

*The Concept of Multi-level Governance  
in Studies of Federalism*

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## **Introduction**

Public sector policy- and decision-making in this age of globalization has become more broadly dispersed, complex and widely shared by different types of governmental and non-governmental bodies. It is not surprising, therefore, that specialists in comparative federalism, including those in the IPSA Research Committee 28 on Comparative Federalism and Federation that we represent, have sought to encompass these trends in both their theorizing and empirical research. One of the most important manifestations of such trends is the emergence of the concept of “multi-level governance” (MLG) in the political science literature. This is a concept that was initially formulated for and directly applied to the European Union, the unique new supranational governance form that has evolved in Europe since the signing of the Maastricht Treaty in 1992. It has since been popularized and widely disseminated and applied to other structures that are the objects of study in the different subfields of political science, including comparative politics, international relations, public policy and urban politics. As a result, the concept of “multi-level governance” easily qualifies as among the most important recent “cutting-edge” conceptual contributions to our discipline.

The writings on MLG have been very numerous and wide-ranging since they first appeared in the early 1990s. According to our own rough bibliographical estimate, the publications since then that have the term “multi-level governance” or its equivalent in its title include no fewer than 16 authored and edited books, 14 book chapters and 35 peer-reviewed journal articles. Among their authors and editors are several well-known political scientists, including Paul Pierson, Gary Marks, Fritz Scharpf, Guy Peters and James Rosenau. It will not be possible to summarize and evaluate in this brief paper such a large body of academic literature. Moreover, several highly informative and valuable books or edited collections on this general topic have already been published or are currently in the process of being produced.<sup>1</sup> Rather, our objective in this paper, as our title suggests, is to shed light on the linkages between recent scholarship on “federalism” and on “multi-level governance”, and to assess the mutual influence that these scholars have exercised on each other.

It may seem odd for political scientists like ourselves to group what first appear to be such different concepts as “federalism” and “multi-level governance” under one general rubric for analytical purposes. “Federalism” is a form of government that has been part of the conceptual toolkit of political scientists since the inception of our modern discipline over a century ago. “Multi-level governance”, on the other hand, is a very recent addition to the theoretical literature, having first entered the lexicon of political science less than twenty years ago, as indicated previously. Also, the number of currently functioning federal systems is acknowledged to be limited, even though a substantial number of countries nominally refer to themselves as “federal”. “Multi-level governance” systems, however, appear to be pervasive, almost omnipresent, political units in today’s highly complex, ideologically divergent, and increasingly globalized world. Yet it is our conviction that a careful consideration of the relationship between these two concepts is now required.

The original intention of this paper was to examine and evaluate how the recent popularity of the concept of “multi-level governance” in the general political science literature has affected and influenced current theoretical trends in the study of comparative federalism. It was based on the assumption that the causal arrow between these two concepts should be drawn primarily from “multi-level governance” to “federalism”, rather than the reverse. In other words, we attributed many of the

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<sup>1</sup> See in particular Hooghe and Marks 2001, Bache and Flinders (eds.) 2004, and Enderlein, Walti and Zürn (eds.), forthcoming.

recent “cutting-edge” theoretical contributions to political science to studies of “multi-level governance”. We also thought that although many students of federalism considered the current subject matter of their field to be based on well-defined, well rooted and broadly accepted ideas, they were nevertheless open to a new flowering of federal theory as a result of fertilization by these new MLG theoretical developments.

However, after an initial exploration of the relationship between the two concepts, we now believe that the causal arrow between them is more correctly viewed as a two-way interaction process which operates in both directions. In the initial phase of “multi-level governance” studies in political science, from the mid-1980s until the mid-1990s, there was a strong historical and analytical influence that theories of federalism had on the definition and evolution of “multi-level governance”. But in the more recent period from the mid-1990s to the present, the insights of “multi-level governance” theorists have begun to impact significantly on theories of federalism. We consider this mutual interaction process to be a positive intellectual trend, since it enables those who are the leading promoters and guardians of these concepts to distil some valuable lessons from each other’s experiences, in order to better evaluate the strengths and weaknesses and the overall progress of their subfields.

Several leading contributors to the “multi-level governance” literature, such as Fritz Scharpf, Gary Marks and Liesbet Hooghe, have acknowledged the considerable debt that “multi-level governance” studies owe to federalism. Scharpf was the first to draw clear parallels between the interlocking governmental structures that exist at the national and subnational (*Länder*) levels in Germany and the supranational and nation-state levels in the European Union, and to point out their paralyzing impact on policy-making. He drew specific attention to the fact that in both of these governing entities there is a potentially stagnating condition, “the joint decision trap”, that operates in conjunction with the unanimity voting requirement at the sub-national or nation-state levels of a system of “joint-decision federalism” (Scharpf 1988). It arises from the tendency of some conservative lower level units in such systems to veto reform-oriented legislation introduced by other more progressive units in order to preserve the political status quo. Scharpf has noted that the political obstruction associated with these interlocking governing institutions in Germany and the European Union was also given prominence by Alberta Sbragia in her edited book on institutions and policy-making in “the new Europe”, *Euro-Politics* (1992). However, he later retreated in part from this position by arguing that “these parallels are misleading from a policy-making perspective [since] European integration – like most important national legislation in Germany – depends on the agreement of member governments, but the political characteristics of vertical interactions differ fundamentally [between the 2 political entities].” (Scharpf 2004).

Marks and Hooghe have stated more unequivocally that “the intellectual foundation for [what they called] Type I multi-level governance is federalism, which is concerned with power sharing among governments operating at just a few levels.” They note that “multi-level governance”, like federalism, “is chiefly concerned with the relationship between [a] central government and a tier of non-intersecting subcentral governments.” (Marks and Hooghe, 2004: 17). However, they also warn that “it is tempting to draw a parallel between [MLG] and the creation of modern constitutional political systems, particularly federal systems such as the American or the German...but there is an essential difference between them, namely that the European Union is not patterned on any blueprint for a workable system of government, unlike the US Constitution or the Basic Law. The Treaty of Rome did not try to settle fundamental questions of governance according to some overall plan based

on principles such as protection of minorities, justice, equality or political stability” (Hooghe and Marks, 2001:35).

These brief observations by the preceding authors on the links between “federalism” and “multi-level governance” are both ambivalent and ambiguous; they point to a need for a much closer in-depth analysis of this conceptual interrelationship. As an aid to such a study, we will conduct a systematic analysis of these concepts in the following sections: 1) origin, definitions, evolution and major academic criticisms of the concept of federalism, 2) origin, definitions, evolution and major academic criticisms of the concept of multi-level governance, 3) a systematic comparison and evaluation of the two concepts 4) applicability of the concepts to the current structure of the European Union, 5) applicability of the two concepts to regionalism, and local government, 6) conclusions and suggestions for possible future lines of inquiry for federalism and multi-level governance.

## **Part I: Origin, Definitions, Evolution and Major Academic Criticisms of the Concept of Federalism**

### **Origin of Federalism in Anglo-American Writings**

“Federalism” as an analytical construct in political science, like “multi-level governance”, has been defined in multifarious ways, particularly since World War II. It has also, like MLG, been given significantly different meanings in the Anglo-American and continental European academic worlds.

The modern English-speaking concept of federalism is derived directly from the American Constitution of 1787 and *The Federalist*, which first appeared in the same year. It was originally viewed by the American Constitutional Fathers (notably Hamilton and Madison) and by nineteenth and early twentieth century writers such as Tocqueville, Bryce and Dicey, in both normative and descriptive terms as an institutional device designed to divide sovereignty and prevent the concentration of authority and power in a single decision-making locus. Its chief objective was to promote political pluralism and maximize liberty (Mogi 1931; Davis 1978; Whitaker 1983).

### **Definitions in the Anglo-American Literature**

The concept was initially defined for comparative politics and other political science writings in legal-constitutional and institutional terms by the British constitutional scholar K.C. Wheare, in his seminal study *Federal Government*, first published in 1946. Wheare attempted to offer a precise and empirically operational definition of federalism which could be used as a guiding framework or “principle” for comparing different types of federal political systems. He therefore defined “federalism” as “a system of government in which authority is divided between national and regional governments so that each remained, within a sphere, coordinate (i.e. legally co-equal) and independent.” The emphasis in his definition of the concept was on the division of powers both constitutionally and in practice (Wheare, 4<sup>th</sup> ed., 1963).

For the next 25 years (until about 1970) this definition of the concept of “federalism” was embraced by many Anglo-American and English-language academics. Although it helped to foster a period of considerable theoretical growth and broad dissemination of the concept, it was also continuously redefined and reapplied in a manner that paralleled closely the conceptual and paradigmatic changes in the discipline as a whole. Thus in much the same way as “behaviouralists”

and other political scientists criticized the excessively formalistic and institutional orientation of pre-World War II American political science, some leading federal theorists attacked and devised alternative approaches to the narrow legal-institutional concept of federalism defined by Wheare. Among these critics were W.S. Livingston, who redefined federalism sociologically as “a device by which the federal qualities of a society are articulated and protected” (Livingston 1952); William Riker, who recast federalism in power political and rational choice terms as a political “bargain” (Riker 1965); Carl Friedrich, who viewed federalism as an ongoing and developing “political process” (Friedrich 1968); and Daniel Elazar, who initially promoted a definition of federalism as a harmonious “partnership” between national and regional governments (Elazar 1962, 1966).

### **Conceptual Evolution and Criticisms by Anglo-American Academics**

Since 1970 there has been a period of stagnation in the definitional and conceptual contributions made by English-speaking academics to federal theory and analysis. There were even some serious questions raised by federalism specialists about the viability of the concept of federalism as a tool for empirical study and comparative analysis in political science, notably by William Riker and Rufus Davis. In a controversial essay which he entitled “Does Federalism Exist and Does it Matter?” Riker harshly criticized several of the contributions to both federal theory and federalism case studies (Riker 1969) made at that time. He argued that although federalism as a regime form does have a rationale in the initial establishment of some nation-states, it plays no major role in their subsequent management and survival. In his view, it is not the institutional features of federalism that are central in shaping these nation-states, but rather their political culture. Federalism, he concluded, “makes hardly any difference at all in the way people are governed.” It is “no more than a constitutional legal fiction which can be given whatever content seems appropriate at the moment.” (Riker 1969: 145).

