments can be revoked by individual parliaments. For this reason, institutionalised intergovernmental relations would not work in reality. Even in policy fields where coordination is essential to fulfil tasks, no constitutional provision stipulates obligatory cooperation, the most important exception being constitutional amendments affecting fundamental rules of the federal order. As a rule, intergovernmental agreements allow individual provinces to opt out if they are not concluded
bilaterally between the federal government and an individual province (Bakvis et al. 2009; Painter 1991). Compared to the model of Joint Decision-Making, actors’ commitment in Canadian intergovernmental policy-making is significantly lower.

Responsibility of executives to parliament affects the patterns of intergovernmental relations (Bolleyer 2009). It does not tell us much about the effective influence of parliaments in this arena. In fact, not only the House of Commons in Ottawa, but also Canadian provincial parliaments extended their capacities to control governments by developing committee structures, when they gained increasing legislative powers (Docherty 2005; Levy and White 1989). However, their insight into informal negotiations among executives has remained limited. Only few of provincial parliaments have established committees explicitly responsible for intergovernmental affairs. In day-to-day multilevel policy-making, parliaments hardly are engaged. Intergovernmental negotiations regularly take place in private meetings of ministers or bureaucrats. They allow only ex-post scrutiny of decisions by parliaments. As Jennifer Smith observed: “The closed process of executive federalism can have the effect of immunizing controversies between the two levels of government from public debate, because the legislatures are excluded from these processes” (Smith 2003: 106). For this reason, the pattern of Executive Federalism prevails in most policy fields.

Yet in particular cases, when important decisions are at stake, the reverse may be true, and parliaments turn into important players in intergovernmental policy-making: “Paradoxically the very practice that normally closes out the public occasionally lets them in. When there is sharp, deep conflict between the governments the public gets to see through the cracks” (Smith 2003: 107). In the past, such an opening regularly occurred in processes of constitutional amendment. Here federal and provincial parliaments not only provided arenas of public discussion, they also demonstrated that their veto power can be relevant in reaching intergovernmental agreements (Russell 2004). Under these conditions, First Ministers tended to fight for the interests of their jurisdiction, and intergovernmental negotiations turned into a highly politicised bargaining game. Therefore, in constitutional policy the multilevel parliamentary field in Canada shifted towards the Joint Decision-Making model.

Beyond constitutional policy, parliaments hardly get engaged in intergovernmental politics. Neither the Canadian constitution nor institutional reforms have extended their involvement in multilevel governance. In practice, parliaments have not tried to counteract the closure of
executive cooperation. “So far neither the federal parliament nor provincial legislatures have taken an active role in tackling federal-provincial issues” (Bakvis and Baier 2005: 4)

Given the state of research, we have no indications that Canadian parliaments have taken major steps to establish inter-parliamentary relations. Communication among them apparently is limited (Bolleyer 2010: 422-426). Participation of the federal parliament in a number of multilateral and bilateral inter-parliamentary associations or groups mainly serves to exchange information and ideas and to improve mutual understanding among nations. Amongst the parliaments of the provinces, only the “Assemblée Nationale” of Quebec reports to maintain an “extensive network of relations” with other parliaments or inter-parliamentary organisations, but most of these relations concern institutions outside Canada (Beaudet 1989). Federal and provincial parliaments participate in the Commonwealth Parliamentary Association (CAP), an organisation including parliaments from the UK, South Africa, Australia and New Zealand. Representatives of Canadian parliaments meet in a regional subdivision of this organisation, which is used to support staff of parliaments. As regards its functions, but not as regards the intensity of activities, this forum come close to the COSAC in the EU. None of these inter-parliamentary activities relate to particular policies dealt with in multilevel governance.

