

CONTENTS

Acknowledgments ix

1	Introduction	1
PART I. THE INSTITUTIONS OF DEMOCRATIC FEDERALISM		33
2	Economic Federalism	37
3	Cooperative Federalism	75
4	Democratic Federalism: The National Legislature	99
5	Democratic Federalism: The Safeguards	139
PART II. ENCOURAGING THE FEDERAL CONVERSATION		177
6	FIST: Having the Federal Dialogue	181
7	Fiscal Policy in the Federal Union	210
8	Regulation in the Federal Union	255
PART III. ON BECOMING FEDERAL		295
9	The European Union: Federal Governance at the Crossroads	299

viii CONTENTS

10	Mandela's Federal Democracy: A Fragile Compact	340
11	Epilogue	372

<i>Bibliography</i>	379
<i>Name Index</i>	417
<i>Subject Index</i>	425

1

Introduction

1. Introduction

The federal state, a federation of subnational self-governing units under a central national government, once the constitutional foundation for only a few Western governments, now seems to be the polity of choice, both for emerging democracies and for established states undergoing economic and democratic reforms. After long periods of military dictatorships, Argentina, Brazil, South Africa, and the democracies emerging from the old Soviet Union have each chosen to use a federal form of government. The once-dictatorial East Germany has been reconfigured as new democratic *länder* within the Federal Republic of Germany. Federal institutions have allowed Nepal to include previously discriminated minorities in a more inclusive political order. The European Union, first begun as simply a trading partnership for coal and steel and then reconfigured as a transnational federal union under the rules of the Maastricht Treaty, has now assumed central responsibility for economic and monetary policies of the twenty-eight (perhaps soon to be twenty-seven) member European nations. Centralized political systems as different as those of China, Norway, and Sweden are now finding a federal style of governance to be a potentially useful path for implementing needed economic reforms.

Even the original and perhaps still strongest of the modern federal unions—Australia, Canada, and the United States—are facing significant challenges to their current structure of federal governance: a redefinition of state financing in Australia, the ever-present question of Quebec’s provincial status in Canada, and an invigorated U.S. Supreme Court seeking to limit the powers of Congress over U.S. states. Each of President Barack Obama’s major policy accomplishments, from his economic stimulus to reinvigorate the U.S. economy to his health-care reform to his energy and climate regulations, has involved

federal and state policy coordination and cooperation. President Donald J. Trump's effort to deregulate the U.S. economy will promote further decentralization of U.S. education, health care, and environmental policies.

What is it about federal governance that makes it so attractive? For political scientists, the attraction has always been the ability of small governments to foster political participation, democratic deliberation, and a commitment to the democratic process itself. Plato in *The Laws* and Aristotle in *The Politics* each argued that the optimal size of political jurisdictions was no more than 5,040, and ideally 1,000 citizens, as this would ensure personal representation of all residents.¹ John Milton and James Harrington saw the virtues of small government not just in its ability to encourage participation and to decide policies but also in its ability to tailor service delivery to the expressed needs of individual populations. Niccoló Machiavelli and Baron de Montesquieu favored small governments for all these reasons and then advocated a larger union with decisions made by unanimity, called a confederation, for the provision of a common defense. John Stuart Mill and Jean-Jacques Rousseau championed small governments too, but both preferred to use a majority-rule central government with representation from each small state, rather than unanimous decision-making by treaty, as the most effective means for setting the union's common course.² It was James Madison who provided the most complete theoretical foundation for modern federalism by joining Montesquieu's arguments for small government with David Hume's theory of representative government for conjoint, larger polities.³ Madison's major fear was tyranny by the majority over minority democratic rights within the smaller states, but Hume's analysis of a representative central government eased his concerns. While political theorists quarreled over the relative importance of central and local governments in the ideal (here, democratic) state, most saw

1. Plato (1970, p. 205); Glotz (1929, p. 26); Aristotle (1958, p. 57:1265a).

2. Beer (1993, chaps. 1–3, 7) is the very best reference on the early political theories of federalism.

3. Hume took exception to the views of Machiavelli and Montesquieu that large governments could not reach consensus and function efficiently because of their "great variety of interests." Hume argued in his essay "The Ideal of a Perfect Commonwealth" that debate and discussion would not be dysfunctional but rather the means to reveal the "public interest." Madison embraced Hume's arguments as he made his own case for representative government in *Federalist* No. 39 and for the benefits of discussion and debate in *Federalist* Nos. 10 and 51. See Beer (1993, pp. 264–270) and Beer (1978), where Madison's theory of federalism is seen as combining the ideas of Montesquieu and Hume as "representational federalism."

both tiers as making important contributions to citizen participation and democratic stability.

Beginning with Adam Smith, economists too have appreciated the advantages of jointly using both large, central governments and smaller, local governments, now for the efficient provision of government services. When the benefits of an economic activity encompass a large number of individuals or a wide geographical area, a government of many people or wide reach will be needed for the cost-efficient provision of the public good or service. For Smith this included national defense, the administration of justice, protection of private property, and the provision of public works that benefit the whole society: “The expense of defending the society . . . of the administration of justice . . . [and] the expense of maintaining good roads and communications [are], no doubt, beneficial to the whole society, and may, therefore, without any injustice, be defrayed by the general contribution of the whole society” (bk. 5, chap. 1, pt. 4, pp. 814–815).⁴ Conversely, when an activity benefits only a few people or the benefits are spatially concentrated, then a smaller government in numbers or geography will be preferred. Again, Smith had it right:

Even those public works which are of such a nature that they cannot afford any revenue for maintaining themselves, but of which the convenience is confined to some particular place or district, are always better maintained by a local or provincial revenue, under the management of a local and provincial administration, than by general revenue of the state. . . . The abuses which sometimes creep into the administration of a local or provincial revenue, however enormous they may appear, are in reality almost always very trifling, in comparison with those which commonly take place in the administration and expenditure of the revenue of a great nation. They are, besides, much more easily corrected. (Bk. 5, chap. 1, pt. 3, pp. 730–731)

Larger governments are less expensive, but smaller governments are more likely to provide the right match of citizen preferences to service levels. Just as do their colleagues in political theory, economic theorists debate the relative virtues of central and local governments in the ideal (here, efficient) state, but again, most see both tiers as making valued contributions to the efficient provision of government services.

Political philosophers and legal scholars concerned primarily with protecting individual rights and liberties have found their guidance for the potential

4. Page numbering is for Smith (1976).

benefits of federal governance well summarized by Alexander Hamilton and James Madison in *The Federalist Papers*.⁵ Madison's *Federalist* No. 10 makes the now-famous case for the virtues of a central democratic government as a protector of personal rights and liberties: "[A national legislature] make[s] it less probable that a majority of the whole will have a common motive to invade the rights of other citizens; or if such a common motive exists, it will be more difficult for all who feel it to discover their own strength, and to act in unison with each other" (Hamilton, Madison, and Jay, 1982, p. 48).

First, a national legislature of state-represented minorities provides protection by being able to check any state-level tyranny of one of the member states. A national bill of rights, a national court with the power to adjudicate state violations of those common rights, and a national army to enforce adherence to the common standards when violations do occur can be used by any aggrieved minority within a member state for relief and subsequent protection. But second, states are needed too, and particularly so in societies where one large ethnic, religious, or economic group constitutes a national majority or near majority. In *Federalist* No. 51 Madison argues that in such polities, state governments can provide protection against tyranny by a majority-controlled central government: "In the compound republic of America, the power surrendered by the people, is first divided between two distinct governments, and then the portion allotted to each, subdivided among distinct and separate departments. Hence a double security arises to the rights of the people. *The different governments will control each other*; at the same time that each will be controlled by itself" (Hamilton, Madison, and Jay, 1982, p. 264; italics added). States provide these protections through coordinated political, and perhaps military, action. Hamilton in *Federalist* No. 26 sees state legislatures using politics ("VOICE") and military powers ("ARM") to check the central government threats to the rights of citizens: "The state Legislature will always be not only vigilant but suspicious and jealous guardians of the rights of the citizens, against encroachments from the Federal government, will constantly have their attentions awake to the conduct of the national rulers and will be ready enough . . . to sound the alarm to the people and not only to be the VOICE but if necessary the ARM of their discontent" (Hamilton, Madison, and Jay, 1982, p. 129). For

5. Certainly this is so for America's leading legal theorists, such as Ackerman (1991, chap. 7), Amar (1987), Dworkin (1986, pp. 381–382), Ely (1980, chap. 4), Michelman (1977), and Sunstein (1987), and for leading jurists too—for example, Breyer (2005, chap. 2), McConnell (1987), and Scalia (1982).

Madison and Hamilton, the national and state governments are “but different agents and trustees of the people,” as the common electorate uses national powers to check state abuses and conversely. Like political theorists seeking democracy and economists valuing efficiency, the task for those who champion “justice [a]s the end of government” will be to find that “judicious modification and mixture of the *federal principle*” most conducive to freedom’s cause (Hamilton, Madison, and Jay, p. 265).

The federal form of governance offers those seeking a more democratic, efficient, and just society a credible alternative to the polar alternatives of a single, unitary state or a loose and often shifting network of small governments. It was the earlier experiences of the American colonies with these two alternatives, first the oppressive rule of unitary England and then the ineffectiveness of their own Articles of Confederation, that led their representatives to the 1787 Philadelphia Constitutional Convention to fashion, arguably, the first *modern* federal constitution for their new United States.⁶ What was *modern* in the new constitution was a structure of two-tier representative government by majority rule designed explicitly to promote and protect a stable democracy, to provide for a common market and the efficient protection of the member states yet permit local choice for what were seen as important local public services, and to protect the rights and liberties of the citizens of the new republic.

If *The Federalist Papers* provided the intellectual arguments for this new form of governance, the state-by-state ratification process was its test as practical politics. The audiences were not always friendly, particularly so in Massachusetts, New Hampshire, Virginia, and New York. But the new constitution survived intact, with the promise to dissenters to approve a bill of rights (Amendments I–IX) and to provide explicit recognition that powers not delegated to the national government by the Constitution would remain with the states and their peoples (Amendment X). On May 29, 1790, the new constitution was approved and the federal union was formed.⁷ Modern Democratic Federalism was now a political reality.

6. Supporting the view that the U.S. Constitution was the first truly federal constitution are three of the leading political and legal theorists of federalism, Martin Diamond (1961), Samuel Beer (1978, 1993), and Akhil Reed Amar (1987).

7. For a factual history of the ratification process, see Rossiter (1966, chaps. 14, 15) and Rakove (1996, chap. 5). For a survey of the ideological foundations of the ratification debates, see Beer (1993, chap. 10).

We set as our broad task here that of detailing and evaluating the contemporary arguments for the democratic federal state. In this introductory chapter, we first define what we see as the key institutional features of federal governance and provide evidence as to the relative importance of federal states among the nations of the world; see Table 1.1. We then provide a first (some might say speculative) empirical evaluation of the ability of Democratic Federalism to advance the three objectives embraced by its supporters: economic efficiency, political participation and democratic stability, and the protection of individual rights and liberties; see Table 1.2. Causation is always a question in such exercises, but the correlations are clear. Societies governed by the principles of Democratic Federalism are richer, safer for personal rights and liberties, and democratically more engaged. The stronger case for a causal connection from Democratic Federalism to valued outcomes will come in Part I, Chapters 2 (Economic Federalism) and 3 (Cooperative Federalism), and then in Chapters 4 and 5 (Democratic Federalism), where we present the theoretical arguments and direct evidence for how the democratic institutions of federal governance affect efficiency, participation, and rights.

From Part I we conclude that there is much to recommend Democratic Federalism as a way to organize national governance, but, perhaps like all political institutions, it is fragile and susceptible to what William Riker (1964) has called the “overawing” tendencies of centralized government. There are good reasons why the Founding Fathers hoped to preserve and protect state government responsibilities with the adoption of the Tenth Amendment to the U.S. Constitution and why the Maastricht Treaty establishing the European Union made the principle of “subsidiarity” so central to EU governance. Part II proposes our own version of these protections, which we call the Federalism Impact Statement, or FIST. Chapter 6 outlines our FIST proposal and stresses the importance of an independent judiciary for its enforcement. Chapters 7 and 8 implement FIST in two important policy areas: fiscal policy (Chapter 7) and regulatory policy (Chapter 8).

There will be many examples throughout the book illustrating how existing federal institutions might affect national policies and explaining how one might reform those institutions to improve performance, whether to enhance democratic participation, economic efficiency, or rights and fairness. But there is the prior question that we address in Part III: Do you want to be federal at all, and if so, what is the best way to facilitate the transition to federal governance? Chapter 9 provides a summary of the EU’s path to federal governance and an evaluation of its current strengths (economic) and weaknesses

(participation and rights). We suggest a modest reform path to what we have called Cooperative Federalism. Chapter 10 examines the central role of federal institutions in what at the time was, and hopefully can still be, the last century's most impressive transition from dictatorship to democracy—the creation of a fully free South Africa. We argue that the peaceful transition would not have been possible without the adoption of Democratic Federalism. Whether that constitution will survive the corrupting and centralizing influences of modern South African politics remains an open question, but one we address explicitly.

Chapter 11 summarizes our results and stresses the need for a companion volume, perhaps called *Unitary Democracy*. We hope we will have made a compelling case for Democratic Federalism, but to be called a “winner” with any certitude, it must be shown to outperform its major competitors on one or more of the valued outcomes.⁸ In the end, we would expect Democratic Federalism to be best for some nations, unitary governance best for others, and finally, remaining as an independent state and negotiating treaties a third alternative. Chapter 11 concludes by offering some thoughts to begin this conversation.

2. What Is Federal?

The word *federalism* has its roots in the Latin *foedus*, meaning “league,” “treaty,” or “compact.” In a broad sense, *federal* has come to represent any form of government that brings together, in an alliance, constituent governments each of which recognizes the legitimacy of an overarching central government to make decisions on matters once exclusively the responsibility of the individual member states. All definitions of the federal state begin from this point: two or more lower-tier governments joined together to form a single central government with both the lower-tier and central levels of government having responsibilities for policies benefiting the citizens of all member states.⁹

8. Two important recent studies have begun this comparison. First, Treisman (2007) provides a valuable critique of political decentralization and in the process begins the theoretical case for unitary governance. Second, Alesina and Spolaore (2005) present an economic framework for the comparison and provide valuable evidence that will be needed to make the choice.

9. Elazar (1968, p. 353), in his survey of federal governance, defines federalism “to describe the mode of political organization which unites separate polities within an overarching political system so as to allow each to maintain its fundamental political integrity, . . . [accomplished] by

Typically, the specification of lower-tier governments is based on geography, and responsibilities are those formally assigned to them by the federal constitution.¹⁰ Policy responsibilities need not be exclusive to one level of government or another. Responsibilities can be shared, and in this case assignment is called *concurrent*. More *decentralized* federal states will have more provincial or state governments or assign more policy responsibilities and revenues to those governments. Such constitutionally grounded definitions of federalism are overly restrictive, however. Kenneth Wheare (1964, p. 33), for example, rules out as federal Montesquieu's foundational analysis of informal unions of independent states and excludes from the analysis the United States when governed by the Articles of Confederation, the Union of Utrecht of 1579 (United Netherlands), the Austro-Hungarian Empire under the Compromise of 1867, Germany under the Imperial Constitution of 1871, and now the European Union.¹¹ By Wheare's definition, only the United States today, Canada, Switzerland, Germany, and Australia qualify as federal.