In a similar negative fashion Rufus Davis, an Australian specialist in federalism, argued that federalism is not a single notion. Rather, in his view it is “a whole intricate and varied network of interrelated ideas and concepts, such as contract, partnership, equity, trust, sovereignty, constitution, state, and international law...each of these concepts are in turn a multicellular constellation, a molecular compound of its own ideas and concepts.” (Davis 1978: 5). Therefore he called into question the attempts by some “twentieth century ‘doctors’ to formulate a significant federal theory different from the constitutional-institutional model devised by the American constitutional fathers in 1787”. He also warned that “in life not all is black and white, that there are no pure cases of federal states, only mixtures, hybrids, and occasional aberrant monsters.” (Davis 1978: 156). And he observed, rather somberly, that “the more we have come to know about federalism, the less satisfying and the less reputable has become almost the whole of our legacy of federal theory. [We observe] the decline of the federal Humpty Dumpty, and it is not clear how we can put him together again, and whether we even ought to put him together again.” (Davis 1978: 205)

There are obvious counter-arguments that one may raise in response to these highly pessimistic observations about past attempts to define federalism and construct a body of federal theory. As Vincent Ostrom noted with respect to the 1969 article cited above, Riker adopts a very loose and weak definition of federalism, in which a level of government could exercise autonomous jurisdiction in only one area and still qualify as a federal system. Ostrom observed, contrary to Riker’s conclusion, that federalism does make a difference, particularly when it contains a large number of overlapping jurisdictions, substantial autonomy for governments operating within these jurisdictions, and significant degrees of democratic control exerted on them. (Ostrom 1973:229). Davis, on the other hand, adopts far too demanding a definition of federalism, and much too stringent a requirement for

achieving conceptual understanding and consensus on how it should be applied. Although we may not be able to reach a consensus on what federalism means, we should at least be able to devise useful analytical categories and tools for purposes of the comparative analysis of different federal systems.

One major exception to this decline in contributions to federal theory during this period is that of covenant theory, which is most closely identified with Daniel Elazar (Elazar 1980). In this theory, federalism is defined as a moral contract or binding agreement based on mutual trust among those involved in the formulation and implementation of a new federal arrangement. It is a partially normative concept, and is therefore broader in meaning than a secular “political bargain” struck by politicians or a legal contract enforced by the courts and legal officers, as Riker defined it. This approach has acted as a useful corrective to a realist emphasis on political and military power in shaping federal relationships. It also is based on the idea of voluntary consensus, and therefore conforms well with modern democratic notions of political authority.

However, there are also some major shortcomings of this “covenantal approach” to federalism. It has not been elaborated in sufficient detail to be easily applicable in comparative or case analyses of federations. Also, since it is normative at least in part, it does not lend itself as readily as other approaches to mainstream positivist-empiricist analyses, which constitute the dominant tradition in the study of federalism. In this sense it seems to have more in common with the more post-positivist and normative orientations of some continental European theories of federalism, which we shall examine below.

### **The Continental European Tradition of Federalism**

In continental Europe, particularly since World War II, there has been a revival of interest among a number of political scientists in the concept of federalism. This has occurred in conjunction with the gradual evolution of the European Community toward a more tightly integrated economic and political association, culminating in the establishment of a new supranational regime, the European Union, after the Maastricht Treaty was signed in 1992.

The main intellectual inspiration for the continental European tradition of federalism did not come from secular liberal Enlightenment thinkers such as Hobbes, Locke and Montesquieu, or from the American Constitutional Fathers of 1787 and the authors of *The Federalist*, as is the case with most Anglo-American federal analysts. Rather, its source lay mainly in theological-political and collectivist-corporatist thinkers of a German, Swiss or Dutch Protestant reformist (particularly Calvinist) background, beginning with Althusius in the seventeenth century (Hueglin 1979, 1999). It was also derived from late nineteenth and early twentieth century social Catholic theorists who took their inspiration from the papal encyclicals *Rerum Novarum* (1891) and *Quadragesimo Anno* (1931) (Leo XIII et al. 1963) And there is a third important component, a secular anarchist-socialist intellectual strand, inspired by the mid-nineteenth century French philosopher Pierre-Joseph Proudhon (Vernon 1979).

The main ideas that distinguish this continental European tradition of federalism from Anglo-American federal thought are: first, its organic notion of society and the structures that constitute it, defined by the principles of corporatism and subsidiarity; secondly, its recognition of a functional as well as territorial basis of representation; thirdly, its inclusion of a normative and ethical rather than a merely empirical and objective meaning in federalism; and fourthly, its stress on the whole person, rather than the atomistic individual as the basic unit of human society.

Due to space limitations, it will not be possible to treat these ideas in greater detail in this paper. Suffice it to note that they directly inspired the movement generally referred to as “integral federalism” that provided strong impetus for a European Community soon after World War II (Greilsammer 1984, Ulmer 1992). And they also had a much later impact on the emergence of the concept of “multi-level governance” in its continental European guise since the early 1990s.

## **Part II: Origin, Definition, Evolution and Major Academic Criticisms of the Concept of Multi-level Governance (MLG)**

### **Origin of MLG**

As we noted above, the origin of the concept of multi-level governance is directly related to the establishment of a more integrated European Union in the early 1990s. Its formulators sought to encompass by this concept what was perceived to be a new multilayered political entity consisting of multiple overlapping jurisdictions. In this sense, MLG was essentially a broadening of the concept of federalism to include more than two levels of government and more than autonomous policy-making structures.

There have been several different political analysts who have been cited as originators of this concept. Jachtenfuchs (2006:160), for example, attributes the “symbolic reference point” (but not the terminological origin) of multi-level governance to an article that Fritz Scharpf published in 1988 on “The Joint–Decision Trap” (Scharpf 1988). Scharpf pointed out in this essay that there is a close parallel in patterns of political decision-making between the interlocking layers of government of the German federal system and of the European Community. In both cases the constituent tier of government has direct representation in the decision-making of the central tier, and veto power in that tier through the requirement of unanimity in joint policy-making matters. This has produced a regrettable tendency to policy and institutional stagnation in both systems, which Scharpf described as “frustration without disintegration and resilience without progress” (Scharpf 1988: 239). It is manifested in particular by a pattern in which “constituent governments resist efficiency-oriented policy reforms when their institutional self-interests might be threatened.” (Jachtenfuchs 2006:161). Jachtenfuchs attributes the subsequent popularity of MLG particularly among German scholars to the structural parallels between the EU (European Union) and Germany (Jachtenfuchs 2006:161).

Bache and Flinders, however, credit Gary Marks with this conceptual innovation. According to these authors, “Gary Marks (1992) first used the phrase multi-level governance to capture developments in EU structural policy following its major reform in 1988. Subsequently Marks and others developed the concept of multi-level governance to apply more broadly to EU decision-making. In developing his approach, Marks drew on insights from both the study of domestic politics and of international politics.” (Bache and Flinders 2004: 2). They explained that the emergence of this concept was primarily due to “a new wave of thinking about the EU as a political system rather than [as] a process of integration...that followed swiftly from the accelerated deepening of the integration process in the mid to late 1980s.” They also attributed it to “the agreement to the increased use of qualified majority voting in place of unanimity across a number of policy areas [that] was the starting point for the treatment of the EU as something with characteristics more reflective of domestic political systems than international organizations.” (Bache and Flinders 2004: 2-3).

The multi-level governance approach poses a challenge to nearly all of the established theories of European integration, but at the same time, it does not completely reject all the assumptions of these theories. On the one hand, multi-level governance (MLG) shares with neofunctionalism the view that supranational actors and interest groups are important in influencing decisions at the EU-level (Bache and Flinders 2004: 3). On the other hand, Hooghe and Marks (2001) state that the MLG approach “does not reject the [liberal intergovernmentalist] view that national governments or national arenas are important.” However, for the most part, Hooghe and Marks (2001) draw a sharp distinction between their approach and Moravcsik’s state-centric liberal intergovernmental approach, as shall be outlined below. They make less effort to explicitly contrast their approach with neofunctionalism. This is most likely because by the mid-1990s to early 2000s neofunctionalism was no longer viewed as a “cutting-edge” theory of European integration; the mainstream was dominated by intergovernmentalism (Strøby-Jensen 2007: 97).

Both intergovernmentalism and neofunctionalism draw on IR approaches: intergovernmentalism from realism, and neofunctionalism from pluralism. These two competing theoretical approaches aim to explain the nature and speed of European integration (Bache and Flinders 2004: 2). Intergovernmentalism highlights the central role of national governments in the process of integration. In contrast, neofunctionalism suggests that states are increasingly losing control in a “web of interdependence” that provides a role for supranational actors and organized interests in shaping the direction of integration (Bache and Flinders 2004: 2). We shall expand on these approaches in Part IV below.

### **Definitions and Evolution of Multi-level Governance**

In our view, who may or may not have invented the concept of multi-level governance is of little importance to political science. What is significant is the fact that it was embraced so rapidly, widely and enthusiastically by political scientists not only from Europe, but elsewhere in the world. It is best understood as a natural evolution of an increasingly complex pattern of policy-making and authoritative decision-making in today’s more tightly integrated and globalized world. Its proponents maintain that it is capable of encompassing the broader scale and scope of current decision-making, the marked increase in numbers and types of decision-makers (including private sector actors such as corporations and unions, non-governmental organizations, members of social movements, and individuals in civil society), and the multiple levels and tiers of decision-making. It is also manifested clearly in a shift in political analysis from statist and hierarchical models of decision-making to non-statist, shared or cooperative models, which are associated with what has been termed as “the turn to governance”.