Federal and provincial governments act accordingly. They are more likely to observe accountability to their own parliaments rather than agreeing to an intergovernmental agreement that would contradict parliamentary preferences. The notorious complaints expressed in Canadian about the decline of parliaments in executive federalism seem to contradict this argument. But since governments have, in principle, the power to make policies on their own and to avoid intergovernmental agreements, executives cannot abdicate their responsibility for intergovernmental decisions by shifting the blame to other governments. On the other hand, when parliaments tie the hands of their government, they do not risk a deadlock in case there is no agreement among all governments. Therefore, parliaments in Canada see less reasons to establish channels designed for communicating opinions on topical political issues of multilevel governance in the federal system, although this would improve effectiveness of intergovernmental negotiations. Since the vertically integrated party system has dissolved, intra-party communication hardly compensates for the weakness of institutional inter-parliamentary activities.

Moreover, Canadian parliaments clearly follow the rules of the “Westminster system”, which also explains why Compound Democracy has in principle prevailed. The close connection between the executive and the governing party is reinforced by intense party competition. Under this condition, the executive enjoys wide room for manoeuvre in intergovernmental relations, but the majority party in parliament has the power of the last resort. Therefore, “first ministers are able to speak with one voice for their constituents and to make commitments that they will be able to enforce” (Simeon and Nugent 2008: 92). At any same time, a majority in parliament can hold the government accountable when intergovernmental agreements are made, and members of the executive have to take into account interests of majority parties (Carty and Wolnietz 2004). As a consequence, parliaments have seen no need to engage in multilevel activities, at least not in inter-parliamentary relations in order to counter trends towards Executive Federalism in distributive and regulative policies.

Thus the pattern of a Compound Democracy established in Canadian federalism reveals a trend towards Joint Decision-Making in constitutional policy, when the balance of power between the federal and provincial governments is on the agenda, and towards Executive Federalism, which remains in the shadow of parliamentary veto. This system maintains parliamentary control, but is not less threatened by joint decision traps than German federalism. Yet competition between levels and parties drives dynamics of Canadian federalism (Bakvis and Skogstad 2008; Bakvis et al. 2009; Broschek 2009).

c) European Union

In 1985, Fritz W. Scharpf published the German version of his now widely known article on the joint decision trap (Scharpf 1988). He correctly compared the European Community with German federalism, as in both cases shared powers between levels of government apply to important policy fields. Since the time this study was written, parliaments have gained ground in the evolving European Union and significantly changed politics and multilevel governance.

At the supranational level, the EP has profited from a series of Treaty amendments since 1988. The European legislature now exists as a ‘two-chamber’-system not unlike the one we find in Germany. It combines a supranational institution, the EP, and an intergovernmental body, the Council. At the national level, parliaments took efforts to get access to European policy-making and to scrutinise and control their national representatives in the Council or executive actors involved in intergovernmental negotiations. The power of national parliaments vis-à-vis the executive was supported by the Treaty of Lisbon. Responding to the
actual revival of national parliaments in European politics, the Treaty endorsed their right to control and hold accountable the respective national representatives in the Council. Governments of member states have to comprehensively inform their parliaments on European policies as early as possible. Meanwhile, all national parliaments established special committees for European Affairs, determined to cope with the rising tide of issues and documents. Moreover, quite a number of them explicitly confirmed their power to control the executive in European legislation and put in place specific procedures to supervise negotiations. Some parliaments achieved the right to bind the national representative in the Council to a mandate. Others systematically scrutinise European documents and the behaviour of their national representative in the Council (Kijver 2006; Maurer 2002; O’Brennan and Raunio 2007). The effective impact of these procedures may vary between member states, but no executive can ignore the voice of its national parliament when negotiating at the European level.

