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REVIEW OF “PATRICIA POPELIER, DYNAMIC FEDERALISM. A NEW THEORY FOR COHESION AND REGIONAL AUTONOMY, ROUTLEDGE, 2021”

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Over time, federal scholarship has developed a pragmatic approach to prosper [without a shared definition](#) of what federalism means and how it functions. So, why should we look for a “new theory on federalism”? In her book [Dynamic Federalism. A New Theory for Cohesion and Regional Autonomy](#), Patricia Popelier argues that definitions (still) matter, “for the sake of theory, method, and impact” (p. 12). According to the author, having a clear understanding of federalism and federal systems is essential to explain how these are formed and evolve, and to derive normative requirements from the state structure. Moreover, definitions enable systematic comparative research irrespectively of the “mostly similar” or “mostly different” approach, implicitly echoing Hirschl’s arguments on [case selection strategies](#) and why these matter in comparative constitutional law. Finally, clear concepts are crucial to have an impact on ongoing political debates, such as the one on the federal/confederal nature of Belgium or the European Union, or the federal/regional nature of countries such as Spain and Italy. Therefore, Popelier aims at laying the foundations for a new, dynamic theory of federalism, overcoming some key weaknesses of traditional federal

theory, and testing such theory on a series of conditions: universality, specificity, and flexibility.

To do so, the book is divided into three parts. The first part (“Theoretical framework”) develops the building blocks of the new theory, starting from a critical discussion of the “Hamiltonian” (following Pinder’s expression) and Elazar’s approaches to the study of federalism, and then revisiting Friedrich’s concept of federalism as a process to further explore a theory on dynamic federalism. According to the author, traditional federal scholarship does not offer a theory able to explain federal systems in all their forms and variants, thus excluding from its analysis meaningful experiences because they might not fit in the “institutional checklist” of how a “true” federation should be to be called as such. This also explains why Popelier refers to “multi-tiered systems” (MTS), i.e., those systems with multiple tiers of government characterized by a central level of government as well as subnational entities with public policy powers. The author chose MTS as a category encompassing the different manifestations of the federal principle to avoid confusion between federations and other typologies of federal systems, thus allowing the inclusion of a large variety of systems in a cross-country comparison, along with those which distance themselves from being called “federal states”. The proposed theory of dynamic federalism builds upon the trichotomy of federalism, federalist political organization, and federations, to develop federalism as a “value concept”, expressing the idea of balance between territorial levels of government. Accordingly, every MTS seeks a proper balance between the central authorities and the subnational entities, or in other words between cohesion and autonomy. Such core value is later characterized as a constitutionally defined and essentially contested concept since it is determined by constitutional arrangements and is continuously contested by the changing of external conditions and political preferences. In a theory of dynamic federalism, constitutions are conceived as providers of instruments to face the changes that may occur in what the proper balance is, thus making possible the recalibration power relations. Therefore, the previous focus on Elazar’s principle of “self-rule and shared rule” is now shifted to the concepts of autonomy and

cohesion; the varying balance between them becomes the main criterion upon which a classification of different typologies of forms of state depending is built, encompassing all forms of multi-tiered systems. To give an idea of these typologies, for a low score for cohesion and a gliding score for subnational autonomy, it is possible to categorize deconcentrated unitary systems, decentralized systems, and political associations. For a high level of cohesion and shifting levels of autonomy, integrationist multi-tiered systems and federations are found. Finally, for moderated scores for cohesion and sliding autonomy, the identified typologies are consociation-based multi-tiered systems, regionalized systems, and confederations. Thus, it is already possible to grasp the “dynamic” features of Popelier’s theory of federalism, since such a balance may vary, not only from one case to another but also over time.