Hooghe and Marks observe that multi-level governance is not the only term applied to this new phenomenon. It has also been described as multi-tiered governance, polycentric governance, multi-perspectival governance, functional overlapping and competing jurisdictions (FOCJ), “condominio” and even such inelegant verbal concoctions as *fragementation* and *glocalization* (Hooghe and Marks 2004: 15). But they all share the same broad characteristics of inclusiveness, pluralism and equality of decision-making status. And they are primarily drawn from two political science literatures: federalism and public policy.

The definition of the concept has also broadened and subsumed new dimensions since its initial formulation. For example Marks (1993) originally described MLG institutionally as “a new concept to encompass overlapping competences and interactions of actors across levels of government due to



institutional creation and decisional reallocation upwards [to the supranational level] and downwards [to the subnational level].” Jachtenfuchs (1995) extended this institutional definition to encompass “the relationships between governance processes and different government levels.” Several others have subsequently noted that “although we tend to think of these institutional levels as vertically ordered, they do not have to operate through intermediary levels, but negotiations can take place directly between, for example, transnational and regional levels, bypassing the state level” (Marks et al. 1996, Scharpf 1997).

Scharpf (1994) also applied the term to the “policy-making capacity” of this new structure. He complained that with respect to public policy, nation-states had been weakened, but the supranational Union had not been strengthened nearly as much, despite the change in the Maastricht Treaty from unanimity to qualified majority voting. He later (1997) modified this argument somewhat in observing that “as economic integration deepens globally, especially within the European Union, national capacities to regulate and tax mobile capital and firms are reduced, but governance at European levels is constrained by conflicts of interest among governments involved. Therefore the effectiveness of the problem-solving capacity at these two levels of governance varies from one field [or policy sector] to another” (Scharpf 1997).

More recently, Peters and Pierre (2001) have viewed the development of the multi-level governance phenomenon more optimistically as a new form of the state. They maintain that “the emergence of MLG challenges much of our traditional understanding of how the state operates [today], what determines its capacities, what its contingencies are, and [what are its prospects for] democracy and accountable government...we are moving from a model of the state in a liberal-democratic perspective toward a state model characterized by complex patterns of contingencies and dependencies on external actors.” (Peters and Pierre 2001). Jordan (2001), on the other hand, in the same journal issue, expressed his skepticism about these ideas. He criticized the “popular claim that the EU has evolved into a system of MLG as opposed to state-led government.” He conceded that although “the governance turn in European studies in the last ten years has opened up substantial new avenues of inquiry... the concept of MLG may only apply to particular policy sectors and/or levels, rather than being a general feature of the EU” (Jordan 2001).

There have been further important changes and developments in the definition of “multi-level governance” since that time. For example, Hooghe and Marks (2003) subdivided the concept into two types, which they labeled Type I and Type II. Type I MLG has several distinctive characteristics: 1) the number of levels of governance is limited to no more than 5, including the international, regional supranational, national, constituent subnational, and local. These are generally defined in territorial rather than functional terms, 2) each of these levels has general-purpose jurisdictions that “bundle together multiple functions, including a range of policy responsibilities, and in many cases, a court system and representative institutions” (Hooghe and Marks 2003). 3) the jurisdictions are non-intersecting in membership, and there is only one relevant jurisdiction at each territorial scale. They note that although the jurisdictions tend to be stable, there is flexibility in the allocation of policy competences within them. 4) although the inspiration for these Type I systems of MLG is federalism, they are not limited to this governance form, or even to its identification with the nation-state (Hooghe and Marks 2003).

Type II MLG is defined primarily in functional terms. It consists of special-purpose jurisdictions or policy structures that are highly fragmented and numerous. They also tend to be ephemeral, flexible and variable in nature (Hooghe and Marks 2003).

Finally, Bache and Flinders (2004) admit that there is currently no one widely embraced definition of the concept of multi-level governance; however they identify four common strands in the research carried out under its aegis. These are: 1) the tendency over time to increased participation of non-state actors such as NGOs, corporations and unions in governance functions, 2) the proliferation of overlapping decision-making networks engaged in such functions, 3) the change in the role of the state from command and control to steering, coordination and networking, and 4) the challenges MLG confronts in assigning responsibility and in exercising democratic accountability in governance (Bache and Flinders 2004).

### **Academic Criticisms of MLG**

It seems clear, then, that the MLG concept has already experienced considerable transformation and refinement in its short life. Moreover, like federalism, the concept has been subjected to strong criticism and has become the subject of contentious debate.

First, the concept of multi-level governance is often attacked for being too descriptive. It is seen as unable to explain or predict governance policy outcomes. Thus Gualini (2004: 39) calls for new explanatory approaches accounting for the evolution of the institutional preconditions of a multi-level governance system.

Secondly, the concept does have the merit of emphasizing the changing influence on decision-making of different actors in different policy sectors and at different levels of governance. However, it tends to exaggerate the importance of subnational actors and to neglect the implementation and outcome stage of policy-making, in which national governments have a particularly important role, and in which the MLG pattern is most prevalent (Bache 1998: 153-4). Bache suggests, rather, that national governments continue to play a central “gatekeeping” role at all stages of policy-making and in all policy sectors, whereas actors from the supranational and subnational levels are merely participants, not actual decision-makers, in this process. Bache calls this role of national governments one of “flexible gate-keeping” (Bache 1998: 155-156). In this sense, he adopts a position among the competing perspectives on which particular governance actors are dominant in European policy-making somewhere in between that of the “intergovernmentalists” and the unqualified “multi-level governance” proponents. It is similar to that of federal theorists who also view the national governments as performing a steering function in what is both a joint and a dual system of governmental decision-making.

Thirdly, MLG theorists are prone to exaggerate the hierarchical and legal nature of intergovernmental relationships prior to the emergence of genuine multi-level governance. And they also are inclined to overemphasize what they call the “post-constitutional” and “extra-constitutional” nature of MLG. They see MLG, somewhat artificially, as “a model of governing that largely defies, or ignores, structure”, disregards or downplays institutions, and concentrates almost entirely on processes and outcomes. In that sense it lacks a clear conceptual focus (Peters and Pierre 2004: 76).

Fourthly, MLG theorists tend to give priority to the objective of problem-solving capacity rather than democratic input and accountability. Peters and Pierre describe this as a “Faustian bargain” in which “the core values of democratic government are traded for accommodation, consensus and efficiency in governance,” in which informal patterns of shared decision-making may disguise “a

strategy for political interests to escape or bypass regulations intended to limit their freedom of action (Peters and Pierre 2004: 76, 85).

Finally, and most important in our opinion, MLG can describe indiscriminately “any complex and multifaceted political process”. In this way, the proponents of multi-level governance may be guilty of the methodological error of “conceptual stretching” that has been strongly criticized by Sartori in his frequently cited essay “Comparing, Miscomparing and the Comparative Method” (Sartori 1994: 21). This accusation of concept stretching has also been recently leveled at MLG by other critics of the concept, such as Gualini (2004), Bache and Flinders (2004), and Stubbs (2005).

### **Part III: A Systematic Comparison of the Two Concepts**

Because the concepts of “federalism” and “multi-level governance” have had a close historical relationship involving two-way or mutual influences, one would expect them to share a number of similar structural and functional characteristics. However, there are also some important differences between them that need to be documented. We shall conduct a systematic comparison of the two concepts in the Part that follows, subdividing it into two sections: shared or similar characteristics and distinctive characteristics.

#### **Shared or Similar Characteristics of the Concepts of Federalism and Multi-level Governance**

First, historically, the two concepts manifest a similar pattern of theoretical evolution. As noted in Parts I and II above, the promoters of both these concepts experienced a period of great intellectual progress and refinement, followed by a phase of stagnation and negative criticism. But these phases were telescoped over a much shorter period of time in the case of MLG.

The initial period of flowering in the evolution of the modern concept and theory of federalism occurred in the immediate post-World War II period, well after the concept’s birth in the late eighteenth century. Although there had been a few contributions to its subsequent definitional and operational development by political analysts in the nineteenth and early twentieth century, these were essentially of minor import. However, as the discipline of political science itself matured, there was a sudden proliferation of theoretical and analytical contributions to the definition of federalism and its potential use as a comparative politics construct. These contributions were strongly attacked and eviscerated by other political scientists who accused the post-1945 federal theory innovators of playing a misleading and misguided role in the theoretical development of the discipline. For them “federalism” had not been given a clear or meaningful definition, and therefore the concept could have only a marginal influence on systematic political inquiry.

A somewhat similar pattern of conceptual development appears to have been manifested in the case of “multi-level governance”. In the early 1990s it was quickly embraced by disciplinary practitioners who sought an alternative and more fruitful approach to analyzing the new supranational political phenomenon that had emerged in Europe after the Maastricht Treaty. But after an initial period of broad acceptance and great enthusiasm about the differing definitions and divergent potential uses of the new concept, some skepticism about its meaning and analytical value began to be vocalized in the disciplinary literature. MLG proponents, like their federalism forerunners, were accused of definitional ambiguity and “concept stretching”.

Secondly, federalism and particularly Type 1 MLG share some structural traits. Federalism was originally devised and continues to be viewed by political scientists as an institutional mechanism for dividing power and sovereignty between national and regional levels of government in order to reduce the likelihood of authoritarian or overly centralized government. At the same time, it was designed to overcome the weaknesses of a too decentralized form of government, such as was experienced in the US from 1781 to 1787.

Type 1 multi-level governance has a similar institutional purpose. It is designed to divide and distribute power among the different levels and units of government in order to promote cooperation and optimize the policy-making capacity of the governance system as a whole. It also is viewed as a means to achieve political pluralism in that system.

Thirdly, among the primary political functions of federalism, according to Alain Gagnon (1995), are conflict management; protecting minority and territorial interests; achieving a balance between unity and diversity and a territorial rather than individual majoritarian basis of representation; and serving as a social laboratory and locus of competition between different orders of government.