Members of national parliaments have realised that they cannot tie the hands of their executive in European negotiations, but need to intervene in a strategic way based on information of the different negotiation positions of other member state governments (Benz 2004). To gain the relevant information national parliaments extended their engagement in inter-parliamentary relations (Bengtson 2007; Fasone 2011). Informal linkages between the EP and national parliaments emerged since the 1990s (Neunreither 2006), when a kind of parliamentary diplomacy was started. Through more or less regular visits to Brussels, national delegations of parliaments meet with the Commission or groups of the EP. Meanwhile, national parliaments set up bureaus in Brussels in order to have access to European actors. Moreover, they meet on regular basis with members of the EP. Some parliaments of member states began to invite MEPs representing the respective country to participate in European affairs committees. At the same time, the Conference of Community and European Affairs Committees of Parliaments of the European Union (COSAC) gained in importance. Established as a forum for sharing information, it has turned into a service institution for national parliaments, but increasingly organises exchanges of opinions. Following a recommendation of regular meetings of speakers of EU parliaments in 2000, the EU established the ‘Interparliamentary EU Information Exchange’ (IPEX), an electronic platform used for the dissemination of information. All these inter-parliamentary relations contribute to integrate the different parliaments into a structure of Multilevel Parliamentary Politics.
The Treaty on the European Union endorses inter-parliamentary relations by making them part of the Unions institutional framework (article 12, section f TEU). It supports their evolution by introducing the subsidiarity control mechanism (Cooper 2012; Maurer 2009). The Commission has to forward all initiatives for legislation directly to national parliaments. They can check whether an initiative conforms to the principle of subsidiarity and issue their opinion to the Commission. In order to make its opinion effective, a national parliament has to obtain support from other parliaments. The Treaty also states that, national parliaments, together with the EP, control and evaluate measures of the EU taken in the areas of security and law. In addition, national parliaments have a say when it comes to the application of flexibility clauses concerning majority rules or legislative procedures. Finally, representatives of national parliaments will participate in those Conventions that are called for preparing Treaty amendments according to the ordinary procedure. To get their voices heard in these different procedures, parliaments have to communicate and coordinate their opinions.

So far, national parliaments have used these rights not in a coordinated way. In a number of cases national parliaments or chambers of national legislatures have issued a ‘reasoned opinion’ on subsidiarity, but they never exchanged their views or tried to come to an agreement. Therefore, to suggest that they might constitute a "virtual third chamber" (Cooper 2012) is premature. Although national parliaments cooperate in a variety of ways, their relations are still fragmented and unstable. This fragmentation has significantly increased during the Euro crisis, when the multilevel parliamentary field became asymmetric and turned back towards the Joint Decision-Making model (Benz 2013).

In order to negotiate, ratify and implement measures to fight the crisis, governments of the Euro zone member states turned to the intergovernmental mode of governance. In negotiations, led by the German and French heads of governments, executives agreed on debt guarantees for highly indebted states and regulative programmes indented to reduce public expenditure and restrain further borrowing. What seemed to be bold decisions appeared as agreements on the lowest common denominator, because executives were well aware of the diverging positions and the veto power of their parliaments in fiscal policy. For instance, they excluded any decision on a fiscal trade tax and they also avoided a formal transfer of power in economic policy to the European Union. When national parliaments ratified the new fiscal policy regime, they also tie their own hands in future fiscal policy and reinforce intergovernmental policy-making of their executive. But in fact, they are not excluded from decisions on fiscal policy in general.
However, the emerging pattern of Multilevel Parliamentary Politics became asymmetric in two dimensions. First, the intergovernmental mode of policy-making reduced the role of the European Parliament. The leader of the EP tried to exploit the crisis to make the voice of the Parliament heard. Indeed, since the Euro crisis related not only to economy but also affected the legitimacy of the European project, the Parliament could have regarded as the institution which is able to restore confidence among citizens. But MEPs and party groups are challenged by the rising Euro-scepticism in member states. And in view of the redistributive conflicts, negotiating majorities became difficult. Finally, against the leading role of heads of governments and the strong position of the European Central Bank, the Parliament has lost influence in crisis management and in fiscal policy in general, although it is still engaged in the policy field, e.g. in reforming the regulation of financial markets.