In his now-classic *Fiscal Federalism* (1972), Wallace Oates also found Wheare's narrowly legalistic definition too confining for his own study of how multitier, hierarchical governments might best provide public goods and services. For Oates, "What is crucial . . . is simply that different levels of decision-making do exist, each of which determines levels of provision of particular public services" (p. xvi). If Wheare's definition is too confining, we find that Oates's definition admits too much. For example, a single, unitary government that grants its lower-tier administrative agencies policy discretion would qualify as federal by Oates's definition. As Oates himself notes, "By this definition, practically any fiscal system is federal or at least possesses federal elements" (p. xvi).

We think William Riker, arguably political science's most careful and influential scholar of federalism, has found the productive middle ground. Riker specifies federal governance as a "political organization in which the activities of government are divided between regional governments and a central government in such a way that each kind of government has some activities on which it makes final decisions" (1975, p. 101). By Riker's definition, there are multiple tiers of *governments*, by which Riker means two or more coordinate political entities

distributing power among general and constituent governments in a manner designed to protect the existence and authority of all governments."

10. See Wheare (1964).

11. As well as states defined not by geography but by age, race, religion, or ethnic origin; see J. McGarry (2002, p. 425) and Sunstein (1988, p. 1586).

each with elected—not appointed—leadership and each with its own sphere of responsibilities. This distinguishes Riker from Wheare’s tightly legalistic specification of federal governance and distinguishes him from Oates’s overly inclusive economic specification by excluding as federal all unitary governments managing public policy with a hierarchical bureaucracy.

Under Riker’s definition of federal governance, a federal state may arise because the independent local governments constitutionally empower an encompassing national government with its own sphere of responsibilities, as was the case for the original thirteen U.S. colonies.¹² Alternatively, a federal state may arise when the constitution of a new nation-state creates a group of provinces and assigns to them specific governmental responsibilities, leaving residual powers in the hands of the national government, as was true for the new South African constitution. In both cases, the number of provinces and the allocation of government responsibilities between the provincial and national tiers of governments are specified, though perhaps only vaguely, by a national constitution.

While the specification of multiple provincial governments and the domains for provincial and central government policy-making are the two necessary features of federal governance, they have not always been seen as sufficient. Certainly not so for the framers of the U.S. Constitution.¹³ Motivated by the experience of the colonies under British rule, the concern was an overarching central government. The colonies’ disagreements with England were not over what policies the colonies could or could not institute—the policy responsibilities of the colonies were sizeable by any measure—but rather over what the British Parliament could do without consulting the colonies. Indeed, at the time of the Revolutionary War, the level of taxes collected by the British from the colonies was almost trivial. The colonists’ complaint was over process. The famous saying from the streets of Boston was quite precise on the point: “No taxation without representation.” The concern was not policy; it was the democratic process.¹⁴ George Mason, a representative to the

12. See Rakove (1996, chap. 7).

13. Even though the Constitution did require the states to directly elect the national executive through population-weighted voting in the Electoral College and gave the states the ultimate power to amend the Constitution with three-fourth’s approval.

14. Early efforts by American pamphleteers, John Dickinson in particular, to justify the American position of “no taxation” sought to defend the colonial position as a disagreement over appropriate policy assignments, not one of representation. But William Knox, in *The Controversy between Great Britain and Her Colonies*, saw a policy debate as to whether the tax was

Constitutional Convention from Virginia and a champion of states' rights, expressed the concern directly: "The State Legislatures also ought to have some means of defending themselves against encroachments of the National Government" (Rakove, 1996, p. 62). The final compromise for the framers of the U.S. Constitution was a coequal chamber called the Senate with equal representation from each state government, chosen directly by the state legislatures (Rakove, 1996, pp. 57–79). Along with national and provincial or local governments and separately assigned responsibilities and powers, Martin Diamond argues, the direct representation of states within the national government should be added as a third essential feature of federal governance. Paraphrasing Madison from *Federalist* No. 39, Diamond states, "The House of Representatives is national because it derives from the whole people treated as a single body politic; the people will be represented in it, Madison says, exactly as they would be in any unitary state. Contrarily, the Senate is the *federal element* in the central government because it derives from, and represents equally, the states treated as 'political and coequal societies'" (1977, p. 1278; italics added). The role of this provincial chamber will be to provide a forum for expressing and coordinating provincial interests in the setting of national policies. By acting in concert, it was hoped that this chamber would protect the unique interests of provincial governments to set policies that may stand in conflict with national policies; see, for example, the arguments by legal scholar Herbert Wechsler (1954) and Jesse Choper (1980, chap. 4). For Wechsler and Choper, the provincial chamber was not just desirable but in fact foundational for a stable system of federal governance. Wechsler argues, "If this analysis is correct, the national political process in the United States—and especially the role of the states in the composition and selection of the central government—is intrinsically well adapted to retarding or restraining

trade policy (assigned to the Crown) or tax policy (assigned to the colonies) as hair-splitting: "Either the colonies are a part of the community of Great Britain or . . . [they are] in no case . . . subject to the jurisdiction of that legislative power . . . which is the British Parliament." So stated, the debate moved from theoretical arguments of what is or is not a compelling central government policy responsibility to matters of representation. Edmund Burke in his famous speech to Parliament "On American Taxation" clearly saw the consequences of British intransigence: "When you drive him hard the boar will turn upon the hunters. If that sovereignty and their freedom cannot be reconciled, which will they take? They will cast your sovereignty in your face, nobody will be argued into slavery." (MacLaughlin, 1918, p. 231) MacLaughlin presents this history and concludes, "It is the practices of English imperialism [to which] we owe the very essence of American federalism" (1918, p. 216).

new intrusions by the center on to domains of the state” (1954, p. 558; italics added). Choper elevates this argument to the status of an absolute requirement: “The major thesis of this chapter—hereafter referred to as the Federalism Proposal—may be briefly stated: The judiciary should not decide constitutional questions respecting the ultimate power of the national government vis-a-vis the states; rather [such issues] should be treated as nonjusticiable, final resolution being relegated to the political branches—that is, Congress (i.e., the Senate) and the President” (1980, p. 175).

To the requirements for federal governance that (1) there be both national and lower-tier (state, provincial, or local) governments, each recognized as a separate government, and that (2) both national and lower-tier governments have assigned policy responsibilities and the ability (typically revenue) to exercise those responsibilities, we now add the requirement that (3) lower-tier governments have direct representation in a central government chamber with veto powers over national legislation. When these three requirements are met, we will classify the government as federal. When both lower-tier and national government representatives are democratically elected, then the government is classified as Democratic Federalism.

Table 1.1 provides a list of the world’s federal governments divided into two groups. The first we classify as governed by *constitutional federalism*, reflecting the fact that the country’s constitution specifically creates lower-tier governments, assigns to those governments the responsibilities and the powers needed for their implementation, and finally, requires the direct representation of the provinces or lower-tier governments in the central government. This is the case for the United States and the new Republic of South Africa. A second group we classify as governed by *de facto federalism*. These countries allow for politically independent lower-tier governments and their assigned responsibilities but do not allow for their direct representation to the central government. This is the case for the Scandinavian democracies, Italy, and Japan. The list of countries satisfying our three requirements for federal governance includes all countries typically called “federal” by other scholars.¹⁵ Finally,

15. See Riker (1964, chap. 2), Wheare (1964, chap. 1), Watts (1999, table 2), Bird (1986, pt. 1), Boix (2003, p. 161), and Griffiths and Nerenberg (2002). Within each federal category, we also indicate which countries have been primarily democratic or dictatorial governments for the period from 1950 to today. Those countries that have transitioned between democracy and dictatorship over the period are allocated to democracy’s columns if they have been democratic by the Przeworski et al. (2000) criteria for at least half of the last seventy years and are also

TABLE 1.1. Federal Countries

Constitutional Federalism		De facto federalism
Democratic	Dictatorial	Democratic
Argentina (.47)	Comoros (NA)	Denmark (.43)
Australia (.21)	Ethiopia (.05)	Finland (.30)
Austria (.46)	Malaysia (.15)	France (.30)
Belgium (.15)	Mexico (.24) [†]	Italy (.20)
Bosnia-Herzegovina (NA)	Nigeria (.55)	Japan (.64)
Brazil (.39)	Pakistan (.25)	Netherlands (.21)
Canada (.51)	Russia (NA)	Norway (.26)
Colombia (.26)	Tanzania (NA)	Sweden (.37)
Germany (.50)	United Arab Emirates (NA)	Uruguay (.43)
India (.33)		
Kosovo-Serbia (NA)		
Nepal (NA)		
South Africa (.18)		
Spain (.15)		
Switzerland (.51)		
United States (.46)		
Venezuela (.05)*		

Notes: Countries qualifying as *constitutionally federal* states have the three qualifying features of the federal state—*independent provincial, state, or local governments; own revenue and policy responsibility; representation in the national government*—explicitly defined by the country’s adopted constitution. Countries qualifying as *de facto federal* states have independently elected provincial, state, or local governments and, while not constitutionally required, those governments play an active role in the financing and provision of public services. In the case of *de facto* federal countries, the provincial, state, or local governments have locally elected representatives but do not have direct representation in the national legislature. Included within parentheses is the percentage of the country’s government nondebt revenues that are raised by provincial, state, or local governments, averaged over the decades 1960–2005; NA indicates that the revenue shares could not be computed from available data.

*Venezuela is classified as dictatorial after 1999.

[†]Mexico is classified as democratically federal after 2000.

Table 1.1 separates the federal governments into those that are democratic and those that are dictatorial, with democratic governments defined by Przeworski et al. (2000) as those that have had contested elections and recognized transitions of power for more than half of the years since 1970 and are democratic today. Together the democratic and dictatorial federal states occupy 52 percent of the world’s land area, govern 46 percent of the world’s population, and account for 54 percent of the world’s incomes. Adding the European Union as a

democratic today. South Africa and Nepal are new federal democracies and are listed in Table 1.1 as democratic.

new federal state to the list of federal countries increases the share of the world's land area to 53 percent, the share of the world's population to 53 percent, and the share of the world's income to 71 percent. The reach of these institutions over the world's people and incomes strongly suggests that a careful analysis of federal governance is in order.

3. Does Democratic Federalism Matter? A First Look

Table 1.2 provides a first look at the potential for the institutions of Democratic Federalism to promote the valued societal outcomes of economic efficiency, citizen participation and democratic stability, and the protection of individual rights and liberties.¹⁶ The analysis compares the performance along each of seven valued outcomes for the seventeen countries listed in Table 1.1 as both constitutionally federal and democratic with a sample of fifty-six other countries, nine of which are federal dictatorships, twenty-five of which are either *de facto* federal or unitary democracies, and twenty-two of which are unitary dictatorships. The performance measure for each of the outcomes is an average of the annual performance measures for the sample period, 1965 to 2000.¹⁷ The two measures for economic performance are an index of government efficiency (bureaucratic efficiency and lack of corruption) and market efficiency (the average product of workers). The three measures for participation and democratic stability are the rate of voter participation in national elections, the average annual rate of peaceful protests and demonstrations, and the percentage of years over our sample period (1965–2000) that the country has been democratic. The two measures for individual rights are indices based on the Freedom House measures for the protection of property rights and of political and civil rights. With the exception of five countries, all the constitutional institutions for the countries in the sample were in place before

16. Table 1.2 is an update of the results first reported in Inman (2007).

17. Many studies evaluating the contribution of democracy and federal institutions to economic outcomes—most often economic growth—relate the outcome to being democratic last year and to lagged levels in the share of government spending (or revenues) done by state and local governments. Such studies run the risk of conflating the consequences of temporary shocks to outcomes with the possible consequences of a more fundamental, institutional change. The appropriate approach for measuring the impact of institutions on outcomes is to relate the history of institutions to the long-run pattern in an outcome of interest; see Tavares and Wacziarg (2001). The results in Table 1.2 employ this historical approach.

TABLE 1.2. Democratic Federalism and Valued Outcomes

	Efficiency			Participation and stability			Rights	
	Government efficiency	GDP per worker	Voter participation	Protests and demonstrations	Percentage of years democratic	Property rights	Political/civil rights	
Absolute Latitude	.007 (.001)*	.010 (.001)*	.004 (.001)*	.069 (.026)*	.004 (.002)*	.007 (.001)*	.007 (.002)*	
Democracy	.083 (.039)*	.136 (.048)*	.065 (.043)	.014 (.920)	.513 (.062)*	.274 (.058)*	.231 (.060)*	
Democratic Federalism	.39 .100 (.047)*	.46 .211 (.056)*	.41 .038 (.055)	.01 -1.74 (1.03)*	1.25 .201 (.076)*	.84 .160 (.070)*	.75 .120 (.070)*	
R ² (Adj)	.47 .66	.71 .75	.24 .36	-.68 .21	.49 .73	.49 .67	.39 .61	

Notes: Standard errors for each regression coefficient are reported within parentheses. Reported below each regression coefficient and its standard error is the estimated effect size (shown in bold if statistically significant) as a measure of the magnitude of the difference between Democracy and Democratic Federalism and Dictatorships for each measure of a valued outcome. Effect size (also known as Cohen's *d*) is computed as the estimated coefficient divided by the standard error of each outcome measure as reported below.

*Statistical significance from zero at the 90 percent (or higher) confidence interval.

Measure of Valued Outcomes

Government efficiency: The Hall-Jones index of government antidiversion policies, created for the years 1986–1995 as a measure of government's enforcement of law and order and control of corruption, scaled from 0 to 1, with a higher score representing policies supportive of private economic activity. Mean = .664; SD = .214. Source: Hall and Jones (1999).

GDP per worker: Output per worker in 1988 as estimated by Hall-Jones, measured relative to the United States as a value equal to 1.00. Mean = .375; SD = .298. Source: Hall and Jones (1999).

Voter participation: Rate of voter participation in national elections measured as the number of voters as a share of registered voters. Mean = .652; S.D. = .159. Source: *World Handbook of Political and Social Indicators*, Various Years.

Protests and demonstrations: The sum of peaceful protests, demonstrations, and political strikes within the country in a year, averaged over the period 1962–1977. Mean = 1.47, S.D. = 2.57. Source: *World Handbook of Political and Social Indicators*, Various Years.

Percentage of years democratic: Percent of years from 1965 to 2000 that the country is classified as democratic. Mean = .520; S.D. = .410. Source: Adam Przeworski, et al. (1990) supplemented by *Freedom in the World: Annual Survey of Political Rights and Civil Liberties*, Freedom House, 1991–2000.

Property rights: The inverse of the Freedom House's measure of property rights protection (scaled as 1–7, with higher values representing weaker property rights), averaged over the period 1965–1995. The inverse is used so that higher values represent stronger property rights protection. Mean = .458; S.D. = .327. Source: *Freedom House: Freedom in the World: Annual Survey of Political Rights and Civil Liberties*, Various Years.

Political/civil rights: The inverse of the Freedom House's measure of civil and political rights protection (scaled as 1–7, with higher values representing weaker civil or political rights), averaged over the period 1965–1995. The inverse is used so that higher values represent stronger civil and political rights protection. Mean = .427; S.D. = .306. Source: *Freedom House: Freedom in the World: Annual Survey of Political Rights and Civil Liberties*, Various Years.

1960, and most before 1950.¹⁸ Together the full sample includes 76 percent of the world's population and 85 percent of the world's income.