All of these political functions are also performed by MLG. For example, the multi-level and multi-national design of the European Union was conceived explicitly in order to avoid and prevent the type of violent conflict among nation-states and the human devastation that tore the continent of Europe apart in both world wars during the first half of the twentieth century. Secondly, its decision-making procedures required the unanimous consent of all voting national representatives, and thereby guaranteed a veto for smaller nation-states in most votes in the European Community structures; this was clearly adopted as an institutional device to protect the collective interests of both territorial and ethnic minorities against the tyranny of large majorities. Thirdly, the European Union was touted as a supranational institutional arrangement that was neither too centralized or unified nor too decentralized or disunited, at least in its original conception. It now has an eclectic set of asymmetrically balanced institutions, including a potentially supranational political executive in the European Commission that is prevented by its unanimity or qualified-majority voting procedures from becoming too centralized; a European Court of Justice whose decisions on appeal cases are now allowed to prevail over those of the national courts; a European Parliament that is growing in importance but remains weak and unable to overrule or “trump” major legislation passed by national legislatures and governments; and a pan-European bureaucracy in Brussels which although it has limited independent administrative authority, is nevertheless charged with implementing major decisions taken by the European Commission. Each of these institutional structures exhibit varying degrees of supra-national or national centralization or decentralization, and each was established on the basis of a political compromise struck in carefully structured and balanced negotiations of the EU member states.

Fourthly, both federalism and MLG today are designed to promote cooperation and joint action by its members in order to optimize policy-making results. This is a particularly important development since the emergence of the welfare state after World War II, and is especially characteristic of continental European federal states. The ideal and practice of cooperative and mutually beneficial arrangements for the members of a federal state is gradually replacing that of conflictual or “zero-sum” federalism (Doern and MacDonald, 1999) in many policy sectors. There are also few remaining “watertight compartments” (or levels of government possessing separate legislative jurisdictions in distinct policy spheres) in practice. And there are fewer federal states today that establish separate and parallel administrative structures for each unit or level of government. In this sense federalism seems to be moving further along a continuum of mutual accommodation, partnership

and joint action between its principal units, to a point where it may eventually become indistinguishable in its intergovernmental policy-making pattern from that of MLG.

Fifthly, MLG is increasingly viewed as a natural extension of federalism to new and previously less important levels and units of governance as a result of growing structural and decision-making complexity in today's increasingly interdependent and globalized world. For example, where a policy matter has a supranational or global reach and impact, such as trade and the environment, it makes little sense to attempt to confine political decision-making to the boundaries of the nation-state. Therefore political decision-makers have simply added a new supranational decision-making tier to what used to be essentially a two-tier federal structure of government. In this sense, MLG may be regarded as a structure of "federalism plus."<sup>2</sup> The same can be said of the addition of another tier of autonomous governmental decision-making at the sub-national level, that of urban or local government. Some federal theorists have begun to integrate this local tier into their evolving concept of federalism, particularly where these local units are no longer fiscally dependent on other levels of government for decision-making autonomy. We will elaborate on these supranational and local institutional governance developments in Part 5 below.

### **Major Differences Between the Concepts of Federalism and Multi-level Governance**

Despite these similarities, there continue to be some important differences between the two concepts. First, federalism is still generally confined conceptually to a polity that operates in two territorial jurisdictions within a single nation-state, whereas MLG is applied conceptually to all levels and units of governance in any polity, differentiated either vertically (e.g. global, regional-supranational, national, subnational-constituent and local levels) or horizontally (e.g. public, private and voluntary third-sector organizations).

Secondly, federalism invests ultimate legal responsibility in governmental decision-making to only one level of decision-making authority. This is reflected in the legal discourse by the use of the term "paramountcy" to describe the legal supremacy of one sovereign authority over another in a sector of federal-provincial policy-making. MLG, on the other hand, does not invest ultimate legal responsibility in one political decision-making unit. Rather, it seeks to allocate legal responsibility on a shared basis among several decisional units. This makes it difficult to identify any one authority that can be held ultimately responsible in a legal sense, or any clear object of democratic accountability in a political sense. In this way, federalism appears to be better equipped than MLG to incorporate these legal and political norms into its governance discourse and practice.

Thirdly, federalism encourages greater formalization of joint policy decisions and agreements between the different levels and units of government. It does so by encouraging the parties to the agreement to sign a formal document laying out the precise terms and conditions of that agreement. MLG, on the other hand, discourages such formalization of agreements on the grounds that putting such detail into a signed document is more likely to encourage or promote disagreements between the parties involved and lead to legal or political conflicts between them.

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<sup>2</sup> This is an adaptation to the federalism and multi-level governance literature of Alan Cairns' term "citizens plus" that he applied to Canadian aboriginals. See Alan C. Cairns *Citizens Plus: Aboriginal Peoples and the Canadian State* (2000).

Fourthly, federalism may foster a climate of competition and conflict between its different units either vertically (i.e. between higher and lower levels of government) or horizontally (i.e. between two governments at the same level). The prevailing climate in most MLG systems is one of cooperation, mutual accommodation, and shared authority and responsibility. As a result, establishing MLG is generally perceived to be a better way to manage joint problem-solving and policy-making in modern governance systems.

Fifthly, federalism may be a less costly and time-consuming mode of governance than MLG, since there are fewer authoritative decision-makers to accommodate in any situation involving difficult negotiations, complex modes of problem-solving, and challenging policy issues.

#### **Part IV: Applicability of the Concepts of Federalism and MLG to the Current Structure of the EU**

In assessing the applicability of both multi-level governance and federalism to the EU, we must refer back to the origins of these two concepts. Federalism has a long history tied to efforts at European integration, even preceding the 1957 Treaty of Rome,<sup>3</sup> while multi-level governance is a relatively new approach. As we described above, the concept of multi-level governance originated in the context of the European Union. Marks (1993), Hooghe (1996) and others (as cited above) originally adopted the concept to describe changes in the EU's institutional structure and policies. But as we shall see in Part V below, the concept later expanded beyond EU studies, although the literature on MLG is still largely entrenched in the European context. As is evident in our bibliography, most of the studies incorporating the concept of MLG in both urban studies and in regionalization do so in the context of the European Union. Although multi-level governance is not a theory of integration, *per se*, and is generally viewed as more descriptive than theoretical, scholarship on MLG has added significantly to our understanding of the EU.

In the context of European integration, federalism has been seen as both a normative ideal and a *finalité politique* (end state) of the Union. However, federalism is also more politically controversial. In recent years, the quest for an EU "constitution"<sup>4</sup> (as the European Convention is informally known) has reinvigorated the debate over a federal Europe. In May 2000, then German Foreign Minister Joschka Fischer gave a speech entitled, "From Confederacy to Federation: Thoughts on the Finality of European Integration" at the Humboldt University in Berlin, in which he described the EU as a "European Federation" (Börzel and Hosli 2003: 179). His speech sparked a debate on how to organize the sharing and division of sovereignty rights between the European Union's different levels of government (Börzel and Hosli 2003: 179, see in particular, Börzel and Risse 2000). The current academic debate over a federal Europe will be discussed below in conjunction with an assessment of

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<sup>3</sup> In particular, see the work Richard Coudenhove-Kalergi (*Panuropa* 1923; *Kampf um Panuropa* 1925), one of the earlier European federalists (Burgess 2007: 76). In the aftermath of World War I, Coudenhove-Kalergi, an Austrian Count, put forth a proposal for a European Union as a way of countering the rising power of Russia and the United States. The French Foreign Minister, Aristide Briande, praised Coudenhove-Kalergi's work, seeing such a union as a way of keeping peace between Germany and France (Burgess 2007: 76). Similar proposals for a federal union came from the United Kingdom. Lord Lothian was among those who supported the establishment of the Federal Union, established in 1938 (Dedman 1996: 191, as cited by Burgess 2007: 76).

<sup>4</sup> For a draft of the failed "Draft Treaty Establishing a Constitution for Europe" (2003) see <http://european-convention.eu.int/bienvenue.asp?lang=EN>

the applicability of the concept of federalism to the current structure of the EU.

We suggest that, when applied to the EU, the concepts of MLG and federalism are not necessarily contradictory. Indeed, this is because in many respects the two concepts are complementary, and, as in other areas of research, the lines between the two concepts are increasingly blurred.

We will briefly consider the main theoretical approaches to European integration, in order to provide a background to our analysis. Theories of European integration fall into several categories, each with competing views on the nature of the nation state and the conception of the EU as an entity. Traditionally, such theoretical explanations of European integration have drawn on (or conversely, influenced) approaches from the field of international relations (IR). While such approaches are useful for studying European integration, Hix (1994) argues that IR theories fail to provide a complete picture of politics within the EU. He suggests that approaches derived from comparative politics might be more appropriate for the analysis of EU politics, such as political inputs and outputs, voting behaviour and the relationships between EU institutions (Hix 1994: 12). Indeed, if we assume that the EU is moving towards becoming some type of federal state, then such an approach is logical.

Intergovernmentalist approaches to the study of the European integration as outlined by Hoffmann (1966)<sup>5</sup> (and later refined by Moravcsik in what he calls the “liberal intergovernmentalist” approach) draw from realist IR theory. Integration occurs when sovereign states, in pursuit of national interests, negotiate cooperative agreements. In contrast to neofunctionalism, intergovernmentalism places emphasis on the strength of nation states as drivers of integration. Indeed, as Hoffmann (2003: 175) writes, “the resistance of the nation-state is proven not only by the frustrations of functionalism but also by both the promise and the failure of federalism. On the one hand, federalism offers a way of going ‘beyond the nation-state,’ but it consists in building a new and larger nation-state. The scale is new, not the story, the gauge [is new] not the game” (Hoffmann 2003: 175).