As mentioned, national parliaments hold veto power in fiscal policy. When heads of governments combined short term crisis management with a reform of the Treaties, this opened opportunities for them to discuss and decide on issues. But actually the effective impact of parliaments differs significantly between member states. The gap between strong and weak parliaments demonstrated in earlier research (Raunio 2005) has widened during the Euro crisis. Notably those in states under pressure of the financial markets like Greece, Italy and Spain have been compelled to implement European decisions without further ado, with Spain taking the lead in amending its constitution to introduce the new debt rule and the Greek parliament being the first to have ratified the Fiscal Stability Treaty. In contrast, the German Bundestag in particular, has emerged as decisive players in joint decision-making. It has used its power with considerable consequences for the policy-making process at the European level.

As a matter of fact, it was not the Bundestag itself but the Federal Constitutional Court which was the driving force behind this development. The Court had to decide on the Lisbon Treaty and later on the participation of the Bundestag in emergency measures during the Euro crisis. In all its decisions it expressed its sceptical stance on the question of multilevel democracy and required an extensive participation of the Bundestag, in particular when the core powers of the state to decide on its own finances are at stake. In view of public debates triggered by these court proceedings, the German parliament is now compelled to demonstrate its powers in European policies. As a consequence, the German representative in the Council has to see to it that it finds the support of a majority in the Bundestag before it agrees on fiscal policies and reforms in the Euro-area. While Chancellor Angela Merkel was ascribed a leading role in
negotiations, she was constrained by the majority coalition in parliament. The coalition included the Liberal Party and the Bavarian CSU, the sister party of the federal Christian Democrats. Both parties strongly opposed bailout measures or extended powers of the EU and pressed for austerity programs in states with high public debts. The German government negotiated at the European level with tied hands. Not by coincidence, the reform of the fiscal stability pact conformed to the model of fiscal federalism laid down in the 2009 amendment of the German constitution. The French president Nicolas Sarkozy, the second major player in negotiations on measures against the crisis, was no less compelled to include the French parliament. As Amandine Crespy and Vivien Schmidt demonstrate, he was more successful in gaining support from the majority in parliament by intensely communicating his position to the public, whereas Merkel, who was more constrained in national politics, prevailed in European negotiations (Crespy and Schmidt 2012). In a similar vein, the Finnish and Austrian national parliaments tried to tie the hands of their respective governments and carefully scrutinised the evolution of crisis management and the consequences for their countries.

In Greece, Italy, Spain and Portugal, Joint Decision-Making has turned into Executive Politics. Under the pressure of financial markets and in view of the rigid negotiation positions of German and French governments, parliaments in these countries had to comply with austerity programs and with new rules induced by European legislation. Therefore the crisis further weakened national parliaments in these member states which according to findings in research had been assessed as comparatively weak anyway (Raunio, 2005). As a consequence, the imbalance in the Multilevel Parliamentary Field of the EU resulting, among other things, from the varieties of national democracies, has increased significantly.

This divide between national parliaments also affected inter-parliamentary relations. Worth mentioning are attempts to reinforce the inter-parliamentary dialogue. The COSAC made efforts to distribute information on the procedures in national parliaments. The IPEX Calendar lists regular conferences of the chairpersons of committees of national parliaments, including the finance committees and the economic affairs committees, as well as an inter-parliamentary conference organised by the EP on monitoring of national fiscal policy (the so called ‘European Semester’) in February 2012. Beyond that, relations among parliaments reflect the economic divide among member states and the political divide among their governments. Bilateral communication seems to have gained ground. In October 2011, the German Bundestag and the French Assemblée Nationale established a working group to discuss the
Treaty changes proposed by the heads of government.\textsuperscript{2} Thus the close cooperation between executives of these two countries gave rise to a corresponding intensification of bilateral interparliamentary relations. Notably, it was due to the intervention of this working group that a proposal for continuous multilateral meetings of Budget committees of national parliaments was not written down in the Fiscal Stability Treaty. This bilateral politics clearly deviates from the model of Multilevel Parliamentary Politics since it reflects exclusive communication and an imbalance of power. It can mark a step towards a Divided Multilevel Government at least in fiscal policy of the EU.