Given the need to measure autonomy and cohesion to categorize forms of state and explain dynamics, the second part of the book (“Measuring cohesion and autonomy”) offers a toolbox of indicators, based on a series of institutional features. It should be noted that even though the author moves away from the “institutional checklists” to identify a federal system proper of the Hamiltonian approach, re-defining federalism in new terms (i.e., as a value concept), Popelier takes an institutional approach and, throughout the book, explores how constitutions facilitate or curb the dynamics of multi-tiered systems, and how constitutional engineering impacts on this. The indicators were constructed under three essential categories (status, powers, fiscal arrangements), drawing inspiration from previous attempts (Aubert, Baldi, Requejo, Hooghe et al., Ivanya and Shah, Sahadžić), deemed incomplete since they often lack to measure cohesion. Popelier’s indicators have two different units of analysis: the autonomy indicator regards the subnational entities, while cohesion uses the central government. This is a useful element since it allows us to consider simultaneously two different perspectives: the system in its entirety, and the subnational entities. The basic idea behind the development of the indicators is that they show how the balance was initially imagined by institutional designers, as well as how constitutional engineering may shift such balance. The toolbox of indexes for the measure of each indicator

follows a comprehensive, maximalist approach, but the author interestingly suggests that they could be reduced to a more pragmatic, minimalist purpose. A first application of the indexes is made on the Belgian case, to appreciate the potential of the indicators to better grasp the dynamics of the state, how the institutional design imagined the proper balance between autonomy and cohesion, and how constitutional engineering might come into play shifting the system towards more or less centralization/integration. Moreover, Belgium is an emblematic example of federalism as a dynamic process, since it is a fragmented system which evolved from a decentralized state to a federation, and in which the debate on a possible shift towards a confederal settlement is highly topical.

The use of the indicators to measure cohesion and autonomy also allows identifying institutional “hubs for change”, to which is dedicated the third and last part of the book (“Measuring change”). Here, Popelier underlines that a theory of dynamic federalism is a theory of change, an aspect that in federal theory has been examined mainly by non-legal scholars, and that requires an interdisciplinary approach. Following the indexes developed in the previous part, the author proposes a method for measuring change, providing the “federalism potential score” and the “actual federalism score”. According to such a method, change is defined as the difference between the first and the second score. The resulting score (“informal change score”) displays the broadness of the gap between federalism in the books and federalism in action. Moreover, the author sketches the processes of change, identifying a series of possible drivers, distinguishing between sources, catalysts, strategies, and actors, and observing that federal dynamics do not necessarily follow a “pendulum” swing. In fact, incremental change has the potential to create dynamics that may change the system over time. It should be noticed that the proposed analysis of the dynamic relationship between autonomy and cohesion also allows measuring related phenomena, such as constitutional asymmetry, by subtracting the “actual federalism scores” of the subnational entities, an interesting and still underdeveloped aspect in federal theory. Furthermore, Popelier identifies a series of “hubs for

change”, which may enable or hinder federal dynamics mostly using political control. These hubs are constitutional amendments, instruments for de-constitutionalization, techniques for the allocation of competencies, judicial and nonjudicial adjudicators of federalism conflicts, and institutionalization of global governance. Finally, the advanced hypothesis is that the stability of multi-tiered systems depends on two criteria, namely congruence criterion (i.e., the presence of institutional mechanisms) and the incongruence criterion (i.e., the stabilization of social dynamics through imperfect institutional mechanisms).

In conclusion, the author’s endeavors in trying to overcome the theoretical weaknesses of traditional federal scholarship, doing so from a legal perspective, is certainly fascinating. However, as Popelier repeats more than once in her book, “it takes an entire research community to develop a theory” (p. 5). In the final pages, the author also draws a way forward, proposing three items that need further research, namely the refinement of the indicators, the specification of multi-level relations, and the meaning of dynamic federalism in multinational systems. Moreover, it could be of interest to test the conceptualization of autonomy and cohesion on the non-territorial dimension of federalism, something that is not extensively explored in the book. Perhaps, the most crucial contribution to Popelier’s proposal would be to further test the indicators on many other cases, in a synchronic and diachronic comparison, to appreciate the developments of the proper balance between cohesion and autonomy over time. This would allow the author (and the research community) to further develop a theory on dynamic federalism, testing the hypotheses as well as the indicators. Aside from the specific topic, the book also offers a peculiar opportunity for comparative constitutional law scholarship to reflect on the importance of method and the definition of concepts to advance research.