The “liberal intergovernmentalist” theory of European integration, as advocated by Moravcsik (1993, 1994), suggests that the EU’s institutions strengthen the power of national governments, first, by increasing the efficiency of interstate bargaining and second, by strengthening the autonomy of national political leaders. Moravcsik’s approach assumes that national governments have the means to control the access of their sub-national governments to the EU’s main decision-making bodies (Moravcsik 1993). In the member states, traditional foreign policy powers serve as the basis for national participation in the EU. In general, national constitutions grant wide-ranging powers in conducting international negotiations to national executives, while parliamentary and sub-national powers in this area are weak or non-existent. Thus, according to Moravcsik, the national executive’s ability to control the agenda with respect to EU participation provides it with a “gatekeeping” power. “The power to veto proposed policies permits executives to block negotiation or agreement at the international level, thereby imposing a *de facto* domestic veto” (Moravcsik 1994: 54). Moravcsik (1994: 53) argues that the “gatekeeping” role of national governments prevents significant diffusion of power to sub-national authorities.

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<sup>5</sup> Subsequent page references refer to a 2003 reprint of Hoffmann’s 1966 work “Obstinate or Obsolete: The Fate of the Nation-State and the Case of Western Europe.” In Nelsen and Stubb, eds. (2003) *The European Union: Readings on the Theory and Practice of European Integration, Third Edition*. Houndmills, Basingstoke, Hampshire: Palgrave Macmillan.

Neofunctionalist approaches (Haas 1958; Lindberg 1963<sup>6</sup>) see political integration as an incremental process, without reference to an end point. The theory assumes that the driving force of integration is the self-interest of societal groups and institutions (Strøby-Jensen 2007: 93). Haas (1958) argued that interest groups and political parties would be key actors in pushing integration forward. Groups see it as in their interest to push for further integration, although governments might be reluctant to do so (Strøby-Jensen 2007: 93). The actions they choose in order to achieve these goals drive forward the process of integration. As such, neofunctionalism is often criticized as an elitist approach to integration (Strøby-Jensen 2007: 93). The concept of “spillover” is inherent in neofunctionalist theory. Haas used the concept to explain how integration in one sector of the economy, such as coal and steel, would inevitably lead to the integration of other economic and political activities (Lindberg 2003: 159). As Lindberg (2003: 160) notes, “spillover” assumes the continued commitment of the member states to the undertaking of integration. In contrast with intergovernmentalism, neofunctionalism focuses on the erosion of state sovereignty and perceives the EU as a supranational entity.

Although not directly discussed by Hooghe and Marks (2003) in reference to the development of MLG, neofunctionalism has been criticized on both empirical and theoretical grounds (Strøby-Jensen 2007: 93). On theoretical grounds, one line of criticism was that of Moravcsik (1993) who sought to reposition the nation state at the core of the study of the EU. He stated that, “whereas neofunctionalism stresses the autonomy of national officials, liberal intergovernmentalism stresses the autonomy of national leaders” (Moravcsik 1993: 491, as cited by Strøby-Jensen 2007: 93-4). A major theoretical blow to neofunctionalism came from Haas himself. While neofunctionalism had predicted the gradual intensification of political integration, by the 1970s such developments had not taken place. Critics argued that neofunctionalism no longer explained the reality of the European Community (EC) (Strøby-Jensen 2007: 93). Indeed, Haas (1975, 1976) conceded that neofunctionalism could not fully explain the developments in regional cooperation. He accepted the fact that the EC had not evolved in the way that his original theory had predicted: national governments remained important actors and it became difficult to differentiate the EC’s supranational institutions from traditional international organizations (Strøby-Jensen 2007: 97). Although neofunctionalism was widely discredited in the 1970s, by the 1980s and 1990s there was a renewed interest in it. Scholars sought to use neofunctionalist ideas to elaborate partial theories of European integration, in contrast to the earlier neofunctionalist ambitions of a “grand theory” (Strøby-Jensen 2007: 92). Indeed, we can see certain elements of neofunctionalist thinking in the MLG approach, in particular the idea that supranational actors and interest groups play a role in influencing EU-level decisions (Bache and Flinders 2004: 3).

Checkel’s constructivist approach to European integration also draws from IR theory. Checkel (2003: 356) raises questions of structure and agency that bring in aspects of social learning and socialization at the EU level and the “soft or normative side of Europeanization<sup>7</sup> at the national level” (Checkel 2003: 356). In Checkel’s approach, institutions, as social formations, influence behaviour by shaping the “identities and interests” of the member states (2003: 352).

Federalist thought had a major influence on the origins and evolution of the European Union.

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<sup>6</sup> Subsequent page references refer to a 2003 reprint of Lindberg’s 1963 work. “Political Integration: Definitions and Hypotheses,” in Nelsen and Stubb, eds. (2003) *The European Union: Readings on the Theory and Practice of European Integration, Third Edition*. Houndmills, Basingstoke, Hampshire: Palgrave Macmillan.

<sup>7</sup> See footnote ten for a brief discussion of definitions of Europeanization.



The federal ideas of the EU's "founding father," Jean Monnet, as well as those of Altiero Spinelli,<sup>8</sup> are succinctly outlined by Burgess (2000: 23, 31-2, 55-100, 117-8). Federalism in Europe was closely linked to the "European idea" in the immediate post-war period. Federalist approaches to the study of European integration are often more prescriptive than descriptive, such as Spinelli's early federalist vision of European integration. Yet, such approaches can also be broader, as they draw not only from IR theory, but also constitutional law and comparative politics, as is apparent in Forsyth's work (2003: 195-213).

"A federal Europe" is a phrase that is commonly used to refer to the *finalité politique* of the process of European integration. For Burgess, a federal Europe,

...refers to a conception of the EU that is constantly changing, but which has at its core a set of basic principles or assumptions which indicate a voluntary union of states and citizens committed to the shared goals of welfare, security and prosperity, and which is structured in a manner specifically designed to preserve nation state identities, cultures, and interests, where these are consistent with the overall well-being of the nation. In practical terms this means that the union is based upon a combination of centralist and decentralist imperatives that facilitate 'common solutions to common problems.' This broad conception of a federal Europe is based upon a single axiom 'unity in diversity' (Burgess 2007: 70).

In this definition federalism is a form of political integration. In the context of European integration, however, Burgess suggests that "federalism has been characterized by piecemeal incremental steps or federal elements, which have been added in cumulative fashion to produce an EU in which supranational, federal and intergovernmental features co-exist in an uneasy and incomplete union" (Burgess 2000: 39).

The EU certainly does display some federal traits. Indeed, Börzel and Hosli (2003) argue that the EU shares most features of what is usually defined as a federal system. Drawing on the work of both Nugent (2003) and Börzel and Hosli (2003), we can identify seven shared features. First, power is divided between central decision-making institutions (the European Parliament, the Commission, and the Council) and regional decision-making institutions (the governments of the member states) (Nugent 2003: 469). Second, the nature of the division is specified in constitutional documents (the EU Treaties) and there is a supreme judicial authority (the European Court of Justice) that adjudicates in disputes over the division of powers (Nugent 2003: 469). Third, both levels of government have important powers and responsibilities for making public policy (Nugent 2003: 469). Fourth, EU law takes precedence over national law. Fifth, EU legislation is increasingly enacted on the basis of majority decisions, and this obliges the individual member states to accept decisions that go against their own priorities (Börzel and Hosli 2003: 187). Sixth, the procedures of and composition of the EU institutions are not based solely on the principles of majoritarian representation. Rather, they allow for

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<sup>8</sup> Altiero Spinelli founded the European Federalist Movement in 1943. With Ernesto Rossi he wrote the "Ventotene Manifesto" (1941), which became the political program of the federalist movement (Nelsen and Stubb 2003: 3). He further promoted his federalist vision as a European Commissioner and as a member of the European Parliament in the 1970s and 1980s, advocating for a stronger and directly elected European Parliament, which he saw as a possible constituent assembly (Nelsen and Stubb 2003: 91-92). Among the influences on Spinelli was the work of Coudenhove-Kalergi (see footnote number three above).

the representation of minority views, since smaller EU states tend to be over-represented in both the Council and in the European Parliament (Börzel and Hosli 2003: 187). Seventh, the EU Treaties cannot be amended by only one level of government. Rather, they require the agreement of the member states (Börzel and Hosli 2003: 187).

Warleigh (1998) argues that, after the Maastricht Treaty, the EU is neither a regime nor a federation. Rather, he suggests that the Union has always been a structural confederation, which he describes as, “a union of previously sovereign states created by a Treaty, which may or may not develop into a more closely bound polity – along any model, whether currently extant or novel” (Warleigh 1998: 15). In Warleigh’s view, confederal theory can “express both the dominance of the European Council and the powerful role of the other EU institutions, as well as the uneven path of unification” (Warleigh 1998: 15).

However, as Nugent (2003: 470) points out, the distinction between confederation and federation is not entirely clear, although it depends on the amount of power that is exercised at the central and regional levels. Confederations are systems in which the balance is in favour of regional governments (Nugent 2003: 470). Federalism encompasses a wide variety of federal arrangements between federation and confederation as two ends of a “federal continuum” (Burgess 2000).

Chrysochoou (1995) proposes a construct of confederal consociationalism to describe the EU. For Chrysochoou, the EU is a confederal system in which the role of the national government remains effective, but also in which “member governments have found ways to strengthen their position domestically, regionally and internationally” (Chrysochoou, 1995: 296). It is a system of horizontal cooperation among states in which the principle of joint sovereignty has been institutionalized. The concept of a confederal consociation is significant in the sense that “it provides a conscious attempt at institutional construction for nationally based governmental elites, a commonly agreed upon form of governance in a basically incongruent society” (Chrysochoou, 1995: 300). Like Hooghe and Marks and other proponents of MLG, Chrysochoou combines elements of both the traditional IR-based theories of European integration, with approaches drawn from comparative politics.