Table 1.2 reports the estimated difference and associated effect sizes from being a democratic nation (democracy = 1, 0 otherwise) and then having federal institutions beyond being democratic (Democratic Federalism = 1, if both democratic and federal, 0 otherwise) when compared with being governed as a dictatorship. A positive coefficient represents an improvement in performance over that observed under dictatorships; a negative coefficient represents a reduction in the measured outcome (e.g., protests and demonstrations) in democracies and federal democracies when compared with dictatorships. The reported effect sizes (when statistically significant, reported in bold) compare the estimated differences in performance with the standard deviation of the performance outcome and are a measure of the relative importance of being democratic and federal rather than a dictatorship.¹⁹ The joint impact on each of the outcomes of being both democratic *and* federal will be the summation of the marginal effects of both democracy and Democratic Federalism. Finally, for each performance outcome, the contributions of democracy and federalism are measured conditional on the country's distance from the equator (absolute latitude), shown in previous research to be an important "all-purpose" control for a broad list of a country's cultural, political, legal, and economic institutions.²⁰

Both governance by democracy and governance using democratic federal institutions show statistically significant and positive advantages over dictatorships for all of the valued outcomes, with the exception of voter participation in national elections (even after controlling for compulsory voting). Statistically significant effect sizes for each estimated difference between democracy

18. The exceptions were the newly independent countries of Bangladesh (unitary dictatorship, 1971), Mauritius (unitary dictatorship, 1968), Comoros (federal dictatorship, 1975), the United Arab Emirates (federal dictatorship, 1971), and Zimbabwe (unitary dictatorship, 1980). Omitting these countries from the analysis has no effect on the estimated effects.

19. Effect sizes, also known as Cohen's *d*, are a common metric used in psychology and educational research to evaluate the potential importance of an intervention between treatments (Democracy and Democratic Federalism) and control groups (Dictatorships); see Ferguson (2009).

20. See Bloom and Sachs (1998) and Acemoglu, Johnson, and Robinson (2001). Including an expanded list of controls in the core specifications of Table 1.2 (to include ethnic, religious, and language fractionalization, natural resource endowments; a country's colonial and legal origins; and whether national governance is presidential or parliamentary) does not meaningfully affect the results for Democracy and Democratic Federalism.

and then federal democracies with dictatorships are shown in bold. Effect sizes greater than 0.2 are generally considered “large enough” to encourage a deeper examination for why outcomes differ between the groups.²¹ First, being a democracy and adopting federal institutions to become a federal democracy both show large differences in performance over dictatorships, particularly so for economic efficiency and the protection of property, civil, and political rights. Not surprisingly, being democratic in 1960 or earlier has a strong impact on remaining democratic over the sample period, 1965–2000, although there are exceptions (Brazil, Argentina, and Greece). What is also important is the additional impact that being both democratic and federal has on democratic stability. The statistically significant added contribution of federal institutions to stability above democracy alone may come from the ability of Democratic Federalism to significantly reduce the average annual rate of political protests and demonstrations, as in Table 1.2, just what we might hope for by allowing politically independent local governance and citizen choice.

Figure 1.1 provides one plausible—but certainly not the only—explanation for how democracy and federal institutions might affect the valued outcomes in Table 1.2. First, the path from a federal constitution to democracy represents the possibility that the federal constitution itself may allow agreements between competing minorities, and thus a transition to democracy that would not have been possible without the constitutional protections provided by politically independent local or state governments. This was certainly the case for South Africa as it negotiated its new democracy.²² Second, the path from federal constitution to Democratic Federalism creates the two key institutions defining a federal democracy: (1) independent state or provincial governments (N = number of state governments) and (2) the direct representation of those governments in the national legislature (R = 1 if representation, 0 otherwise), shown in Figure 1.1. Third, Democratic Federalism links back to democracy as federal governance contributes directly to democratic stability by providing a peaceful outlet for minority disagreements with the national government. Fourth, democracy is foundational for the protection of individual rights and liberties. This is shown in Figure 1.1 by the two direct paths from democracy to our measures of property rights and civil and political rights. Fifth, the two institutions specific to Democratic Federalism (N, R) add to the protection of rights through their creation and political protection of

21. Interventions with effect sizes greater than .2 are typically considered “promising,” while effect sizes greater than .5 are “recommended” for intervention; see Ferguson (2009).

22. See Waldmeir (1997) and our Chapter 10.

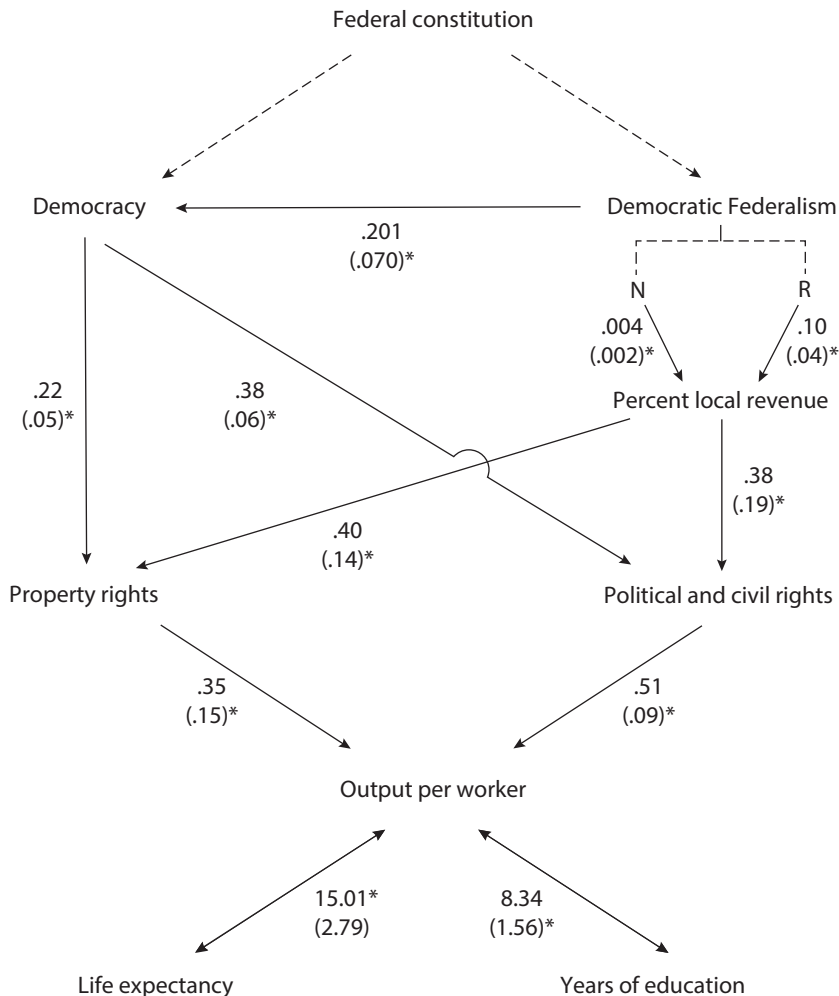


FIGURE 1.1. Federal Institutions and Valued Outcomes

Note: All estimated effects reported along the pathways are for the political institutions before 1960 and for the average of annual performance outcomes for the sample period, 1965–2000. The estimated effects also control for the absolute latitude of the country. An asterisk indicates statistical significance at the 90 percent level of confidence or higher. See Inman (2007).

policy-independent state and local governments. They do so by increasing the share of national revenues raised and controlled by these governments.²³

23. It is the local share of national revenues that has been shown in previous research by political scientists and economists to have a significant impact on economic growth and other valued outcomes; see Hatfield (2015) and Boix (2003, chap. 4). The state and local share of

The direct representation of local and state governments in the national legislature ensures the voice of local interests in setting national policy. The two paths from the share of national revenues under local control to rights illustrate the importance of politically independent local governments for these protections. The links are statistically significant and lend empirical support to the legal arguments for a strong role for state and local governments in democracies.²⁴ Sixth, the paths from property, civil, and political rights to output per worker show the importance of rights for national economic performance, a result found consistently in previous economics research explaining cross-country growth rates and national incomes.²⁵ Stronger property rights protect and encourage investment in physical capital, while stronger civil and political rights protect and encourage investments in human capital. Both investments increase output per worker. The estimated impacts of rights on incomes are sizeable.²⁶ It is most likely through this path that democracy and Democratic Federalism improve a country's economic fortunes, as we have estimated in Table 1.1. Finally, Figure 1.1 shows that higher national incomes lead to improved health, measured here by the life expectancy of citizens in 2000, and

revenues used here measures locally raised revenues only and thus excludes intergovernmental transfers. Such transfers may come with substantial national government restrictions. For the democracies in the sample, both unitary and federal, the means of the percentage of local revenue are .16 and .29, respectively. As a measure of the importance of each institution, the estimated elasticity of percentage of local revenue with respect to N is .14 and the effect size for $R=1$ (representation) is .33.

24. The elasticity of both the index of property rights and that of civil and political rights with respect to the percentage of local revenues is .15. That is, increasing the percentage of local revenues by one standard deviation from its mean of .29 to .45 (an 55 percent increase) will increase the value of both rights indices by 8 percent, or from their mean index value of .45 to .50, both within the range of most of southern Europe countries during the sample period. Thus, plausible increases in the percentage of local revenue will not turn a poorly performing democracy into Switzerland, but it will stabilize rights protections, as is the hope of most legal scholars supporting federalism; see, for example, Rapaczynski (1985).

25. See, for example, Hall and Jones (1999).

26. The results reported in Figure 1.1 provide a measure of the importance of rights performance for national incomes. The elasticity of output per worker with respect to property rights is .43 and with respect to political and civil rights is .57. All estimates are for democracies only. A one-standard-deviation increase in the property rights index, or 40 percent, will increase output per worker by 16 percent, while a one-standard-deviation increase in the political and civil rights index, or 50 percent, will increase output per worker by 25 percent.

to increased investments in education for both men and women.²⁷ Both of these favorable outcomes will “feed back” to increase income at a later date (thus the double arrows).

Table 1.2 and Figure 1.1 are, as advertised, meant to be a “first look” at the possible role for the institutions of Democratic Federalism as they might affect the economic, political, and personal lives of a nation’s citizens. On each of our measures of country performance, democratic countries and particularly federal democracies do better. Government and markets are more efficient. Democracy seems more stable. The property, civil, and political rights of individuals seem better protected. Whether these connections are *causal* or *coincidental*, we cannot be certain. But for us, the results strongly encourage a deeper look at the best theoretical and empirical analyses of federal governance and valued outcomes. That is what we propose for the chapters that follow. To anticipate our conclusion, we have emerged even more confident in the virtues of Democratic Federalism.

4. A Quick Tour

By necessity, any successful evaluation of political institutions must be interdisciplinary. Our efforts will be no exception. We draw on work by economists, political scientists, and legal scholars. Each discipline has its own primary concerns: economics with efficiency and growth, political science with citizen participation and democratic stability, and the law with the protection of rights and liberties. Scholars in each discipline focus on their own “means” to their own “ends.” The economist uses prices and incentives, the political scientist voting and collective actions, and the legal scholar rules and their enforcement. As social scientists, we should not work in isolation. Much of today’s best scholarship borrows freely from, and often contributes to, the understandings of its sister disciplines. A careful evaluation of the strengths and weaknesses of federal governance will require this integrated perspective. Each of our chapters seeks to apply the insights of all three disciplines to our

27. The two additional outcomes included in Figure 1.1—life expectancy and average years of education—are measured as follows. Average years of education: years of education for male and female residents over the age of twenty-five, averaged over the period 1965–1989 for democracies, mean = 6.4; SD = 2.63 (Barro and Lee, 2001). Life expectancy: in the year 2000 for democracies, mean = 73.47; SD = 5.84 (World Bank, 2005). The elasticity of the years of education with respect to output per worker is .67 and that of life expectancy is .12. The low elasticity of health with respect to income reflects the impact of income on health after controlling for geography.

central question: *how best to design the institutions of federal governance to achieve the objectives of economic efficiency, democratic participation, and the protection of individual rights and liberties.* Part I, “The Institutions of Democratic Federalism,” begins the analysis.

Chapter 2, “Economic Federalism,” presents the first of our three models of federal governance. The chapter examines, both theoretically and empirically, the causal connections from multiple local and provincial governments and their local assignment of revenues and services to our three goals of economic efficiency, political participation, and the protection of rights and liberties. Economic Federalism does not require the direct representation of provincial or local governments within the central government. Rather, the central government is managed by a single leader, a president, elected nationally. The president makes and implements all national policies.²⁸ We review the theory and evidence as to the performance of competitive lower-tier governments and find that allowing citizens variety and choice provides significant economic benefits in efficiency and growth. Technology matters, however. Benefits are greatest for those services that can be efficiently provided to relatively small populations and where service benefits and costs are geographically concentrated within the community. If there are economies of scale in production or spillovers across jurisdictional boundaries, then national government provision will be needed. That is the task of the nationally elected president. We conclude that from the perspective of economic efficiency, there is much to recommend Economic Federalism.

Matters are less clear for how Economic Federalism might perform against the goals of democratic participation and the protection of rights and liberties. While the evidence is supportive of increased citizen involvement with government decision-making at the local level, it is at the national level, for reasons of economies of scale and spillovers, that much of an economy’s public dollars will be allocated. Here direct citizen participation, beyond the vote for president, is likely to be minimal. As for the protection of rights and liberties, having many local and provincial governments will allow citizens to choose that community most hospitable to their preferences and way of life. The extension of rights for the LGBTQ community in the United States is one recent and

28. In this regard, Economic Federalism would be considered “de facto federalism” as reported in Tables 1.1 and 1.2. Thomas Aquinas’s theory of church governance is a theory of Economic Federalism. The pope serves as the “president” and the local parishes as “local governments” to provide education, charity, health care, and religious services to local parishioners; see Beer (1993, p. 50). This governance structure remains in place today; see Kelley (2000).

prominent example. But this advantage is not ensured. Citizens must be able to move if their current local government denies a valued right or liberty. And if local communities separate by incomes, as is likely when efficiency is achieved, the poor local communities may not be able to provide services essential for personal safety and a fair chance at economic opportunity. A strong president has the legal capacity and economic resources to correct these local abuses and deficiencies, but perhaps not the will. With the need to be elected by a national median voter, there is no guarantee that presidential platforms will expand the civil rights and economic opportunities of an oppressed or insular local minority. Facing this limitation, supplementing the presidency with direct local representation in the national government may strengthen federalism's performance along the dimensions of democracy and rights.

Chapter 3, "Cooperative Federalism," describes our second model of federal governance, which replaces Economic Federalism's nationally elected president with a "council" of locally elected representatives. Again there are multiple provincial and local governments with important, possibly concurrent, policy responsibilities and revenues, but now national goods, services, and regulations are the responsibility of a locally elected national council. Representatives may be from larger cities, as was the case with the early Achaean League for the defense of Greek city-states; or from states, as was the case with the U.S. Continental Congress; or from nations, as for the governance of the European Union. To ensure that each city's, state's, or nation's preferences are accommodated, Cooperative Federalism imposes a supermajority, often unanimity, voting rule. The resulting governments are known as *confederal* when representation is by geography, as for Montesquieu (Beer, 1993, chap. 7), or *consociational* when representation is allowed more generally—say, from ethnic, religious, or economic groups, as for Arend Lijphart (1977). The original thirteen colonies governed by the Articles of Confederation from 1777 to 1789 are the most often cited example of Cooperative Federalism, but we argue in Chapter 9 that so too is the European Union.²⁹

Since the council decides by a supermajority or unanimous vote, national policies require a consensus bargain. The primary virtue of Cooperative Federalism is its potential to protect the interests of minorities from Economic

29. Wheare (1964, p. 32) and Riker (1964, pp. 8–10) also mention the Dutch Union of Utrecht, the early constitutions of Switzerland, Germany from 1815 to 1867, the North German Confederation of 1867 to 1871, and the German Empire from 1871 to 1918 as other examples of Cooperative Federalism.

Federalism's tyranny of a majority under presidential governance. But minorities must first elect a representative to the national council. This requires being a majority in at least one state or province. In confederations, citizen mobility across states can help to build those majorities. In consociations, the use of proportional representation to elect the national council can achieve the same end.³⁰ Since the stakes for minority citizens are potentially so high and the influence of each elected representative to the national council so decisive, democratic participation may be encouraged as well.