In a nutshell, the Multilevel Parliamentary Field of the EU which developed during the last two decades in the wake of major Treaty reforms, could not be stabilised in fiscal policy. Certainly, we can also find patterns of Executive Federalism in other policy fields, not the least where the Commission has used new modes of governance like the Open Method of Coordination. Therefore, we should be aware of the variations and dynamics in the balance of power in multilevel governance and democracy in Europe.

5. Conclusion: Democracy in Multilevel Systems

The case studies illustrate that we need to include parliaments in order to better understand stability and instability of the federal balance of power and to appropriately evaluate how democracy works in federations. Comparative studies on multilevel governance and federalism can bring to light a variety of patterns. We discover variations between types of federal systems, caused by different institutional frameworks and societal conditions. Regarding institutions, power sharing between levels is probably more important to explain multilevel parliamentary relations that assumed by Nicole Bolleyer (2010), who correctly emphasised the type of democracy to have an impact. In addition, different patterns exist in mono- compared to multinational federations. In divided societies, Compound Democracy and Executive Federalism tend to prevail, as regional nationalism finds expression in assertive parliaments which fight for autonomy and are less willing to cooperate with other regional or central parliaments. Therefore, the EU Multilevel Parliamentary Politics seems to be driven

\textsuperscript{2}Das Parlament, No. 4, 23 Januar 2012, p. 11; Deutscher Bundestag, 'Abgeordnete wollen Fiskalpakt zügig ratifizieren';

by institutional conditions rather than by nationalist policies. But rising divides between European states can lead to a Divided Multilevel Government the EU, which is likely to become asymmetric between a core group of states and states at the periphery.

Yet recent trends reveal, that fiscal imbalances or interests in policy-making can set out tendencies countervailing the rise of Multilevel Parliamentary Politics. Moreover, given the variations of the Multilevel Parliamentary Field we observe between policy fields, we need to take into consideration that the multidimensional balance of power between the executive and parliaments, between levels of government, and between constituent governments of a federation is never determined by a particular model. As assumed by theoretical reasoning, in all three federations there is a trend towards Multilevel Parliamentary Politics in constitutional policy, although inter-parliamentary communication may not always be decisive to explain outcomes. There are also indications that fiscal policies seems to be coordinated in Joint Decision-Making, whereas Executive Federalism seems to arise in regulative policies and when grants are allocated. Therefore, we should expect different patterns to predominate in particular policies and over time, with the others encouraged by institutions shifting to the background but never utterly dissolving.

These changes, variations and dynamics must be taken into account when we assess the quality of democracy in multilevel governance. First, despite tensions between federalism and parliamentary democracy, effective parliaments have to be considered as a central institution guaranteeing democratic legitimacy, although elements of associative or participatory democracy or referenda may complement representative structures. In the last resort, accountability of executives to elected representatives of citizens constitutes the core of democracy in complex political systems. Second, multilevel governance does not rule out accountability of executives and parliamentary control, it only changes the conditions maintaining the balance of power between the executive and parliaments. By assuming a dynamic Multilevel Parliamentary Field to be inherent in federal or multilevel polities, we acknowledge the incentives and opportunities for parliaments to respond to intergovernmental policy-making and to adjust their capacities and procedures to these conditions. Third, a federation apparently does not become democratic if parliamentary control or veto powers simply are reinforced by constitutional rules. What needs to be improved is an appropriate balance of power. And this balance can never constitute an optimal setting, rather it needs to be continuously adjusted to particular conditions. Therefore, institutional flexibility is more important that strict rules or tight linkages between levels or institutions of government.
Executive Federalism is not the necessary consequence of multilevel governance. It is one possible outcome of an ongoing struggle for power among executives and parliaments at the different levels of a federation. Multilevel Parliamentary Politics is also not a reality to be expected in every federal system. In order to find out how federalism can be made more democratic, comparative research is needed to discover which model fits to which institutional and societal conditions.

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