Most supporters of a federal vision for Europe in the 1970s and 1980s were disappointed with the functionalist approach to integration taken by EC leaders, which they perceived as too slow and undemocratic (Nelsen and Stubb 2003: 195). Federalists aimed for a Europe united through a federal constitution. They were not as interested in a theoretical description of the process of integration as they were in prescribing, and implementing, a “course of action.” Federalists were often the idealistic “true believers” in a “United States of Europe” (Nelsen and Stubb 2003: 195). As Sbragia (1992: 260) notes, the phrase “United States of Europe” epitomizes the most common expression of the idea of a federal Europe. For many scholars in the 1980s and 1990s, the American model of federalism, with “its strong sovereign federal government insulated in many ways from state government” was representative of their ideal model of a federal Europe (Sbragia 1992: 260).

Scholars of constitutional law, students of comparative politics and political theorists in both Europe and North America have, since the 1980s, started to compare aspects of European federalism systematically with other federal systems (Sbragia 1992: 264). The work of Simeon (1995) and Forsyth (2003) are representative of this “new wave” of federalist thinking. Sbragia (1992: 264) recommends the study of comparative federalism as a useful benchmark to identify various pathways for the building of Europe. Although the literature on federalism and federations does not promise to offer a “map of where the [EU] is going,” it does offer useful “guideposts to the tensions the [EU] is

likely to experience even if it does not actually develop into a ‘federal-type organization’” (Sbragia 1992: 267).

Simeon (1995: 39) finds many similarities between the Canadian federal system and the European Union. He suggests that they are both systems of multi-level governance in which sovereignty is shared among local, regional, national and international institutions. Such systems of shared responsibility and divided authority mean that both Canada and the EU have complex and dynamic political processes. Yet Simeon points out that there are also many differences between the Canadian federal system and the EU. Canada is a fully federal system. The EU is not a federal state, but rather, Simeon suggests, a confederal system (Simeon 1995: 39). Simeon (1995: 40) also argues that, in some ways, the EU is actually more centralized than Canada, for example, with respect to the rules governing the single European market. Simeon points out that a further difference is that Canada and the EU are embedded in different state traditions. Canadian federalism is based on Westminster Parliamentary, with an emphasis on majority rule, a competitive political process and a hostility to bureaucracy. The EU, reflecting the political traditions of the majority of its member states, places a strong emphasis on consensus, consultation and bureaucratic autonomy (Simeon 1995: 41).

The work of Börzel and Risse (2000) offers an example of scholarship which uses the concepts of federalism and multi-level governance in a complementary manner. They suggest that the European Union and the member states constitute structures of multi-level governance. They argue that “the theoretical tradition of federalism provides constitutional structures which can be applied to systems of multi-level governance” and that “further exploration of federalist concepts in a framework of multi-level governance” is useful because federalism provides principles for the territorial organization of political power (Börzel and Risse 2000). At the same time, the use of federal principles does not require the creation of a federal state. Rather, Börzel and Risse suggest that the EU should be considered to be an “emerging federation.”

For Börzel and Risse (2000), the point of debate is not whether or not the EU should evolve into a federal system; rather, they suggest that the EU already constitutes an emerging federal system. They outline the many common features that the EU shares with a federation (see above) and suggest that the EU lacks only two key features of a federation. The first is that the member states retain the exclusive power to amend or change the EU’s constitutive treaties. The second is that there is no fiscal federalism – the EU lacks a real capacity to “tax and spend” (Börzel and Risse 2000: 9). For Börzel and Risse the issue is whether the “emerging European federal system” should be based primarily on a system of divided sovereignty or of shared sovereignty. Börzel and Risse (2000: 14) advocate a “model of shared sovereignty for the emerging European federation, because it matches the multi-level governance structure of the current European order more closely.” Their approach draws on the German model of co-operative federalism, which is based on shared competences that include a joint-tax system (Börzel and Risse 2000). This is in contrast to the US model that divides competences between the federal and state governments and therefore does not require strong representation of state executives at the federal level or a strong federal capacity for “taxing and spending” (Börzel and Risse 2000: 11).

Thus, drawing on both the concepts of federalism and multi-level governance in their vision of the EU, Börzel and Risse (2000: 14) argue that, “the EU represents a multi-level system of governance with negotiating networks encompassing public and private actors spanning various sub-national, national, and supra-national levels. Federalism provides a constitutional language that conceptualizes dividing and sharing formal sovereignty in such a multi-level system of governance.” Their argument

thus exemplifies the complementarity of the two concepts in their application to the EU and demonstrates that the dividing line between these two concepts is increasingly fuzzy, as we argued in Part III above.

Multi-level governance attempts to capture the complexity of the European Union, and it also presents an alternative to earlier theoretical approaches, which aimed to develop a single, all-encompassing theory of the EU (Rosamond 2000: 129). As we discussed in our section on the origins of the concept (Part II), MLG emerged and presents a challenge to nearly all the established theories of European integration.

Hooghe and Marks begin their 2003 work on multi-level governance by contrasting their approach to the “state centric” or “liberal intergovernmentalist” approach. There are three key differences that distinguish the MLG approach from the state-centric approach, as outlined by Hooghe and Marks (2003). The first difference relates to decision-making competences. The major point of debate between Hooghe and Marks’s conceptualization of MLG and the state-centric approach relates to the question of whether national government control over EU decision-making has been compromised by European integration. The state-centric approach argues that national governments are the ultimate decision-makers; they devolve limited authority to supranational institutions to achieve specific policy goals. In contrast, Hooghe and Marks argue that “state sovereignty has been diminished by restrictions on the ability of individual governments to veto EU decisions” (2003: 4), and that national governments do not have full control over EU decision-making. Rather, decision-making competences are “shared by actors at different levels” (Hooghe and Marks 2003: 3). The second difference relates to the outcome and effects of decision-making at the EU level. According to the state-centric approach, decisions at the EU-level are a reflection of the “lowest common denominator” among national government positions. In contrast, according to the claims of the MLG approach, collective decision-making among states means that individual member states face a “significant loss of control.” The third difference relates to the nature of policy-making in the EU. “The core claim of the state-centric model is that policy making in the EU is determined primarily by national governments constrained by political interests nested within autonomous political arenas” (Hooghe and Marks 2003: 3). In contrast, the MLG approach suggests that, “political arenas are interconnected rather than nested” (Hooghe and Marks 2003: 3).

Multi-level governance approaches in EU studies initially focused mainly on how regional actors have become integrated into the EU’s decision-making system and are learning to represent and reformulate their interests in this system (Hooghe 1996; Gualini 2004: 34). In considering the rise of subnational polities as increasingly autonomous actors in European policy-making, scholars of multi-level governance have mainly focused on regionalization, “the process of institutional or political development during which the regions gain importance in policy-making – be it by greater autonomy or by participation in centralized politics” (Benz and Eberlein 1999: 343).

As Bache (2008: 26) notes, the MLG approach has most frequently been applied on its “home ground” of EU structural and cohesion policy. Indeed, such studies comprise a substantial proportion of our bibliographic references on multi-level governance.<sup>9</sup> Other studies (for example, Fuchs 1994)

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<sup>9</sup> These include: Bache 1998, 2008; Benz 1998, 2000; Benz and Eberlein 1999; Bulmer 2002; Gualini 2003, 2004; Hooghe 1995, 1996; Hooghe and Marks 2001; Hughes, Sasse and Gordon 2004; John 1996; Marks 1993; Pareskevopoulos 2006; Smith 1997; and Warleigh 1999.

focus on multi-level governance and its impact on policy-making in the European Union or the member states (for example, Leibfried and Pierson 1995).

In the context of EU studies, the concept of MLG is often tied to that of Europeanization, or domestic change caused by European integration<sup>10</sup> (Hughes, Sasse and Gordon 2004; Bache 2008). These two concepts, both of which emerged in the 1990s as part of the “turn to institutionalism” in political science, bridge the study of European integration by students of international relations and comparative politics. Bache (2008) for example, considers the extent to which Europeanization advances multi-level governance in the member states. He takes the governing principles of EU cohesion policy as his independent variable, and domestic change – the emergence of multi-level governance – as his dependent variable (Bache 2008).

As with Börzel and Risse’s (2003) discussion of an *emerging* federal system in the EU, scholars often refer to an *emerging* system of multi-level governance, a process that is far from complete. This emerging system of multi-level governance is linked with both domestically-driven processes (such as devolution in the UK), as well as processes of decentralization related to EU-accession criteria in the new member states. Indeed, in recent years, EU enlargement has meant that scholars have turned increasingly to study regionalization in Central and Eastern Europe (for example, Hughes, Sasse and Gordon 2004) and consider the emergence of multi-level governance in these states (for example, Paraskevopoulos 2006).

Scholars focusing on the EU have thus embraced multi-level governance as a useful conceptual tool and employed it in their research as a dependent variable and an independent variable, both of which explain why multi-level governance is emerging. Although such popularity does not in itself legitimate or validate the concept, the fact that so many scholars have adopted it is testament to its utility for both empirical and theoretical research on the European Union, its member states, and its sub-national regions.

## **Part V: Applicability of the Two Concepts to Regionalism and Local Government**

### **Applicability of the Concepts of Federalism and of MLG to Regionalism**

The study of regionalism in Western Europe has significantly contributed to the debate on multi-level governance. Studies analyzing the role of regions and subnational authorities in Western Europe helped to advance the development of the concept of multi-level governance. Indeed, partly as a result of this literature “multi-level governance” moved from its place as an academic concept to a term used by the European Commission itself to describe its mission in regional policy (Leonardi 2005: 7).

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<sup>10</sup> In this context, the term *Europeanization* is used to signify the “transformation of a variable at the national level which adapts to a European model, logic or constraint.” (Jacquot and Woll 2003: 2). Vink (2003: 63) defines Europeanization simply as, “domestic change caused by European integration,” whereas Radaelli (2003: 30) suggests that,

Europeanization consists of processes of (a) construction, (b) diffusion, and (c), institutionalization, of formal and informal rules, procedures, policy paradigms, styles, ‘ways of doing things’, and shared beliefs and norms which are first defined and consolidated in the EU policy process and then incorporated in the logic of domestic (national and sub-national) discourse, identities, political structures, and public policies.