It is on the dimension of economic efficiency in the provision of national goods and regulations that Cooperative Federalism is likely to fall short. Unanimous, or nearly unanimous, agreements by the national council protect minority interests, but they make the provision of national (or in the case of the EU, transnational) public goods and regulations very difficult. The biggest roadblock to building a full consensus is the need to allocate any policy's economic surplus. Who gets the benefits? Who pays the costs? It was the inability to resolve the financing of the Revolutionary War's debts that led to the calling of the U.S. Constitutional Convention in 1787 and to the drafting of an alternative federal constitution to replace the Articles of Confederation.³¹ That new constitution retained state representation to the national government but dropped supermajority in favor of simple majority rule. We call this third alternative *Democratic Federalism*, which we specify first in its "pure" form of legislative governance only, and then with the "safeguards" of a senate, a strong president, an independent judiciary, and finally, organized political parties.

Chapter 4, "Democratic Federalism: The National Legislature," details the likely economic, democratic, and rights performance of a decentralized national legislature with representatives elected from geographically specified local districts. The national legislature is assigned responsibility for national public goods and services and national regulations. Decisions in the legislature are made by simple majority rule. Independent local governments continue to be responsible for important local services, perhaps provided concurrently with the national government.

30. A proposal offered by Guinier (1994) for election to one chamber of the U.S. Congress.

31. For the details of failed governance under the Articles of Confederation, see Rakove (1979, chap. 14) and Dougherty (2001). For the profound effect this frustrating history had on the drafters of the U.S. Constitution, see Rakove (1996, chap. 7).

On the dimensions of democratic participation and the protection of rights and liberties, Democratic Federalism is likely to do well, *provided* all citizens are represented in the legislature. Since locally elected representatives can, in principle, each be pivotal to any national majority, citizens have an incentive to vote and engage their representatives with their concerns. Proximity and the relatively small scale of the local districts will encourage not just voting but also “face-to-face” engagement of representatives with their constituents, called the “personal vote.” Democratic participation is likely to be encouraged as a result. Further, and as James Madison argued in *Federalist* Nos. 10 and 51, local representation in the national legislature also provides added protections for individual rights and liberties. Represented minorities from local districts can band together to mutually protect each other’s rights in legislative voting. Oppressive majorities may not be stable if a new majority of minorities can form to defeat the originally proposed restriction on rights. But as noted, all citizens must be represented. There is no guarantee that an existing federal legislature will willingly open its doors to the disenfranchised. What can be done?

It is on the dimension of economic efficiency that legislature-only Democratic Federalism is most likely to fall short. In contrast to Cooperative Federalism, where the national government might do too little, the national legislature in Democratic Federalism might do too much. The problem arises from the use of simple majority rule for making legislative decisions. As first pointed out by the Marquis de Condorcet in 1785 and shown quite generally by Kenneth Arrow (1951), if there are more than two policies to be decided and local interests over those policies are in conflict, a stable majority-rule outcome cannot be guaranteed. Any one majority coalition can be undone with a small change in policy allocations or payments to create a new majority coalition. Cycling between policies is the result. A tempting and all too common solution is to bundle all policies into a single package, called the *omnibus* or *pork-barrel* policy, from which all local districts get some benefits and for which all share in costs. If policies’ benefits are primarily local but costs are shared nationally, there will be a strong incentive for each local representative to demand too much of his or her local good. There is a “common pool problem,” where the national tax base is the shared common resource. Further, no one district has an incentive to vote no, as a single vote won’t defeat the omnibus policy, nor is there an incentive to remove one district’s benefits from the legislation while still paying a share of all others’ costs. As a result, the final national budget and the reach of national regulations will be economically too

large, perhaps significantly so. There is a risk not only of too much national spending and regulation but also of replacing the local or state governments' provision of those same services. In such instances, all policy becomes "national" policy, what William Riker (1964) has called the "overawing" propensity of locally elected, national legislatures. What can be done?

Chapter 5, "Democratic Federalism: Safeguards," addresses these two weaknesses of Democratic Federalism. First, how can we guarantee all minorities are represented in the legislature? Second, how can we control the national legislature's inclination to usurp all important dimensions of public policy? Chapter 5 evaluates the contributions of three new national institutions: first, an upper chamber called the Senate, elected not from local districts but from geographically larger provinces or states; second, a nationally elected president with agenda and veto powers over legislative decisions; and third, an independent national court to interpret the ground rules for federal governance and, in particular, what constitutes meaningful local assignment and full representation of all citizens. In addition to these three constitutionally created institutions, we also consider the ability of national political parties, if they were to arise, to foster minority representation and to control an overreaching national legislature. We argue that each of these four safeguards contributes positively to the performance of Democratic Federalism, but *only if* a majority of all citizens understands and support the ongoing contribution of these institutions to the goals of efficiency, participation, and protections of rights.

Needed citizen support will arise only as a result of a national conversation as to the implications of each policy choice for the institutions of federal governance. A national tax and transfer policy, for example, may be an attractive redistribution policy, but perhaps not if it removes the future ability or incentive of local governments to set their own levels of local spending in response to the preferences of local citizens. To understand the consequences of policies for institutions, and of institutions for policies, will require a national conversation about the process of federal governance and not just its outcomes. Providing a framework to facilitate this conversation is the objective of Part II, "Encouraging the Federal Conversation."

Chapter 6, "FIST: Having the Federal Dialogue," provides the guidelines for the needed federalism debate by outlining a sequence of evaluative questions that national policy-makers should consider before the passage of any national law that affects one or more of the three institutions of federalism: assignment as to who does what, the number of lower-tier governments, and representation of those governments to the national legislature. The proposed evaluation

provides citizens with a Federalism Impact Statement, or FIST, for the proposed policy. As implemented, FIST begins with an analysis of the economic implications of each proposed central government policy by asking whether the national benefits of the policy outweigh its national costs, and whether there might be an alternative policy that is plausibly more efficient. If the proposed policy is viewed as inefficient, by itself or relative to alternative policies, then FIST asks whether there is evidence of, or plausible argument for, compensating benefits from improved local political participation, improved economic fairness, or increased protection of individual rights or liberties. If so, then FIST asks whether these noneconomic benefits can be achieved more efficiently. FIST will not require definitive answers to its questions nor an explicit analysis of the possible trade-offs between efficiency and participation or between efficiency and fairness and rights. FIST only requires that the trade-offs be acknowledged and considered. Not all centrally provided policies would trigger a FIST review; for example, defense spending, foreign affairs, and monetary policy would be exempt, as they are clearly national public goods and must be provided centrally. The execution of FIST would be by an independent agency, such as the Congressional Budget Office or the European Commission, while a national court could ensure that all relevant central government legislation acknowledge, though not necessarily accept, the content and conclusions of the FIST analysis.

Chapters 7 and 8 outline the central principles for efficient policies in a federal economy as a starting point for implementing a FIST analysis. Chapter 7, “Fiscal Policy in the Federal Union,” offers the guidelines for efficient taxation and debt financing as well as principles for efficient federal government spending within a federal public economy. Efficient tax policy should seek to minimize horizontal spillovers between local and provincial economies and vertical spillovers between the central and provincial and local governments. Efficient debt policy should seek to align debt payment to future benefits and control possible abuses of local borrowing via balanced-budget rules. Efficient spending focuses on the essential federal task of designing intergovernmental transfers, stressing when matching and lump-sum grants-in-aid are most appropriate to manage public goods, spillovers between states, and the provision of social insurance for differential income shocks across regions, states, or localities.

Chapter 8, “Regulation in the Federal Union,” outlines the principles for the efficient regulation of market activities in a federal economy. As with the provision of public services and the assignment of taxing powers, the aim is to allocate regulatory responsibilities between local, state, and national

governments so as to ensure efficient allocations. There may be too little regulation as a result of competition by local and state governments for private business and the compensating benefits for residents that those firms might provide, a competition known as “the race to the bottom.” The result will be lax environmental, competitive, or financial regulations imposing damages on residents of other localities or states. If those damages are significant and widespread, then national regulation of such activities will be appropriate. On the other hand, national regulations that preempt local regulations may restrict the ability of state and local governments to tailor their own environment or competitive marketplace to meet the specific needs of their residents. Some states may wish to allow more local pollution if it means more jobs, or permit local market collusion if it reallocates local incomes in a way valued by local residents. Allowing local regulatory choice that benefits only local residents and imposes only local costs, and may be copied by other states, may lead to a “race to the top.” Chapter 8 provides a template for separating the two “races” and facilitating an informed national debate on federal regulatory policies.

Part III, “On Becoming Federal,” concludes our analysis. If Democratic Federalism is an attractive institution for the design and implementation of government policy, how might it then be put in place? Efforts by the countries of Europe to form a working economic union and those of the citizens of South Africa to form a working political union lead to the same conclusion. To be successful, Democratic Federalism begins and ends with a union polity committed to the benefits of shared governance and the spirit of compromise needed to make it work.

Chapter 9, “The European Union: Federal Governance at the Crossroads,” details the evolution of EU institutions from a simple six-nation pact to jointly manage the collective production of coal and steel to a 2020 union of twenty-eight members setting common agricultural policies, economic development investments, competition and trade policies, and for nineteen member states, monetary policies and financial regulations. As an economic (“customs”) union regulating market policies, there is little doubt that the union has been a success, particularly for the residents of the originally less economically developed member states. As a monetary (“currency”) union and as a political (“democratic”) union, perhaps less so. The monetary union has reduced the ability of member states to manage their economies in periods of economic downturns, most evident in Europe’s lethargic recovery from the Great Recession, and has created adverse incentives for “beggar-thy-neighbor” fiscal policies, most evident in Greece’s excessive borrowing and resulting bailout.

Politically the union suffers from a “democratic deficit,” with citizens lacking a direct means to debate and collectively decide the direction of EU policies, and a “rights deficit,” with the union lacking a means to discipline member states (Hungary and Poland) that threaten the union’s foundational commitment to individual rights and the rule of law. The EU is at a crossroads. One path involves modest reforms—which we offer—within the structure of current institutions. The other would entail a full commitment to Democratic Federalism. To be successful, such a commitment must *begin* with a union polity willing to view EU policies as *European* policies, not member state policies for the benefit of each member state alone. The path of modest reforms may be all we can hope for at the moment.

Chapter 10, “Mandela’s Federal Democracy: A Fragile Compact,” details the central role that the institutions of Democratic Federalism played in South Africa’s transition from apartheid to a multiracial democracy, one of the most important political events of the last century. While both apartheid’s governing National Party (NP) and the resistance’s African National Congress (ANC) agreed that the century of suppression and armed resistance must end, negotiations over exactly how the new democratic government should be designed were far from harmonious. The NP wished to protect the economic interests of the once-ruling elite and rural landowners, while the ANC was committed to a significant expansion of essential public services for the poor: health care, education, and housing. In the background was a desire to avoid the damaging consequences of Zimbabwe’s monolithic unitary government, a concern for both the ANC and the NP. They compromised on a middle ground of shared governance with (1) politically independent provincial and metropolitan governments constitutionally assigned to provide all important local services and (2), a separately elected national parliament and president responsible for setting the overall rate of taxation and funding for local services. By its clear national majority, the ANC would determine the overall level of taxation and redistributive funding, but the locally elected provincial and metropolitan governments, some perhaps controlled by the NP or its successors, would decide how national revenues would be spent and local services provided. The institutions chosen to implement this compromise were those of Democratic Federalism. They created the institutional structure for a “hostage game” in fiscal policies to be played between the competing economic interests of the ANC majority and the economic elite and middle class. If the national government taxed “too much,” then the middle-class coalitions controlling local spending could allocate funds to middle-class, not lower-income,

services. If local governments spent their budgets on middle-class services, then the national government could raise taxes and assume direct responsibility for providing redistributive services. Today the Democratic Alliance and its allies, a broad-based middle-class coalition, control the important provincial government of the Western Cape and the local government of Cape Town. The federal compromise has worked, so far, to the economic benefit of most South Africans. But either side can undo the compromise at any time. The likely outcome would then be an ANC-dominated unitary government, and the risk of a Zimbabwe outcome. The recent tenure of Jacob Zuma as president posed such a threat. The ANC recently removed Zuma and appointed Cyril Ramaphosa, one of the central negotiators of the original federal agreement, as his successor. The future is uncertain. As is the case for the EU going forward, the continued success of South Africa's federal institutions will turn on a commitment of its citizens to the principles of federal governance and a renewed willingness to compromise.

Chapter 11, "Epilogue," summarizes our main conclusions and seeks to place our work in the wider context of democratic constitutional design by addressing the question, Who *should* be federal? While there is much to recommend it, Democratic Federalism may not be for everyone. Any new nation-state seeks to do what smaller and spatially diffuse communities cannot: provide for mutually beneficial public goods, most notably collective security; control intercommunity spillovers; and enforce the rules needed for wider market exchange. Each new state must choose how best to run its affairs. Whether designed as Economic or Cooperative or Democratic Federalism, federal governance is one alternative. But so is a single, unitary government, or perhaps even to remain as separately governed jurisdictions and then manage shared interests by bilateral agreements. There are strengths and weaknesses to each form of governance. While numerous "fundamentals" will be important to the choice of governance—technology, geography, language, ethnicity—we suggest two attributes that may be the most important: heterogeneity of tastes for government services and a willingness to compromise when there is disagreement. When tastes are similar and trust between citizens is widespread, unitary governance may be most appropriate. When tastes are different and trust is absent, remaining as separate states is likely to be the preferred outcome. Democratic Federalism, we conjecture, will be most appropriate for that middle ground where tastes are different but compromise still possible. Hopefully our work here will prove helpful to those considering governance for this middle path.

5. Hardly the Only, and Certainly Not the Last, Word

Our debt to the classics in the analysis of the federal state is perhaps already apparent and will certainly be so by the end of this book. For those who wish to go to the sources themselves, we recommend a close reading of Wallace Oates's *Fiscal Federalism* (1972) for the foundational analysis of the economics of federalism; of William Riker's *Federalism: Origin, Operation, Significance* (1964) for the best analysis of the political economy of federalism; and then, of course, of the essays by James Madison and Alexander Hamilton in *The Federalist Papers* for still the most complete presentation of the constitutional arguments for the federal state.

As will be apparent in the chapters that follow, we have also benefited greatly from reading the new economic, political, and legal literatures on federalism that have emerged over the years since we began this project. It pays to wait. For the economics of federalism, we recommend, first, Dietmar Wellisch, *Theory of Public Finance in a Federal State* (2000). Wellisch is a leading public finance theorist who has provided an excellent overview of the core economic theory of fiscal federalism. The focus of the book is on the efficient provision of public goods and services using local (decentralized) and national (centralized) governments. The economy under study is an open economy with the free movement of labor and capital across all governments. The considerable contribution of Wellisch's book is to provide a general and fully consistent framework for the evaluation of local and central government's fiscal policies in a federal public economy.

Second, we recommend Robin Boadway and Anwar Shah, *Fiscal Federalism: Principles and Practice of Multiorder Governance* (2009). The authors are a leading scholar (Boadway) and practitioner (Shah) of the design and implementation of fiscal policy in a federal public economy. The economic theory of fiscal policy is presented clearly and in a nontechnical way. Topics include tax policy, spending policy, the design of intergovernmental transfers, and the management of macroeconomic policy in federal economies. The strength of the book is its wide use of examples of each fiscal policy from both developed and developing federal economies. It is a valuable reference for those charged with implementing fiscal policy in federal economies.

The new political science of federalism focuses on federal institutions for representation and their likely impact on the design and implementation of policies. Three recent books have made important contributions. First, we recommend Jenna Bednar, *The Robust Federation: Principles of Design* (2009).