However, the literature on regionalism is another area in which the lines between the concepts of federalism and multi-level governance have become blurred. In some respects, this is problematic: some authors, such as Keating (1998) identify devolution to regions as nearly equivalent to federalism.

In the 1970s and 1980s, scholars began to project that regions would emerge as an important level of government in Western Europe. Mény (1982, as cited by Le Galès and Lequesne 1998: 204) argued that the 1970s were “the decade of decentralization,” which would lead to a process of regionalization. By the 1990s a growing body of literature examined the role of regional and other subnational authorities in the context of European integration (Jeffery 1997; Keating and Loughlin; Hooghe 1995, 1996; Keating 1998). It was at this point that a conceptual link between the literature on regionalism and multi-level governance emerged. Jeffery (1997: 204) suggests that this research was partly the result of two factors. First, at the European Union-level, new opportunities were available for sub-national authorities to access key European decision-making processes, which emerged in the reform of the structural funding process after 1988 and a number of the key provisions of the 1992 Maastricht Treaty.<sup>11</sup> Second, growing debates about decentralized government within many of the EU’s member states, and a more outward-looking policy orientation on the part of sub-national authorities, supported growing demands for access to these EU-level decision-making processes (Jeffery 1997: 204). Research that was focused on understanding and describing the role that sub-national authorities play in EU politics grew from observations of the opportunities and demands by sub-national authorities for access to the EU’s institutions, along with their increased success in “mobilizing” (Hooghe 1995) to attain such access (Jeffery 1997: 204). The 1990s gave rise to the concept of “Europe of the regions” and the emergence of a third (regional) level in EU decision-making (Jeffery 1997: 204). Jeffery’s (1997) work is conceptually related to MLG in that he refers to regions as a “third-level” of European governance.

However, the development of the concept of multi-level governance was, in a sense, a deliberate reaction against the idea of a “Europe of the regions” that was adopted by some regions, and was, for a time, advocated by the European Commission (John 2000: 882). The concept of “Europe of the regions” suggested that national institutions would weaken as a result of the increasing powers of the European-level, and that regions and cities would gain in strength as a result of direct access to the European policy-making process (John 2000: 882). While proponents of multi-level governance agreed that regional and local levels would increasingly play a role in interactions with the European level, in contrast, they did not assume the declining importance of the national level (John 2000: 882), referring instead to a “Europe *with* the regions” (Hooghe 1996; Hooghe and Marks 1996).

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<sup>11</sup> The EU’s *acquis communautaire* with respect to structural and cohesion policy is based on the “partnership principle”, which consists of rules and regulations that require the involvement of different levels of political representation (national, regional, and/or local, depending on what exists within each member state) and different sectors of society (business organizations, trade unions, environmental groups, farmers’ representatives, consumers, women’s groups, etc) (Bache 2006: 40). The “partnership principle” provided the first formal requirement that local and regional authorities be involved in EU policy-making, and indeed the effects of this principle became central to the development of multi-level governance. Any government seeking structural funds had to establish partnerships with each of its assisted regions consisting of supranational (EU-level), national and sub-national actors (Bache 2006: 40). The principle of partnership encouraged the extensive participation of sub-national authorities, along with national governments, in the creation and implementation of national strategies (Bache 2006: 71). The concept of “multi-level governance” aptly describes this framework.

In his 1998 work, Keating, while not explicitly using the term “multi-level governance,” adopts its language while describing regionalism. Keating argues that in Western Europe, there was a trend towards territorial decentralization and the creation of regional governments. He suggests that, while we might interpret these developments as “the triumph of the federal principle,” and the emergence of three levels of government in Western Europe (the EU, the state and the region), in reality the “emerging phenomenon is too complex to fit into traditional models of federalism” (Keating 1998: 187). In his study of regionalism, Keating (1998: 113) suggests that “the distinction between federalism and the stronger forms of regionalism is becoming ever more difficult to make.” He offers Spain as an example, noting that while the country is not formally a federation, its system of regional government is guaranteed by the constitution. Similarly, Italy’s debate over regional reform in the 1990s was centred around strong themes of regionalism and federalism, “to the point that many believed that the distinction had lost its relevance” (Keating 1998: 114).

Keating speculates that a possible reason for the convergence between the concepts of regionalism and federalism is the European tradition of federalism, which, he argues, is different from the American model of federalism, founded on the principles of limited government, countervailing powers and a strict delimitation of competences (Keating 1998: 114). Rather, Keating suggests that the European tradition of federalism was more “organic”<sup>12</sup> and integrated, and embraced the principle of “sharing power at different levels of government, rather than dividing it” (Keating 1998: 114). Keating thus paints a picture of a blurring of the lines between regional devolution and federalism, suggesting that a distinction between the two concepts is challenged by the changing nature of the state, the growing importance of the EU as a level of government, and adopting the language of MLG, the “necessary inter-dependence” of the different levels (Keating 1998: 114).

Le Galès and Lequesne (1998) adopt a critical perspective on the emergence of regionalism, questioning the importance of regions in decision-making, and thus the very foundations of the concept of MLG. Le Galès and Lequesne attempt to “put regions back in their place” and point out that, in reality, European regions seem to be “rather minor political actors in European governance” (Le Galès and Lequesne 1998: 8). Drawing on the empirical evidence provided by several of the authors in their edited volume on *Regions in Europe* (1998), Le Galès and Lequesne point to a “regional paradox,” suggesting that, “there is not very much evidence that regions really have become an essential level of government in Europe.” Rather, they suggest that the story of regionalization is actually one of “symbolic politics and institutional innovation,” rather than real redistribution of power between levels of government, other than to the supranational level (Le Galès and Lequesne 1998: viii).

Bache’s (1998) work also cautions against overestimating the power of regions. While he concedes that multi-level governance has merit in describing the emerging polity of the European Union, Bache (1998: 155) suggests that the evidence from regional policy is that national governments operate as “gatekeepers” at various stages of the policy process to put a brake on the emergence of a truly multi-level system of governance. He draws on and modifies Moravcsik’s (1994) assertion of the “gatekeeping” role of national governments, as described above. Further, as we noted in Part II above, Bache argues that the multi-level governance approach needs to take greater account of the “gatekeeping” powers of national governments across all stages of policy-making, over time and

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<sup>12</sup> As we mentioned in Part I of this paper, one of the ideas that distinguishes the continental European tradition of federalism from Anglo-American thought is the organic notion of society and the structures that constitute it.

across issue areas. He proposes that the role of national governments with respect to the participation of regions can be described as one of “flexible gatekeeping” (Bache 1998: 156).

In considering the debate over the role of regions, we contend that Hooghe’s (1995) position, which sees the national governments as still in a leading role, but acknowledges the growing importance of the regions in the EU, is the most persuasive. However, we also recognize the validity of Bache’s point regarding the national governments’ roles as “flexible gatekeepers,” and take into account the marked cross-national differences between sub-national authorities in both strength and influence.

### **Applicability of the Concepts of Federalism and MLG to Local Government**

Scholars of federalism (e.g. Stilwell and Troy 2000: 924) often point to the relative weakness of local governments, suggesting these authorities are minor players in the federal system, in which they hold no formal independent existence, and remain beholden to state or provincial governments. In contrast, multi-level governance highlights the growing importance of actors at the regional and local levels. The consideration of urban centres and the local level of government is also a natural extension of the literature on regionalization and multi-level governance. As Hooghe and Marks (2004) note, “the study of local government in the United States and Western Europe bears directly on multi-level governance,” indeed, they suggest that Type II multi-level governance “is widespread at the local level” (Hooghe and Marks (2004: 26).

Research in the field of urban studies has applied the concept of multi-level governance at the local level.<sup>13</sup> These studies generally examine the interaction of different levels of government within a state and how they shape the urban environment; some of these studies extend the level of multi-level governance to include city neighbourhoods (O’Brien 2002: 3). Stilwell and Troy (2000) examine how the tensions between national and state governments have complicated efforts at making urban government more equitable and efficient. Kearns and Forrest’s (2000) study of social cohesion in cities focuses on the inter-urban, the city and the neighbourhood as key levels of governance (O’Brien 2002: 3). Most of these studies emphasize the increasing interaction of local authorities and actors in networks of multi-level governance.

What is the utility of applying the concept of multi-level governance in the field of urban studies and local governance? We suggest that a more critical analysis of the application of the concept of multi-level governance is necessary. Although the EU’s Committee of the Regions allows for the participation of local authorities, unlike sub-state regions, local governments may be less capable of asserting their role in the EU’s multi-level system, for both financial and as well as practical reasons. If the national government has a “gate-keeping” role (Moravcsik 1994), or even a “flexible gate-keeping” role (Bache 1998), inhibiting regional authorities’ access to the supranational level, then we suggest that local authorities are held back by a “double” gate enforced by both regional and national levels. Indeed, the process of regionalization may imply that local authorities lose powers that are shifted “up” to the regional level. While there is no disputing the *existence* of local authorities as the lowest tier of a multi-level system, and even their increased *interaction* with other levels of government, MLG may exaggerate the *actual role, power and importance* of local governments. Here, MLG presents more of a normative, indeed idealistic, picture than an accurate depiction of reality.

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<sup>13</sup> See, for example: Stilwell and Troy 2000; Kearns and Forrest 2000; Baldersheim and Ståhlberg 2003; Carmichael 2005; Marshall 2005.



For example, both Marshall (2005) and Carmichael (2005) consider the urban and local level within the EU's multi-level system of government. Marshall (2005) applies the concept of Europeanization to the urban level, using case studies of Birmingham and Glasgow. He focuses on urban actors in these two British cities in the context of their involvement in the EU's Structural Fund programmes. Marshall's study of multi-level interaction at the urban level extends to the level of neighbourhoods, where he finds that, "even community groups have become linked into multi-level EU networks which hand out financial assistance in return for adherence to the principles of partnership and strategic programming" (Marshall 2005: 679). Carmichael (2005) asks whether cities are emerging as key players in the EU's system of multi-level governance, and considers the implications of this role with respect to urban leadership. Carmichael (2005: 145) argues that a city's success in terms of economic competitiveness and social inclusion may depend on the "achievement of a complementary engagement of actors from neighbourhood, city, region, national and European levels – the epitome of multi-level governance."

Baldersheim and Ståhlberg (2003) analyze and compare the methods of co-ordination and integration in relations between the central government and local governments in four Nordic countries. The authors argue that methods of central-local coordination in the Nordic countries "increasingly reflect incidences of multi-level and multi-layer governance" (Baldersheim and Ståhlberg 2003: 77). However, they point out that, while central-local relations may be multi-level in character, it is not simply because they include interactions across levels of government. For these authors, the more salient aspect of multi-level governance is the co-ordination that takes place between actors, agencies or institutions, each of which acts on behalf of different interests. They suggest that governance becomes multi-level when actors try to establish joint programmes and policies which aim to meet the needs of both local and national constituencies. These constituencies may have common interests and goals, in which case accommodating both sets of interests will not be a problem. Conversely, "local and national constituencies may have conflicting interests, or interests that only partly overlap, and this will result in a more difficult process of coordination" (Baldersheim and Ståhlberg 2003: 78). Thus, while the authors address the possibility of conflict, they do not address the issue of imbalanced power-relations and the "gatekeeping" role of the national government.

Some scholars have drawn on the concepts of both federalism and MLG in their studies of urban policy, and this synthesis has at times provided greater explanatory power. For example, Gleeson (2001) considers the implications of Australia's federal system of multi-level governance on urban and regional policy. His work draws on both the concepts of MLG and federal theory in examining the strengths and weaknesses of a federal system of urban governance in the Australian context. Gleeson (2001: 149) suggests that the "Australian experience also highlights the potential of lower governance levels to exert considerable policy influence at the regional and local scales." Thus, in contrast to those who draw on more traditional understandings of federalism, incorporating the lens of MLG allows scholars to place greater emphasis on the potential influence of local governments, while not necessarily redefining their roles.

## **Part VI: Conclusions and Suggestions for Future Research:**

As we have shown in earlier sections, the distinction between the concepts of federalism and multi-level governance has become increasingly blurred in recent years, particularly as a result of political institutional changes shaped by the forces of globalization. With respect to definition, the MLG Type I concept offered by Hooghe and Marks in 2003 seems to us to have greater promise analytically than

the MLG Type II concept, for several reasons. First, it is described in much clearer detail and has a more easily identifiable empirical referent than the second type of MLG. Secondly, it can be viewed as an extension of the federalism concept, since it encompasses governance systems that have three to five levels of independent political decision-making centres. It therefore serves as a more inclusive and more applicable term for political systems having multiple tiers of autonomous decision-making than does federalism in today's complex polycentric political decision-making world. Thirdly, as theorists of regionalism have pointed out, there is no simple way to distinguish decentralized, autonomous regions in a unitary state such as the United Kingdom or Italy analytically from sovereign but interdependent constituent units in a federal state.

As our numerous examples drawn from the literature on federalism, EU studies, regionalism and urban studies have demonstrated, there has been a significant degree of academic "cross-pollination" between the concepts of "federalism" and "multi-level governance." We argued in the Introductory section that the causal arrow defining the historical and analytical relationship between these two concepts appears to have operated in a multi-directional, interactive and interdependent fashion. Thus theories of federalism predominantly influenced and shaped the definition and evolution of the "multi-level governance" concept from the mid-1980s until the mid-1990s. Subsequently, since the mid-1990s, the causal arrow has begun to run in the opposite direction, so that the ideas of MLG are now largely shaping current theories of federalism. For example, the term "federalism" is being increasingly applied to local government units which exercise relative decision-making autonomy in their interactions with constituent and national governments. Regional governments are also defined as part of a multi-tiered federal relationship between autonomous constituent, national and supranational units. The interactive governance process that is given such a prominent place in both these concepts is now regarded as a highly flexible, informal and dynamic relationship. In our view, this is a more appropriate and accurate way of understanding the process of governance in the current international environment. It can also serve as a counterforce to the national government "steering" pattern that is considered to be both typical and desirable by "intergovernmentalist" theorists.

Fourthly, as we noted in previous sections, we believe that the MLG concept, like federalism, should reflect both descriptive/empirical and normative attributes. It should be viewed, similar to federalism, as one designed to promote the value of pluralism and serve as an institutional check on the concentration of power in a single or major decision-making centre. It should, moreover, be seen as providing a more flexible mode of optimizing the policy-making process by allowing for multidirectional shifts both vertically and horizontally in decision-making authority and power. Therefore, rather than adopting a unidirectional principle such as "subsidiarity", which advocates placing major jurisdictional and decision-making authority in the government that is closest to the people, it should invest primary decision-making authority in whatever level of governance that seems most appropriate for that policy-making sector. For example, in the environmental policy area, given the spillovers that many such decisions have beyond national borders, the supranational level of decision-making appears to be increasingly more appropriate. In the social welfare policy sector, however, because of the close proximity of problems such as residential shelters, food banks, and employment centers to urban government, the local level of decision-making seems more optimal.

Fifth, under MLG, the existence of more than two levels of politically autonomous decision-making centers fosters greater policy innovation, since it provides more arenas for such policy experimentation.

Sixth, the emphasis in MLG on cooperation rather than conflict in joint decision-making is likely to produce a more durable intergovernmental partnership among the participating units of governance.

However, as we indicated above, we do not advocate use of the Type II definition of MLG to describe a pattern of governance involving two or more decision-making units at any level, as is suggested by Hooghe and Marks (2003). We believe that such a usage involves “conceptual stretching”, and opens MLG Type II to the charge that it is being used indiscriminately without any clear empirical referent. Rather, we suggest that MLG Type II be redefined as a “genus” for any “species” of polycentered governance, both vertical or horizontal. This may include, for example, vertical modes of global governance such as the World Trade Organization, or modes of local governance such as neighbourhood political decision-making organizations. It may also encompass forms of horizontal governance such as those exclusively or primarily in the public sector (e.g. regulatory agencies and public corporations), those largely in the private sector (e.g. corporatist structures that include business associations, labour unions and agricultural organizations), and partnership arrangements between government and the voluntary third sector (e.g. charitable or recreational organizations).

While we have demonstrated that causal arrow between the two concepts runs in both directions, there are also benefits in keeping these two approaches conceptually distinct. Scholars of federalism should not apply the term “multi-level governance” indiscriminately, as some, such as Banting and Corbett (2002)<sup>14</sup> have been apt to do. As we discussed in Part II of this paper, multi-level governance has a rich and diverse conceptual development. Scholars of federalism who draw on the concept of MLG in their theoretical work should thus be aware of its origins as well as its various “types.”

We believe that the term “federalism” should continue to be applied to a political phenomenon that is clearly distinct from MLG Type I. Etymologically, federalism is derived from the Latin word “foedus”, or “treaty”, and refers generally to some type of formal agreement between governing units. We think that the term “multi-level governance” (i.e. MLG Type I) should be reserved for more informal governance arrangements.

We have a few other questions or “provisos” to raise about the concept of MLG. First, is this concept only applicable to “advanced” industrial democracies, such as those in Europe and North America, or can it also be applied to third world governance. If so, must some modification be made in how the concept is defined in order to encompass some differences between these types of governance?

Secondly, can one consider one of the principal normative functions of multi-level governance to be that of promoting democratization, as appears to be the case in Central and Eastern Europe for

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<sup>14</sup> The studies in Banting and Corbett’s (2002) volume on *Health Policy and Federalism: A Comparative Perspective on Multi-Level Governance* compare examine decision-making in five federal states: Australia, Belgium, Canada, Germany and the United States. The studies examine “the ways in which different federal systems manage the tensions inherent in multi-level governance, and the implications of federalism for the nature of health programs” (Banting and Corbett 2002). Despite its prominence in the title, none of the authors provide a definition of multi-level governance nor do they elaborate on multi-level governance as a conceptual framework for analysis.

countries that sought and are seeking membership in the European Union? Does this explain the requirements imposed on EU candidates that they establish and develop sub-national institutional structures (or regional governments) in order to distribute funding from the structural and cohesion funds? Can the Western European model of multi-level governance be “exported”? Does the institution of multi-level governance necessarily entail democratization? In Central and Eastern Europe the transformation to a system of multi-level governance may have been facilitated by the democratic transition and the process of Europeanization. However, there may also a strong counter-tendency. States that have only recently regained their sovereignty may be more apt to centralize control rather than devolve power to regional authorities and they may be more likely assert a strong “gatekeeping” role (Moravcsik 1994).

Thirdly, following Gualini (2004: 39) we suggest that further explanatory approaches accounting for the evolution of the institutional preconditions of a multi-level governance system are needed. Scholars have yet to develop a causal theory of which factors lead to the emergence of MLG. Central and Eastern Europe in the context of the EU and East Asia in the context of ASEAN might provide unique laboratories in which to study the emergence of multi-level governance.

Our discussion of the emergence of the two concepts highlighted the fact that while federalism is an established concept, MLG is relatively new. Although the future will demonstrate whether MLG has the same “staying power” as federalism, we suggest that its current widespread application implies that it is likely to remain an important conceptual tool. MLG has become entrenched in the research in different areas (EU studies, regionalism, local government, public policy), and, as our paper has demonstrated, MLG is a useful addition to the “conceptual toolbox” for scholars of federalism.

In conclusion, we advocate continued research into and exploration of these and other questions about the relationship between federalism and multi-level governance by the specialists and promoters of each concept and by other political scientists. In that way, they can continue to provide our rapidly evolving and maturing discipline with new and useful “cutting-edge” concepts.

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