While economic theory provides guidance for the appropriate assignment of policy responsibilities in a federal state, *inappropriate* institutions of representation can undo economic theory's best advice. The problem is a locally representative national legislature. Local representatives have an incentive to abuse the national tax base—what Bednar calls “encroachment”—to benefit their narrow local interests. Effective federal governance needs to check such behaviors. Bednar calls these checks the *safeguards of federalism*. Through instructive country-specific examples, she highlights the strengths and weaknesses of each, called structural (presidential and upper-chamber vetoes), political (political parties), judicial (independent supreme court), and popular (citizenry commitment to federal values) safeguards. No one safeguard is decisive by itself. To ensure a *robust federation*, Bednar argues, all must be in place.

While structural protections of federal institutions can be put in place through the adopted constitution, how can we hope to construct viable political parties as a safeguard for federal governance? Mikhail Filippov, Peter Orde-shook, and Olga Shvetsova's *Designing Federalism: A Theory of Self-Sustainable Federal Institutions* (2004) provides one answer. Locally elected national legislatures can be both parochial and shortsighted. Successful political parties must be national in their focus and, as ongoing organizations, farsighted in their vision. Importantly, strong national parties are a complement to, not a substitute for, local representation in the national legislature. National parties find their strength from the financial and election support of local constituencies. In this way, both local and national interests in federal governance are protected.

Finally, in *Hamilton's Paradox: The Promise and Peril of Fiscal Federalism* (2006). Jonathan Rodden applies the insights of Bednar and of Filippov and his colleagues to address the important matter of how the national government can control excessive local government borrowing that might spill over to limit, and even bankrupt, the national fisc. The problem of excessive local borrowing arises because local representatives to the national government favor local bailouts over national solvency. With local political incentives favoring national bailouts, there is no reason for the private market to discipline local borrowing with higher interest rates. If there is a solution to this problem, it is in strengthening the ability of the central government to say *no* to local excesses. Rodden turns to country-specific case studies to find his answers: a strong president in Brazil and strong political parties in Germany. Rodden's book is particularly valuable for illustrating why all institutions of Democratic Federalism are needed.

(continued...)

NAME INDEX

- Acemoglu, Daron, 15n20, 167n37, 181n2, 344n6, 361n, 364n29
- Ackerman, Bruce, 4n, 67, 167n39, 183, 188, 196n25
- Adamolekun, Ladipo, 68n
- Adler, E. Scott, 118n36
- Aksoy, Deniz, 313n21
- Albouy, David, 163n35
- Aldrich, John, 171n44, 369n38
- Alesina, Alberto, 7n8, 251n74, 333
- Allen, Chris, 309n11
- Allen, Franklin, 318n33
- Alston, Philip, 324n45
- Amar, Akil Reed, 4n, 5n6, 67, 68–69, 372
- Anderson, Karen, 70n
- Andrews, Matthew, 39n
- Andriamananjara, Soamiely, 308n9
- Ansolabehere, Stephen, 147n6, 163n33
- Ardagna, Silvia, 320 (note e)
- Armingeon, Klaus, 324n43
- Arnott, Richard, 234n36
- Arpaia, Alfonso, 317n27
- Arrow, Kenneth, 23, 100
- Ash, Timothy, 333n
- Asplund, Marcus, 235n41
- Atkeson, Lonna Rae, 116n30
- Atlas, Cary, 147n6
- Auerbach, Alan, 63n, 134n63, 243n54, 317n29
- Ayres, Ian, 167n39
- Baerg, Nicole, 322n41
- Bagwell, Kyle, 79n9, 92n23
- Baicker, Katherine, 226n19, 238
- Baird, Zoe, 185n13
- Baker, Lynn, 157n19
- Baldwin, Richard, 305n6, 313n20
- Baqir, Reza, 119n39
- Barankay, Iwan, 47n13
- Bardhan, Pranab, 31, 223n14
- Baron, David, 107, 108n16, 111, 118n33
- Barrell, Ray, 316n26
- Barrett, Scott, 89n19
- Barro, Robert, 19n, 243n53
- Barseghyan, Levon, 54n
- Bartels, Larry, 135n66, 162n
- Bassett, Carolyn, 358n23
- Bayer, Patrick, 44n7
- Bayoumi, Tamim, 216n
- Bebchuk, Lucian, 275, 276, 279n36
- Becker, Sascha, 307 (notes a, b), 315n24
- Bednar, Jenna, 29–30, 113n25, 122n44, 139, 156n15
- Beer, Samuel, 2nn2–3, 5nn6–7, 20n, 67n36, 76n1, 131n52, 133n60, 147n4, 147n7, 153n14, 205n44
- Beetsma, Roel, 243n54, 317n29
- Berglöf, Erik, 333n, 336n55
- Bergstrom, Theodore (Ted), 41, 61n30
- Berlin, Isiah, 70–71
- Bermann, George, 156n15, 185nn11–12
- Besley, Timothy, 43n, 49, 58, 61, 113n25, 127n, 168n40, 198n, 231n33
- Bettendorf, Leon, 240n
- Bickers, Kenneth, 119n38
- Bird, Richard, 11n, 31, 236n46
- Birnbaum, Jeffrey, 62–63n, 152

- Bitler, Marianne, 226n22
Black, Sandra, 55n20
Blanchard, Olivier, 309n10
Blank, Rebecca, 62n
Bloom, David, 15n20
Blumstein, James, 194n19
Boadway, Robin, 71n41, 135n66, 184n9, 222n,
223n14, 237n48
Boateng, Francis, 365n31
Bohn, Henning, 249n67, 250n69
Boix, Carles, 11n, 17n, 367n34
Boldrin, Michele, 315n24
Bolton, Patrick, 223n13
Bordignon, Massimo, 215n6, 217n8
Boustan, Leah, 68
Bradbury, Charles, 119n39
Bredemeier, Christian, 135n66
Brennan, Geoffrey, 46n12, 69
Breyer, Stephen, 4n
Brinkley, Douglas, 62n
Broadway, Robin, 29
Brøchner, Jens, 240n
Brown-Dean, Khalilah, 173n51
Brühlhart, Marius, 231n33
Buccirossi, Paolo, 312n17
Buchanan, James, 46n12, 69, 81n12
Bucovetsky, Sam, 265n16
Buitter, Willem, 249n67
Burns, Charlotte, 304n
Butler, Henry, 282n
Button, James, 173n50

Cain, Bruce, 127
Calabrese, Stephen, 48
Callander, Steven, 49, 161n29, 167n38
Calvert, Randall L., 106n
Cameron, Charles, 65n, 172n49,
205n43
Cameron, David, 306, 318n30
Campos, Nauro, 312n19
Canova, Fabio, 315n24
Carlino, Gerald, 227n25, 243n54,
244nn55–56, 307 (note c)
Carman, Katherine G., 71n44

Carrubba, Clifford, 326n47
Carruthers, Bruce, 267nn20–21
Carson, Richard, 199n30
Cary, William, 275, 276, 277
Cascio, Elizabeth, 173n53
Case, Anne C., 49
Caselli, Francesco, 320 (note e)
Chamberlain, John, 85n, 269–270n22
Charles, Guy-Uriel, 172n48
Cheibub, Jose Antonio, 153
Chen, Cuicui, 87n, 90n20
Chen, Jowei, 142–143, 147n5
Chernick, Howard, 224n, 226
Choi, Jay Pil, 60n26
Choper, Jesse, 10, 11
Christafore, David, 68
Christiansen, Vidar, 235n41
Cion, Richard, 83 (note b)
Clausing, Kimberly, 241n
Clune, William, 72, 135n67
Coase, Ronald, 76, 77, 78n6
Coate, Stephen, 54n, 58, 61, 64n, 113n25,
127n, 168n40
Coates, Dennis, 263n7
Coenen, Günter, 318n31
Colantone, Italo, 307 (note a)
Cole, Harold, 62n
Collie, Melissa, 118n33
Collins, John N., 39n
Congleton, Roger, 135n66
Conlan, Timothy, 166 (note a), 182n4
Cooley, Thomas, 135n66
Coons, John, 72, 135n67
Cooper, Ian, 207n48, 303n3
Cooter, Robert, 79n9, 193n18
Cornes, Richard, 270n22
Corwin, Edward S., 156n16
Cosgrove, Kenneth M., 173n49
Cosgrove, Michael H., 39n
Costello, Rory, 305n5
Courant, Paul N., 234n37
Cox, Gary, 167n38, 205n42
Crain, Mark, 119n39
Cremer, Jacques, 60n26

- Dahl, Robert, 64, 66, 300–301, 324, 337, 365, 367, 371
Dahlby, Bev, 212n2, 232n34, 234n36, 235n38, 315n23
Daines, Robert, 275n29, 276n31, 278n32
Dawson, Mark, 326nn47–49
Deaton, Angus, 104n9
DeBoer, Larry, 39n
Dee, Thomas, 184n6
De Figueiredo, Rui, 132n59, 141n1
De Grauwe, Paul, 316n25
Delli Carpini, Michael, 189n15
DelRossi, Alison, 117n32, 122n45, 151n11
Derthick, Martha, 93n
De Tocqueville, Alexis, 63
Dettrey, Bryan, 67n35
Devereux, Michael, 231n33
De Visser, Jaap, 203n37
Dhingra, Swati, 307 (note d)
Diamond, Martin, 5n6, 10
Diamond, Peter, 230n28
Diaz-Cayeros, Alberto, 165
Dilger, Robert Jay, 166 (note c)
Dinan, John, 182n4, 195n24
Dixit, Avanash, 59n24, 60n27, 76n2, 77n, 78n8, 80n, 127n
Dorf, Michael, 192n
Dougherty, Keith, 22n31, 95 (note b)
Douglas, Morris, 39n
Downes, Alexander, 96n29
Downes, Bryan T., 39n
Drew, Elizabeth, 166 (note b)
Duval, Romain, 312n18
Dwatripont, Mathias, 223n13
Dworkin, Ronald, 4n, 71

Easterbrook, Frank, 281, 285n43, 286
Ebel, Robert, 31
Ebrahim, Hassen, 182n3
Egger, Peter, 307 (notes a, b), 315n24
Eichengreen, Barry, 247, 300n, 321n38, 333n
Elazar, Daniel, 7n9
Elliott, Donald, 196n25

Ely, John Hart, 4n, 192n
Epple, Dennis, 41, 44nn6–7, 46, 48, 112n23, 199n30
Epstein, David, 65n, 172n49
Eskridge, William, 156n16
Esteller-Moré, Alejandro, 231n33
Evans, William, 71n40, 72

Fahad, Aysar, 361n
Fahey, Bridget, 223n15
Farhi, Emmanuel, 335n
Feddersen, Timothy, 64n
Feeley, Malcolm, 31, 157n21, 184n9
Feldstein, Martin, 71n39, 226n19, 238
Fenno, Richard F., 106n
Ferejohn, John, 107, 108n16, 111, 112n23, 118n33, 127, 135n66, 156n16, 174n54
Ferguson, Christopher, 15n19, 16n21
Fernandez, Raquel, 72
Filippov, Mikhail, 30, 159, 369n38
Finkel, Steven, 66n
Fiorina, Morris, 127
Fischel, William, 55n20, 257
Fitts, Michael, 62, 118n37, 122n45, 147n8, 151, 165n, 174n54
Flatters, Frank, 237n48
Foner, Eric, 172n46
Frankel, Jeffrey, 320n36
Freeman, Richard, 48
Friedlaender, Ann, 62n
Friedman, Barry, 153n14
Friedman, Milton, 62n
Frug, Gerald, 67
Fujiwara, Thomas, 61n28, 167n38

Gale, Douglas, 318n33
Gamm, Gerald, 118n34
Gardbaum, Stephen, 185n13, 193n18
Garrett, Geoffrey, 303n4
Gasiorek, Michael, 309n11
Gaustad, Edwin, 131n53
Gehring, Kai, 313n21
Gelbach, Jonah, 166 (note d), 226n19, 226n21, 226n23, 238

- Gentzkow, Matthew, 59n25
Gerber, Alan, 147n6, 162n
Gerber, Elisabeth R., 100n1
Gerken, Heather, 63–64, 65, 173n50, 182, 186n, 221n
Germanis, Peter, 227n25
Gienapp, William, 70n
Giliomee, Hermann, 341n2, 343n
Gilligan, Thomas, 119n39, 120n41, 147n5, 203n38, 204nn39–40
Giuliodori, Massimo, 243n54, 317n29
Glencross, Andrew, 305n7
Glotz, Gustave, 2n1
Gokhale, Jagadeesh, 134n63
Golden, Miriam, 119n39
Goolsbee, Austan, 239n
Gordon, Roger, 232n35, 239n
Gorodnichenko, Yuriy, 243n54, 317n29
Gould, Robert, 328n50
Goulder, Lawrence, 291n59
Gourinchas, Pierre-Olivier, 251n74, 320 (note d)
Gouveia, Miguel, 135n66
Gramlich, Edward M., 46n11, 320n34
Grandmont, Jean-Michel, 103n
Gray, Virginia, 49
Grieson, Ronald, 234n36
Griffiths, Ann, 11n
Grisanti, Alejandro, 153n12, 165
Grogger, Jeffrey, 227n25
Grosseclose, Timothy, 163n33
Grossman, Sanford, 246n59, 321n37
Gruber, John, 62n, 133n61, 350n
Guinier, Lani, 22n30
Gulati, Mitu, 250n73
Gupta, Sanjay, 239n
Gutiérrez, Germán, 312n16, 312n18
Gutmann, Amy, 182, 191, 194n20
Gyourko, Joseph, 48

Ha, Shang, 65, 66
Häge, Frank, 305n6
Hall, Robert, 18n25
Hallerberg, Mark, 322n41

Hamilton, Alexander, 4–5, 29, 67, 70, 114n27, 131, 133, 139, 140, 147, 153–154, 229nn26–27
Hamilton, Bruce, 43, 55n19
Hanemann, W. Michael, 199n30
Hankla, Charles, 153n13, 326n47
Harrington, Joseph, 107, 108n16, 133
Harstad, Bard, 49
Hatfield, John, 17n
Haughwout, Andrew, 226n18, 235n39, 267n19
Hebous, Shafik, 317n29
Heikkila, Eric, 46n10
Heinz, Ferdinand, 317n27–28
Helms, L. Jay, 226n18
Henkel, Christoph, 192n
Hill, Sarah A., 72
Hills, Roderick, 185n13, 186n, 221n
Hitzhusen, Frederick, 39n
Hix, Simon, 304n, 323n, 324, 324n44
Holm-Hadulla, Frédéric, 320 (note b)
House, Christopher, 250n71
Hovenkamp, Herbert, 282n38
Hoxby, Caroline M., 46–47, 55–56
Hoynes, Hillary, 226n22

Inman, Robert P., 13n16, 41, 48, 62, 71n40, 117n32, 118n37, 122n45, 135n67, 147n6, 147n8, 151, 152, 165n, 173n52, 174n54, 183n, 206n46, 226n18, 227n25, 232n35, 243n54, 244nn55–56, 247n62, 250n69, 279n35, 283n41, 285n43, 285nn44–45, 286n48, 307 (note c), 320 (note c), 320n35, 344n6, 348n13, 349n, 350n, 354n, 363n

Jack, Brian, 336n56
Jackson, John, 288n, 290n55
Jackson, Vicki, 193n18
Jacob, Johanna, 135n66
Jay, John, 4, 5, 67, 114n27, 133, 140, 147, 229nn26–27
Jéhiel, Phillippe, 78n5
Jenkins, Shannon, 160n27
Jin, Hehui, 68
Johansen, Lief, 85, 87

- Johnson, Erica, 174n54
Jones, Charles, 18n25
Jones, Mark, 119n39
Joyce, Phillip, 206n46
- Kahanec, Martin, 309n12
Kam, Christopher, 163n33
Karlin, David, 359n
Katz, Lawrence, 309n10
Katz, Michael, 166 (note a), 182n4
Kauppi, Heikki, 313n21
Keech, William, 173n50
Keen, Michael, 231n32, 236n46
Kelemen, R. Daniel, 305n7
Kelley, John J., 20n
Kessler, Anke, 114n28
Keyssar, Alexander, 170n43
Kiewiet, D. Roderick, 72
Kim, Jinyoung, 265n14, 266n18
Knight, Brian, 122n45, 273, 274
Kolstad, Charles, 89n19, 235n40
Kontopoulos, Yianos, 165
Kotlikoff, Laurence, 134n63
Kramer, Larry, 141n2, 146, 157n19, 159, 163n34
Krehbiel, Keith, 120n41, 203n38, 204nn39–40
Krusell, Per, 135n66
Kydland, Finn, 60n27
- Lambert, Frank, 131n54
Lamoreaux, Naomi, 267nn20–21
Landes, William, 60n27
Lane, Philip, 250n72, 320 (note b)
Lapinski, John, 118n36
Le Breton, Michel, 214n4
Lee, Frances, 147n6
Leone, Robert, 288n, 290n55
Lessig, Larry, 167n39
Levinson, Arik, 267n20
Levitt, Steven, 114n26, 162n, 163n35
Levy, Brian, 340n1
Lijphart, Arend, 21, 76n1
Lindahl, Eric, 85, 87
- Linz, Juan, 364n28
Lockwood, Ben, 47n13, 212n1, 217n8, 231n33
Loevy, Robert, 70n
Lohmann, Susanne, 60n27
Londregan, John, 105n10, 118n36, 120n42
Lowenberg, Anton, 96n30
Lustick, Ian, 334n
- MacKay, Robert, 105n13, 246n59
Mackil, Emily, 83 (note a)
MacLaughlin, Andrew, 10n
Madison, James, 2, 4–5, 23, 29, 67, 100, 114n27, 123, 125, 128–130, 131, 132, 133, 139, 140, 141–142, 146, 147, 153–154, 229nn26–27, 370, 372, 374
Maggs, Gregory, 95 (note a)
Malhotra, Neil, 142–143, 147n5
Manasse, Paolo, 215n6, 217n8
Mandela, Nelson, 296, 340–341, 342, 343, 354, 357, 367
Marmor, Theodore, 62n
Marsh, Michael, 304n, 324n44
Martin, Isaac, 56
Matsusaka, John, 58, 119n39, 147n5
Mattila, Mikko, 305n7
Mayer, Kenneth, 167–168n39
Mayhew, David R., 100n2, 114n26, 116n30, 165
Mbeki, Thabo, 354, 357–358, 367
McCarty, Nolan, 147n8
McConnell, Michael, 4n, 130n51, 249n65
McCubbins, Mathew, 60n27, 147n9, 205n42, 223n15, 290n56
McDowell, Bruce D., 201n33, 205n44
McGarry, Aidan, 328n50
McGarry, John, 8n11
McGinnis, John O., 157n19
McKelvey, Richard, 102n6
McKinney, Matthew, 92n25
McLure, Charles, 234n37, 236n46
Mélitz, Jacques, 216n
Meloni, Osvaldo, 119n39
Meltzer, Allan, 62n, 71n41, 135n66
Mendelson, Nina, 204n41, 208

- Mendoza, Enrique, 235n42
Merlingen, Michael, 325n45
Merritt, Deborah, 193n18
Metzger, Gillian, 184n8, 205n44, 221n
Michelman, Frank, 4n, 71, 191
Mieszkowski, Peter, 236n43
Miller, John C., 132n55, 132nn58–59
Mintz, Jack, 236n45
Mirrlees, James, 230n28, 238
Moe, Terry M., 148n
Moens, Gabriel, 192n, 206n47, 303n3
Moffitt, Robert, 133n62, 227n24
Montesquieu, Baron de, 2, 8, 21, 67, 76, 372
Mookherjee, Dilip, 31, 223n14
Moravcsik, Andrew, 323n
Morris, Charles, 246n58
Morrow, James, 89n18
Mueller, Dennis, 78n6
Müller, Jan-Werner, 336
Mulligan, Casey B., 64n
Munger, Michael, 263n7
Murdoch, James, 90n20, 91
Murray, Alan, 62–63n, 152
Murray, Sheila, 71n40, 72
Musgrave, Richard, 70, 188, 243
Muthien, Yvonne, 344n7
Myerson, Roger, 59, 78n7, 365, 367, 371
Myles, Gareth, 59n24, 197n27

Nagel, Jack, 199–200
Niou, Emerson, 117n31
Noll, Roger, 60n27, 147n9, 290n56
Noury, Abdul G., 304n
Novy-Marx, Robert, 245n
Nozick, Robert, 67, 76n3, 96n28, 238

Oates, Wallace, 8, 29, 37, 58, 184n9, 211n,
231n31, 243–244, 258–259, 264n13,
266n17, 372
Obstfeld, Maurice, 215n5, 317n28
Odom, Thomas, 185–186
O'Halloran, Sharyn, 65n, 172n49
O'Leary, Brendan, 96, 334n
Oliver, Eric, 65, 66

Olken, Benjamin, 361n
Olson, Mancur, 56, 76n2, 77n, 78n8, 80n,
90, 269n
Ordeshook, Peter, 30, 95n26, 117n31, 159,
369n38
Ostrom, Elinor, 79n10
Overby, L. Marvin, 173n49

Pack, Howard, 45–46
Pack, Janet, 45–46
Palfrey, Thomas, 64n
Pande, Rohini, 174n56, 361n
Panning, William, 118n33
Patterson, James, 62n, 71n43
Pauly, Mark, 57n23, 84n15, 96n30, 189, 238
Peekhaus, Wilhelm, 365n31
Penner, Rudolph, 134n64
Peri, Giovanni, 215n5, 317n28
Perotti, Roberto, 165
Persson, Torsten, 61, 151, 165, 216n
Pettit, Philip, 133
Philippon, Thomas, 251n74, 312n16, 312n18,
320 (note d)
Pindyck, Robert S., 265n15
Pisani-Ferry, Jean, 250n70
Plott, Charles, 104n7
Poole, Keith, 205n42
Portes, Richard, 313n20
Posner, Richard, 60n27
Pradhan, Menno, 40n3
Prescott, Edward, 60n27
Preuhs, Robert, 174n55
Primo, David, 108n17, 119n39, 147n5, 165
Przeworski, Adam, 11n, 12, 365n31

Rakove, Jack, 5n7, 9n12, 22n31, 95 (note b),
130n51
Rao, Govinda, 202n35
Rapaczynski, Andrzej, 18n24, 67, 68–69,
132n59, 157n19, 184n9, 186, 189, 195n24,
285n43
Rauh, Joshua, 245n
Rawls, John, 71, 188n, 238
Reinhart, Carmen, 247n60, 251n76

- Reinikka, Ritva, 223n15
Revesz, Richard, 287n49, 288n, 289nn52–53, 290n55, 291n57
Rhode, Paul, 46n10
Richard, Scott, 71n41, 135n66
Riggle, James D., 166 (note a), 182n4
Riker, William, 8–9, 11n, 21n, 29, 95 (note a), 95n26, 105n13, 139, 143n, 159, 167, 369n38, 372, 376
Robinson, James, 15n20, 181n2, 344n6, 364n29
Rodden, Jonathan, 30, 31, 119n38, 122n46, 159, 247n61
Rodgers, Harrell, 49
Roe, Mark, 278n33
Roemer, John, 238
Rogerson, Richard, 72
Roland, Gerard, 165, 304n
Romano, Roberta, 275, 276n31, 277–278, 279n34, 282n
Romer, Thomas, 41, 46n12, 105n12
Rosen, Harvey, 231n33
Rosenthal, Howard, 41, 46n12, 64n, 105n12, 205n42
Ross, Stephen, 46n10
Rossiter, Clinton, 5n7
Rotberg, Robert, 358n20
Roth, Alvin E., 79n9
Rothstein, Jesse, 47n14
Roubini, Nouriel, 153n12, 165
Rubin, Edward, 31, 157n21, 184n9
Rubinfeld, Daniel L., 46n11, 71n40, 183n, 206n46, 232n35, 234n37, 249n66, 265n15, 279n35, 283n41, 285nn43–44, 285n45, 286n48, 344n6, 348n13, 349n, 350n, 354n, 363n
Ryan, Erin, 184n7

Sachs, Jeffrey, 15n20, 153n12, 165
Saez, Emmanuel, 133n61, 238, 350n
Sandler, Todd, 90n20, 91, 270n22
Scalia, Anthony, 4n
Schapiro, Robert, 31, 157n21, 221n
Scheiber, Harry, 205n44
Scheingold, Stuart, 170n41
Scheppele, Kim Lane, 336n56
Schick, Allen, 112n22, 118n33
Schlesinger, Arthur, 62n, 71n42
Schlesinger, Joseph, 160n28, 205n44
Schneider, Christina, 314n
Schwab, Robert, 71n40, 72, 231n31, 258–259, 264n13, 266n17
Schwartz, Donna E., 166 (note a), 182n4
Schwindt-Bayer, Leslie, 67n35
Scotchmer, Suzanne, 84n14
Semuels, Alana, 227n25
Sen, Amartya, 70, 188n, 200n
Shah, Anwar, 29, 184n9, 223n14
Shapiro, David, 184n9
Sharkey, Catherine, 183n, 185, 186, 195n22, 206n46, 208, 221n
Shepsle, Kenneth, 112n21, 118n34
Shliefer, Andre, 49
Shvetsova, Olga, 30, 159, 369n38
Sieg, Holger, 44nn6–7, 46
Sigman, Hilary, 270–271
Simeon, Richard, 345n8
Small, Kenneth, 55n19, 62n
Smart, Michael, 219n, 236n45
Smetters, Kent, 134n63
Smith, Adam, 3, 372
Smith, James Morton, 132n56
Smith, Stephen, 236n46
Snyder, James, 105n10, 108n17, 109n, 114n26, 118n36, 120n42, 136n65, 147n6, 161nn30–31, 162n, 163n33, 163n35, 165
Solé-Ollé, Albert, 231n33
Soltani, Mohammad, 286n47
Sorenson, Bent, 216n
Southwick, Lawrence, 39n, 119n39
Spolaore, Enrico, 7n8, 333n
Staiger, Robert, 79n9, 92n23
Stark, Kirk, 56
Stavins, Robert, 291n57
Stein, Ernesto, 153n12, 165
Stein, Robert, 119n38
Stephenson, Matthew, 156 (note a)
Stevens, Barbara, 39n

- Stewart, Richard, 256n
Steytler, Nico, 346n, 365n31
Stiglitz, Joseph, 246n59, 321n37
Stockman, David, 118n33
Stratmann, Thomas, 162n, 168n40
Strumpf, Koleman, 46n10, 49
Suárez Serrato, Juan Carlos, 236n45
Suberu, Rotimi, 68n
Sugarman, Stephen, 72, 135n67
Sunderman, Gail, 182n4
Sunstein, Cass, 4n, 8n11, 149, 191, 256n
Swinton, Katherine, 156n15
- Tabellini, Guido, 61, 151, 165, 215n6, 216n,
217n8, 251n74, 333
Talvi, Ernesto, 153n12, 165
Tavares, Jose, 13n17
Teske, Paul, 196n25
Thimann, Christian, 251n75, 320 (note a)
Thompson, Dennis, 182, 191, 194n20
Thompson, Earl, 83n13, 109n, 149n
Thompson, Robert, 305n5
Tiebout, Charles, 38, 45, 257–258
Trebbi, Francesco, 251n74, 333
Trebesh, Christoph, 250n73, 251n76
Treisman, Daniel, 7n8, 127n, 184n9
Trone, John, 192n, 206n47, 303n3
Tufte, Edward, 64, 66
- Valelly, Richard, 172n46
Van den Bergh, Roger, 291n58
Van den Bruwaene, Werner, 156n15
Vayanos, Dimtri, 251n74, 320 (note d)
Velasco, Andrés, 134n63
Volden, Craig, 49
von Ehrlich, Maximilian, 307 (notes a, b),
315n24
- Waldmeir, Patti, 16n22, 341n3, 343, 361n
Walker, J. Samuel, 264n11
Watts, Ronald, 11n
- Weaver, Kent, 49, 205n44
Webb, Stephen, 247n61
Weber, Shlomo, 214n4
Wechsler, Herbert, 10–11, 141n2
Weiler, Joseph H., 324n45
Weingast, Barry, 6, 24, 60n27, 68, 69, 105n11,
111, 112n21, 117n31, 129n, 130n50, 132n59,
141n1, 147n9, 184n9, 290n56, 364n29
Weitzman, Martin, 291n57
Wellisch, Dietmar, 29, 57n23, 184n9
Werner, Timothy, 167–168n39
Wheare, Kenneth, 8, 11n, 21n
White, Lawrence, 246n58
White, Michelle, 55n19, 257
Whittington, Keith, 182
Wicksell, Kurt, 85, 87
Wildasin, David, 71n41, 135n66, 226n20,
236n44, 237n47
Williams, Andrew, 326n47
Willig, Bobby, 199n30
Wilson, John, 239n, 265, 265n14, 265n16,
266, 266n18
Wilson, Rick, 115, 118n33
Winter, Ralph, 275, 276–278
Wittman, Donald, 167n37
Wong, Ho Lun, 40n3
Wrobel, Marian Vaillant, 71n39, 226n19,
238
Wyplosz, Charles, 247, 305n6, 321n38
- Yinger, John, 39n, 46n10
Young, Ernest, 157n19, 185, 186, 221n
- Zax, Jeffrey, 48
Zeckhauser, Richard, 87n, 90n20
Zettelmeyer, Jeromin, 250n73
Zhao, Bo, 249n68
Ziliak, James, 226n22
Zodrow, George, 236n43, 236n45
Zuma, Jacob, 297, 343, 354, 358–359, 364,
367, 371

SUBJECT INDEX

Page numbers in *italics* refer to figures and tables.

- accession and rights protection in European Union, 328, 329–330, 331
- Advisory Commission on Intergovernmental Relations (ACIR), 201–202
- African National Congress (ANC):
constitution and, 341; leadership of, 367; local elections and, 366, 367–369; national elections and, 369; overview of, 296–297; supporters of, 342
- agenda-setting: for local public goods, 106–107; in MWC legislature, 107–111; in MWC legislature compared to U legislature, 115–119; for national public goods, 104–105; in U legislature, 111–115
- Agricultural Prorate Act (California), 282, 286
- Alien and Sedition Acts, 131, 132n59
- alliances: Coasian, 85–92, 86, 94–95, 98; defense, 90
- allocative economic efficiency in Tiebout economy, 48–49, 50, 51–54
- American Recovery and Reinvestment Act of 2009, 225n, 244n55
- ANC. *See* African National Congress
- anti-commandeering principle, 157–158, 221
- anticompetitive activities in European Union, 310–311
- antitrust policy, 281–283
- Argentina, 1, 246, 247
- Articles of Confederation, 5, 21, 93, 94–95
- assignment constraint for Democratic Federalism, 348, 370
- assignment of services or regulations, 189, 190, 272–273, 292–293
- auxiliary precautions. *See* safeguards, institutional
- bailouts: in EU, 318, 319–320, 322; by national government, 245, 246–248. *See also* Greece, debt crisis in
- balanced budget rules, 249–250
- banking union, 335
- bankruptcy, 245, 248–249, 279n34
- bargains. *See* Coasian bargains/deals/agreements; voluntary agreements
- bicameral legislature, 141–146
- Bill of Rights, 130–131
- border constraint for Democratic Federalism, 347–348, 370
- Brady Handgun Violence Prevention Act of 1993, 274
- Brandeis Conjecture, 49
- Brazil, 1, 122–123, 246, 247
- Brexit, 305–307
- budgets, national: parties and, 163–165, 164, 166; president and, 147–153; Senate and, 143–144, 146; in South Africa, 354, 355–356, 357–359, 364
- business strategies, regulation of, 281–283, 285–287

- California: Agricultural Prorate Act in, 282, 286; Proposition 13 in, 56
- California Retail Liquor Dealers Association v. Midcal Aluminum*, 282–283, 284, 285
- CAP (Common Agricultural Policy, EU), 301, 312, 313–315
- cap-and-trade policy, 291, 291n57, 294
- capitalization, 245, 246n59, 249
- capital taxation, 234–235, 333
- central government, 2–4, 7–11, 57–63.
See also federal governance/federal state; federalism; national government
- Charter of Fundamental Rights (EU), 324–325, 326, 334, 336, 339
- Citizens United v. FEC*, 168n40
- civil rights. *See* protection of rights
- Civil Rights Act of 1964, 70, 172
- Civil War and enfranchisement, 171
- CJEU (Court of Justice of the European Union), 303n3, 311, 325–326
- Clayton Act of 1914, 281, 286
- Clean Air Acts and amendments, 184, 267, 288–289
- Clean Water Act of 1972, 184, 270
- clear-statement process, 158–159
- clubs, Coasian, 80–85, 97–98
- Coase Theorem, 77–80, 97
- Coasian alliances, 85–92, 86, 94–95, 98
- Coasian bargains/deals/agreements, 77, 78n7, 79, 81, 167n37, 287–288
- Coasian clubs, 80–85, 97–98
- co-decision procedure, 303, 332
- Cohesion Fund (EU), 301, 312–313, 315
- Common Agricultural Policy (CAP, EU), 301, 312, 313–315
- common pool, 23–24, 122, 146, 181
- common tax base, 239–240. *See also* vertical tax externalities
- communities, bargaining. *See* efficiency case for Cooperative Federalism
- community government. *See* local government
- competition: fiscal, 40, 71, 373; market, in EU, 311–312; between political parties, 165, 167–168; yardstick, 49, 68
- competition policy, 281, 294, 310–311
- compound republic, 100
- concurrent powers, services, 188, 342, 345
- Confederate Republic, 76. *See also* Articles of Confederation
- congestible public goods, 38, 39, 72
- congestion: in Economic Federalism, 37; in Tiebout economy, 39, 80
- congress. *See* national legislature; Senate, as safeguard
- Congressional Budget and Impoundment Control Act of 1974, 134n64, 195n23, 206
- Congress of South African Trade Unions (COSATU), 358, 360, 362n
- consociational government, 21, 22, 76n1
- Constitutional Convention, 5, 22, 182
- constitutional federalism, 11, 12
- contract federalism, 198, 220–225
- contracts. *See* grants and contracts
- Cooperative Federalism: Brexit lesson and, 307; EU as, 96–97, 295–296, 301–305, 334–337, 375; overview of, 21–22, 34, 75–76, 97–98, 373; representation and rights in, 93, 95–97; weaknesses of, 99. *See also* efficiency case for Cooperative Federalism
- Copenhagen Commission, proposal for, 336–337
- corporate governance, regulation of, 273, 275–281, 280
- corporate taxation, 239–242, 241
- COSATU (Congress of South African Trade Unions), 358, 360, 362n
- Council of Europe, 327, 335
- Council of Ministers. *See* European Council of Ministers
- Court of Justice of the European Union (CJEU), 303n3, 311, 325–326
- courts. *See* Supreme Court, as safeguard
- creative federalism, 182

- currency union (EU), 295–296, 316–318, 338
customs union (EU), 296, 308–312
cycling. *See* voting cycles
- DA (Democratic Alliance, South Africa),
297, 347, 366, 367–369
- debt: abuse of, 244–250; crisis of, in Greece,
26, 246, 247, 250–252, 252, 319–320; default
on debt, 245, 247–248; overview of, 242,
254; state and local debt, role for, 242–244
- decentralization theorem, 38
- de facto federalism, 11, 12, 13. *See also*
Economic Federalism
- defense alliances, 90
- Delaware, incorporations in, 275, 277–279
- deliberative democracy, 191, 205
- democracy: deliberative, 191, 205; participa-
tory, 191; presidential, 61–62. *See also*
unitary democracy
- Democratic Alliance (DA, South Africa),
297, 347, 366, 367–369
- democratic consolidation in South Africa,
363–365, 366, 367–369, 371
- democratic deficit in European Union,
95n27, 323–324, 332, 334, 338
- democratic deliberation, 2, 34, 189, 194.
See also Federalism Impact Statement
- Democratic Federalism, 99–100. *See also*
fiscal policy; institutions of Democratic
Federalism; national legislature;
safeguards, institutional; South Africa
- democratic federal states, 12, 12–13
- democratic participation: in Democratic
Federalism, 23, 137; in Economic
Federalism, 20, 73; FIST and, 188–189;
minority citizens and, 22. *See also*
national legislature; political representa-
tion; voting
- democratic transition in South Africa,
343–354, 359–363, 360, 361, 370–371, 375
- dictatorial federal states, 12, 12
- dictatorships: socially valued outcomes
and, 13, 14, 15–16; transition from, 1, 7, 375
- direct revenue effects of source-based
taxation, 232–235
- districts, 99–100, 126–127, 141
- Dodd-Frank Act, 184
- Duverger's Law, 60–61, 167
- EAGGF (European Agricultural Guidance
and Guarantee Fund), 312–314
- Economic and Monetary Union (EMU),
295–296, 316–318, 338
- economic efficiency: allocative, in Tiebout
economy, 48–49, 50, 51–54; local politics
and, 41; Samuelson condition for, 87n
- economic fairness: Democratic Federalism
and, 132–136; Economic Federalism and,
57; of taxation, 238; of welfare reform,
226
- Economic Federalism: central government
in, 57–63; Cooperative Federalism and,
75–76, 97–98; EU as, 299–300; evalua-
tion of, 44–45; local service equity in, 72;
overview of, 20–21, 34, 37–38, 73–74, 373;
political representation and, 63–67;
protection of rights and liberties under,
67–71, 73, 374–375; Tiebout shopping and
sorting in, 45–46; weaknesses of, 99.
See also Tiebout economy
- Economic Freedom Fighters (South Africa),
367, 368n37, 369
- economic performance of European
Union: in financial efficiency, 316–318,
320–323; in fiscal efficiency, 312–316; in
market efficiency, 308–312; overview of,
308, 338
- economic rights, 67, 71, 96–97, 98. *See also*
protection of rights
- economic spillovers from local regulations,
267–271, 268
- economies of scale in local regulation,
260–264, 261, 278
- EEC (European Economic Community),
299, 301–302, 319
- EEOC v. Wyoming*, 156n18

- efficiency case for Cooperative Federalism:
Coase's Theorem and, 77–80; Coasian alliances and, 85–92, 94–95; Coasian clubs and, 80–85; overview of, 77, 93
- efficiency case for local governance, 38–44
- efficiency performance of national legislature: local public goods and, 122–123; national public goods and, 119–121
- efficiency test (FIST), 187–188, 197–199
- EMU (Economic and Monetary Union), 295–296, 316–318, 338
- environmental impact statements, 183n, 194–195, 204n41
- Environmental Protection Agency (EPA), 184, 208, 289
- environmental quality, regulation of, 287–291, 292
- equalization aid, 217–220
- equity, fiscal: horizontal, 217–220; vertical, 238
- ERDF (European Regional Development Fund), 312–313, 315
- ESF (European Social Fund), 312–313, 315
- EU. *See* European Union
- European Agricultural Guidance and Guarantee Fund (EAGGF), 312–314
- European Central Bank, 319
- European Commission, 206–207, 301, 302–303, 321, 326
- European Council, 185
- European Council of Ministers, 185, 301, 304–305, 326, 328, 335–336
- European Economic Area, 307
- European Economic Community (EEC), 299, 301–302, 319
- European Monetary Union (EMU), 302–303, 319, 320, 322–323
- European Parliament, 301–302, 304, 326
- European Regional Development Fund (ERDF), 312–313, 315
- European Social Fund (ESF), 312–313, 315
- European Union (EU): Charter of Fundamental Rights, 324–325, 326, 334, 336, 339; as Coasian alliance, 85; as Cooperative Federalism, 96–97, 295–296, 301–305, 334–337, 375; corporate tax policy of, 239–242, 241; as at crossroads, 331–332; democratic deficit in, 95n27, 323–324, 332, 334, 338; democratic governance in, 323–324; environmental policy in, 291; evolution of institutions of, 26–27; overview of, 295–296, 299–301, 337–339, 373; performance of, 305, 308; political union and, 332–334; reform policies for, 300, 334–337; rights protection in, 324–328, 329–330, 331; Stability and Growth Pact of, 249, 250–251, 321–322; as transnational federal union, 1; treaty establishing, 6, 184–185. *See also* economic performance of European Union; proportionality principle; subsidiarity principle; *specific member states*; *specific treaties*
- excess burden: of resident-based taxation, 230–231, 242–243; of source-based taxation, 234–235
- exclusion from services or regulation, 264–267, 265
- executive branch, responsibility for FIST analysis within, 203–205, 207–208. *See also* president
- Executive Order 12612, 195, 207–208
- Executive Order 12866, 199n29
- Executive Order 13132, 183n, 185n13, 207–208
- externalities: definitions of, 197n27; in EU bailout policy, 318; fiscal, 143, 211–214, 213; merit goods compared to, 198n; vertical tax, 231–232. *See also* spillovers
- fairness. *See* economic fairness
- federal democracy. *See* federal governance/federal state; federalism
- federal dialogue, 181–183, 191, 203, 205, 209, 273. *See also* Federalism Impact Statement
- federal governance/federal state: benefits of, 2–4, 372–373; challenges to, 1–2;

- definitions of, 7–11; dissolution of, 376–377; as polity of choice, 1, 372; ratification of, 5; requirements for, 11; state governance and, 4–5; transitions toward, 295. *See also* federalism
- federalism: definitions of, 7–11; dialogue about benefits of, 181–183; as unnatural state of affairs, 181. *See also* contract federalism; Cooperative Federalism; Economic Federalism; federal governance/federal state
- Federalism Accountability Act, 195
- Federalism Impact Statement (FIST): assignment of services or regulations based on, 189, 190, 191; deliberative democracy and, 191–192; enforcement of, 192–193; on EU corporate tax policy, 239–242, 241; on Greek debt crisis, 250–252, 252; guidelines for debate on, 24–25; implementation of, 193, 196–200; implementing analysis for, 25–26; overview of, 177–178, 183–186, 208–209, 376; on regulation of business strategies, 281–283, 285–287; on regulation of corporate governance, 273, 275–281, 280; on regulation of environmental quality, 287–291, 292; responsibility for completion of, 200–208; scorecard for, 189; steps in, 186–189, 187; usefulness of, 194–195; on welfare aid reform, 225–228, 228
- Federalism Preservation Act, 195
- Federalist* No. 10, 2n3, 4, 123, 168
- Federalist* No. 12, 229n27
- Federalist* No. 26, 4
- Federalist* No. 28, 67, 70
- Federalist* No. 39, 2n3, 10
- Federalist* No. 42, 229n26
- Federalist* No. 48, 140
- Federalist* No. 51, 2n3, 4, 123, 132–133, 139, 147
- Federalist* No. 55, 114n27
- Federalist* No. 73, 147
- Federalist* No. 78, 153
- Federalist Papers, The*, 4–5, 23, 29, 67, 70, 114n27, 123, 132–133, 139
- federal legislature. *See* national legislature
- Federal Trade Commission Act of 1914, 281, 286
- federal union: building, 214–217; protecting, 217–220; vertical fiscal equity in, 238
- Federal Water Pollution Control Act of 1948, 288
- FERC v. Mississippi*, 157n18
- Fifteenth Amendment, 136, 171
- Finance Commission (India), 202–203
- Financial and Fiscal Commission (FFC, South Africa), 342, 345–346
- financial crisis: abuse of local borrowing as, 244–250; global, 250, 318; in Greece, 26, 246, 247, 250–252, 252, 319–320. *See also* Great Recession
- financial efficiency of European Union, 316–318
- financing: of political parties, 167–168n39; of public education, 72; of public goods and services, 178
- fiscal competition, 40, 71, 373. *See also* Tiebout economy
- fiscal efficiency of European Union, 312–316. *See also* efficiency case for Cooperative Federalism; efficiency performance of national legislature
- fiscal federalism, 29–30. *See also* Economic Federalism
- fiscal insurance, 215–216, 253, 300
- fiscal policy: “beggar-thy-neighbor,” 94, 310, 317–318; hostage game in, 297, 343, 348–354, 349, 370; overview of, 210, 253–254; regulatory policy and, 264–267, 265; responsibility for, 205–206; of South Africa, 354, 355–356, 357–359. *See also* budgets, national; debt; taxation
- FIST. *See* Federalism Impact Statement
- Fourteenth Amendment, 171
- franchise, extending: legislature and, 136–137; safeguards and, 169–174
- free riding, 43, 45, 77n, 90, 264, 317–318

- Garcia v. San Antonio Metropolitan Transit Authority*, 156–157
- General Agreement on Tariffs and Trade (GATT), 91, 314
- Giles v. Harris*, 172n47
- global financial crisis, 250, 318. *See also* Great Recession
- Good Governance Africa Government Performance Index, 368n36
- governance/government: allocation of responsibilities among levels of, 183–184; central, 2–4, 7–11, 57–63; central role for, 210; choice of, 28; levels of, 33; transnational organizations for, 300–301. *See also* federal governance/federal state; local government; state government
- Gramm-Rudman-Hollings Balanced Budget Act of 1985, 195n23
- grants and contracts: as equalization aid, 217–220; FIST evaluation of welfare aid reform, 225–228, 228; as lump-sum aid, 214–217; as matching aid, 211–214, 213, 238; overview of, 210–211, 253; as project aid, 220–225; in South Africa, 345
- Great Recession, 183, 226, 244n55, 317, 318
- Greece: bailout of, 322; city states of, as Coasian clubs, 81, 82; debt crisis in, 26, 246, 247, 250–252, 252, 319–320; deficits of, 323; income in, 311; market efficiency and, 309; suppression of riots by, 331
- Gregory v. Ashcroft*, 158–159, 192–193
- gridlock, risk of, 111, 115, 119
- gun regulation, 273, 274
- head tax, 43–44, 51–53. *See also* zoning
- high-level radioactive waste, regulation of, 262–264
- Hodel v. Virginia Surface Mining and Reclamation Ass'n*, 157n18
- horizontal fiscal equity, 217–220
- hostage game in fiscal policy, 297, 343, 348–354, 349, 370
- House of Representatives, 10
- Hungary, 326, 327, 331
- IMF (International Monetary Fund), 237, 250, 319
- India, Finance Commission in, 202–203
- indirect revenue effects of source-based taxation, 232, 235–236, 237
- Inkatha Freedom Party (South Africa), 341, 344
- innovation in government policy. *See* Brandeis Conjecture
- In re City of Bridgeport*, 248n63
- institutions of Democratic Federalism: evaluation of, 19–20; required for stable democracies, 364–365; responsibility for FIST analysis within, 200–208; in South Africa, 343–354, 359–363, 371; valued outcomes of, 13, 14, 15–19, 17, 33–34, 372–376. *See also* local government; national legislature; safeguards, institutional
- institutions of European Union and rights protection, 324–328, 329–330, 331
- insuring local governments against economic shocks, 214–217
- intercommunity regulatory spillovers, 267–271, 268, 274
- intergovernmental grants. *See* grants and contracts
- Interim Constitution of South Africa, 341–342
- International Environmental Agreement, 87n, 89–90
- International Monetary Fund (IMF), 237, 250, 319
- Ireland, 309, 322, 323
- Italy, 322, 323
- judicial “bright line.” *See* assignment of services or regulations
- judicial review of legislation, 154–159
- koinons*, 81, 82
- Lakewood Plan, 81, 82–83
- legislation: implementation of, 183–184; judicial review of, 154–159; omnibus, 111;

- presidential veto of, 147, 150–151, 152; to regulate Congress, 195–196. *See also specific legislation*
- legislative overreach: constraints on, 147–148, 169; judicial review of, 154–159; parties and, 163; presidential veto and, 150–151, 152; as weakness of national legislature, 168
- LGBTQ community, 375
- local choice, 50, 51–57, 229
- local government: contract federalism and, 220–225; in Democratic Federalism, 373–376; in Economic Federalism, 37; efficiency case for, 38–44; federal principles for efficient taxation by, 229–236, 233; insuring against economic shocks, 214–217; job creation by, 244; matching aid to, 211–214, 213; national policies for taxation by, 236–237; political participation in, 63–67; protection of democratic governance by, 365, 366, 367–369; protection of rights and liberties by, 67–71, 73; service equity and, 72; services of, 33; weaknesses of, 174–175
- local public goods, 106–107, 115–119, 122–123
- low-level radioactive waste, regulation of, 262
- Low Level Radioactive Waste Policy Act of 1980, 263
- lump-sum aid, 213, 213–217
- Luxembourg Compromise, 302
- Maastricht Treaty, 1, 6, 299, 302–303, 331, 337
- MacSharry reforms, 314
- majority rule, 60–62, 100
- majority-rule decision-making in legislatures, 100–102, 101, 103
- Mandela compromise/compact, 296–297, 343, 347, 354, 363, 370–371
- market activities, 25–26, 178–179, 281–283, 285–287
- market efficiency of European Union, 308–312
- market failures and Economic Federalism, 37, 57
- market-preserving federalism, 68, 69
- matching aid, 211–214, 213, 238
- median voter, 34, 75, 96, 105, 143, 166
- Median Voter Theorem, 103
- merit goods: access to, 72; concurrent services and regulations as, 188; definition of, 37; markets and consumption of, 57–58; resident preferences for, 198; U legislature and provision of, 138
- minimum winning coalition (MWC) legislature, 106, 107–111, 109, 115–119, 143
- minorities. *See* protection of rights
- monetary union (EU), 295–296, 316–318
- Moorman Mfg. Co. v. Bair*, 239n
- MWC (minimum winning coalition) legislature, 106, 107–111, 109, 115–119, 143
- National Assembly (South Africa), 341–342
- National Council of Provinces (NCOP, South Africa), 345–346
- National Federation of Independent Business v. Sebelius*, 196n26
- national government: in Economic Federalism, 37–38, 57–63; services of, 33. *See also* central government; national legislature
- National League of Cities v. Usery*, 156
- national legislature: constraints on overreach by, 147–148, 148; economic fairness and, 132–136; efficiency performance of, 119–123; overview of, 22–24, 34–35, 99–100, 137–138; parties in, 161–165, 164, 166; protection of rights and, 128–132; representation and, 125–127; responsibility for FIST analysis within, 200–204; role of, 139; self-regulation of, 195–196; weaknesses of, 168. *See also* voting cycles of national legislature
- National Party (South Africa), 341, 344
- national public goods, 100, 104–105, 119–121
- NATO (North Atlantic Treaty Organization), 85, 90

- natural resource taxation, 230, 237n48
- new federalism, 220–221
- New Jersey Plan, 142
- new nationalism, 182, 220–221
- New York v. United States*, 157, 196, 221
- Nigeria, 68–69
- Nineteenth Amendment, 170n42
- North Atlantic Treaty Organization (NATO), 85, 90
- North Carolina State Board of Examiners v. FTC*, 284
- Nuclear Waste Policy Act of 1982, 263
- Oates Decentralization Theorem, 38
- Office of Management and Budget, 205–206
- omnibus legislation, 111. *See also* Universalistic (U) legislature
- parchment barriers of responsibility, 153, 370
- Paris Agreement, 85, 90
- Parker v. Brown*, 282, 283, 284, 285
- participation. *See* democratic participation; political representation; voluntary participation
- participation test (FIST), 188–189, 199–200
- participatory democracy, 191
- pay-for-performance clauses in contracts, 223–225
- Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), 166, 225–228, 228
- personal vote, 23, 137–138
- piggyback taxation, 236, 254
- Poland, 326, 327, 331
- poleis*, 82
- policy assignment, 69, 204, 343. *See also* assignment of services or regulations; proportionality principle; subsidiarity principle
- political and civil rights. *See* protection of rights
- political participation. *See* political representation; voting
- political parties: brand name as resource of, 160–161; competition between, 165, 167–168; in legislature, 162–165, 164, 166; national, as safeguards, 159–160; as organizations, 160–162; public funding for, 167–168n39; in South Africa, 341, 344. *See also* African National Congress
- political representation: Cooperative Federalism and, 93, 95–97; Democratic Federalism and, 123, 124, 125–127, 373–376; Economic Federalism and, 63–67; in EU, 323–324, 338; overview of, 373–374; in Senate, 141–146
- political union, European Union and, 332–334
- politics, local, and economic efficiency, 41
- polyphonic federalism, 220–221
- Portugal, 246, 309, 322, 323
- president: conditions for central government management by, 58–63; constrained efficiency of, 73; of EU, 333; of European Commission, 335–336; FIST reviews within offices of, 207–208; influence over, 66–67; protection of rights and liberties by, 67, 70–71, 73; as safeguard, 140–141, 147–153, 148
- presidential democracy, 61–62
- presidential veto, 147, 150–151, 152
- press, freedom of, 131–132
- primary goods, 71
- Printz v. United States*, 157, 196, 221
- prisoner's dilemma, 88, 91–92, 351
- private marginal benefit (PMB), 211–212, 234, 236, 237
- private marginal cost (PMC), 211–214, 232, 234, 235–236, 237
- project aid, 220–225
- property rights. *See* protection of rights
- property taxation, 50, 51–54, 56
- proportionality principle, 185, 206, 303
- Proposition 13, 56
- protection of rights: Cooperative Federalism and, 96–97; Democratic Federalism and, 128–132; Economic Federalism and,

- 67–71, 73; in EU, 324–328, 329–330, 331;
overview of, 374–375. *See also* voting
- provinces: as districts, 99–100; in South
Africa, 341, 344–345
- provincial government. *See* state
government
- PRWORA (Personal Responsibility and
Work Opportunity Reconciliation Act of
1996), 166, 225–228, 228
- public dialogue. *See* federal dialogue;
Federalism Impact Statement
- public goods: allocation of, 80–81;
Economic Federalism and, 37; FIST and,
187–188; MWC legislature, U legislature,
and, 109; Wicksell-Lindahl process for
provision of, 85–88, 86. *See also* local
public goods; national public goods;
spillovers
- public goods economy, 38–44
- qualified majority voting (QMV), 302,
304, 305
- race to the bottom: economies of scale
and, 260–264, 261; in EU, 311, 318; in
Federalist No. 12, 229n27; intercom-
munity spillovers in, 267–271, 268;
nonexclusion and inefficient taxation
in, 264–267, 265; overview of, 178–179,
255, 256–257, 260, 271–272; in welfare
services, 226, 227, 238
- race to the top, 178–179, 255, 257–260,
271–272
- radioactive waste, regulation of, 262–264
- reason-giving, discussion as, 186, 191–192
- reform coalitions, 148–151, 152
- regional income insurance, 214–217
- regulatory policy: assignment of, 272–273,
292–293; on business strategies, 281–283,
285–287; on corporate governance, 273,
275–281, 280; decisions about, 271–272;
on environmental quality, 287–291, 292;
on guns, 274; implementation of, 184;
overview of, 25–26, 255–257, 293–294;
- race to top in, 257–260. *See also* race to
the bottom
- religion, free expression of, 130–131
- representation. *See* political representation
- representatives to national legislature, 100
- representative tax system, 219–220
- resident-based taxation, 229–232, 236–237,
253–254
- rights. *See* protection of rights
- rights and fairness test (FIST), 189
- rights deficit, 27
- right-sizing (secession), 96, 98
- Roma people, 331
- Saenz v. Roe*, 238
- safeguards, institutional: evaluation of,
168–174; overview of, 24–25, 139–140,
174–175; Supreme Court as, 153, 156–159.
See also political parties; president;
Senate
- San Antonio Independent School District v.
Rodriguez*, 72
- secession (right-sizing), 96, 98
- Senate, as safeguard, 10, 140–146, 144
- Serrano v. Priest*, 72
- Shapiro v. Thompson*, 238
- Shelby County v. Holder*, 172n48
- Sherman Antitrust Act of 1890, 281, 282
- Single European Act, 302
- Six Pack (Stability and Growth Pact
reforms), 322
- small state bias, 142, 145, 146n6
- social marginal benefit (SMB), 211–212, 224,
234, 236, 237
- social marginal cost (SMC), 211–212, 231–232,
234, 235–236, 237
- source-based taxation, 229, 232–236, 233, 237,
254
- South Africa: constitution of, 193, 344–345;
democratic consolidation in, 363–365,
366, 367–369; democratic transition in,
375; economic benefits of democratic
transition in, 359–363, 360, 361;
evolution of institutions of, 27–28;

- South Africa (*continued*)
Fiscal Commission in, 202–203; fiscal policies of, 354, 355–356, 357–359; institutions and democratic transition in, 343–354; Interim Constitution of, 341–342; local voting in, 366; overview of, 296–297, 340–343, 370–371; peace dividend in, 363n; political parties of, 341, 344; structural guarantees in, 343, 347. *See also* African National Congress; Mandela compromise/compact
- South Dakota v. Dole*, 158n23
- sovereignty test (FIST), 186–187, 196–197
- Spain, 246, 322, 323
- spillovers: in Cooperative and Economic Federalism, 99; cross-district, 100; definition of, 37; FIST and, 187–188; intercommunity, 267–271, 268; interstate, 274, 287–291; performance matching grants and, 224–225; tax, from local regulations, 264–267, 265; in Tiebout economy, 44; welfare reform and, 227. *See also* externalities
- Stability and Growth Pact (EU), 249, 250–251, 321–322
- state action doctrine, 281
- state government: in Democratic Federalism, 373; in Economic Federalism, 37–38; federal principles for efficient taxation by, 229–236, 233; insuring against economic shocks, 214–217; matching aid to, 211–214, 213; national policies for taxation by, 236–237; services of, 33
- state government regulatory policy: on business strategies, 281–283, 285–287; on corporate governance, 75–281, 273, 280; on environmental quality, 287–291, 292
- states: as political districts, 99–100; responsibilities of, 301n2. *See also* state government
- subsidiarity principle, 38, 184–185, 206–207, 302–303, 310–311
- supermajority in Cooperative Federalism, 21–22, 300
- Supreme Court, as safeguard, 140–141, 153, 156–159. *See also* specific cases
- tariffs, 91, 92n24, 94, 308, 312
- Tavares Report, 327
- taxation: capital tax, 234–235, 333; corporate tax, 239–242, 241; cost-adjusted tax base per resident, 218–219; deductibility of, 238; federal principles for, 233; FIST evaluation of EU corporate tax policy, 239–242, 241; head tax, 43–44, 51–52; natural resource tax, 230, 237n48; overview of, 229, 253–254; piggyback tax, 236, 254; property tax, 50, 51–54, 56; regulation and, 264–267, 265; representative tax system, 219–220; resident-based tax, 229–232, 236–237, 253–254; source-based tax, 229, 232–236, 233, 237, 254. *See also* tax policy
- tax harmonization, 239–242
- tax policy: economic fairness of, 133–135, 238; federal principles for, 229–236; FIST and, 25; national, 236–237; presidential governance and, 153; in South Africa, 346, 347–348; vertical equity in, 238. *See also* taxation
- Tax Reform Act of 1986, 151, 152
- tax smoothing, 242, 243, 254
- tax surcharge, 237
- technical efficiency in Tiebout economy, 46–48
- Tenth Amendment, 193
- Thirteenth Amendment, 171
- Tiebout economy: allocative economic efficiency in, 48–49, 50, 51–54; conditions for, 38–44; evaluation of, 44–45; overall efficiency and local choice in, 54–57; shopping and sorting in, 45–46; technical efficiency in, 46–48
- Tiebout-Hamilton economy, 43–44
- tit-for-tat strategy, 88–89, 91–92
- trade agreements, 91–92
- transparency of FIST evaluations, 192
- Treaty of Amsterdam, 299, 304

- Treaty of Lisbon, 299, 304, 324–325
- Treaty of Maastricht, 1, 6, 299, 302–303, 331, 337
- Treaty of Nice, 299, 304
- Treaty of Paris, 299
- Treaty of Rome, 301, 310
- Twenty-Sixth Amendment, 136
- Two Pack (Stability and Growth Pact reforms), 322
- unemployment insurance, 334–335
- Unfunded Mandates Reform Act of 1995, 166
- unitary democracy: Democratic Federalism compared to, 33, 128, 373; voter turnout in, 137
- United Kingdom, Brexit vote by, 305–307
- United States v. Darby Lumber*, 193n18
- United States v. Lopez*, 157
- United States v. Morrison*, 157
- United Transportation Union v. Long Island R.R.*, 156n18
- universalistic (U) legislature: district goods and, 109; MWC legislature compared to, 111–115; national parties and, 161–162; overview of, 106–107, 111–115; president and, 150; Senate and, 143–145, 144, 147–148, 148
- U.S. Constitution: Article 1, Section 2, 170; decision to ratify, 182; parchment barriers of responsibility in, 153, 370; Supremacy Clause of, 281. *See also specific amendments*
- Venice Commission, 327
- vertical fiscal equity in economic unions, 238
- vertical tax externalities, 231–232
- veto, presidential, 147, 150–151, 152
- Virginia Plan, 140, 142
- voluntary agreements: Coasian bargains as, 77, 78n7, 79, 81, 167n37; Wicksell-Lindahl process for, 85–88, 86
- voluntary participation: in Coasian clubs, 83–84; as condition of Coase Theorem, 77; in Cooperative Federalism, 96–97, 98
- voting: allocation of resources and, 210; Democratic Federalism and, 124; local governments and, 374; national legislature and, 136–137; safeguards and, 169–174
- voting cycles of European Council of Ministers, 305
- voting cycles of national legislature: agenda-setting and, 104; local public goods and, 106–107; majority-rule decision making and, 101, 103; MWC legislature and, 107–111; national public goods and, 104–105; overview of, 100–103; preferred legislature for, 115–119; Senate and, 143; U legislature and, 111–115
- Voting Rights Act of 1965, 70, 170n42, 172, 173, 196
- weaknesses: of Cooperative and Economic Federalism, 99; of Democratic Federalism, 138; of EU, 299, 332–333; of local governments, 174–175; of monetary unions, 316–317; of national legislatures, 168
- Wicksell-Lindahl process, 85–88, 86
- World Trade Organization (WTO), 85, 91–92
- yardstick competition, 49, 68
- Zimbabwe, 343, 344, 363
- zoning, residential, and head taxation, 43–44