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Essays and Articles

Constitutionalism, federalism and secession (p. 779)

Susanna Mancini

After WWII, secession ceased to be an issue for Europe, thanks to the freezing of European borders and the European integration process. The implosion of the USSR and Yugoslavia dramatically challenged this state of things. More recently, with the Catalan and Scottish referenda, the debate surrounding secession regained a central position in the European political and academic arena. In this article I analyse secession's compatibility with constitutionalism, through a study of the theoretical and practical consequences of the constitutionalization of a secession clause in a federal system.

The Crimea case: self-determination, secession and annexation (p. 807)

Paolo Calzini

The article analyses the annexation of Crimea by Russia in the light of the Ukrainian social, political and institutional framework, and of the evolution of the relations between the Kremlin and the Western World in the course of 2014. On the basis of these two elements, it examines the fundamental steps of the "Crimean case", i.e. self-determination, secession and annexation. According to the Author, the annexation of Crimea marks a turning point in Moscow's foreign policy: indeed, Russia has shown a much more resolute commitment to contrast though any means Western powers in the European post-Soviet space, which is now the heart of the exacerbation of the conflict between East and West. Indeed, Russia wants to establish itself as an independent actor, by claiming respect and consideration for its own national interests not only from a strategic political point of view, but also from an ethnic-cultural perspective.

From Balkanization to *Jugonostalgija*: the dissolution of the Socialist Federal Republic of Yugoslavia (p. 817)

Čarna Pištan

In front of the tragedies that have accompanied the collapse of Yugoslavia, put in the title of an essay on the dissolution of the former federal State the neologism jugonostalgija, assuming the existence of a feeling of nostalgia towards the Socialist Yugoslavia, may appear at first sight both provocative and a contradiction. By focusing on the process that firstly led to the unification and then to the break-up of the Yugoslav State, the causes of its crisis and the reasons of its dissolution, the phases of the dissolution and the still unresolved issues, this paper aims not only to demonstrate how in fact this is only an apparent contradiction but also that phenomenon such these can become important tools to overcome ethnic nationalism politics, acting, hence, in defense of the still fragile democracies of Western Balkans.

The Scottish Referendum, the funding of territorial governance in the United Kingdom and the legislative role of the Westminster Parliament (p. 857)

Peter Leyland

The article discusses the constitutional impact of the referendum for independence held in Scotland in September 2014. It begins by providing a summary of the broader context of the event itself. However, the main concern is to assess the wider constitutional fall out for sub-national governance in the United Kingdom. The first part concentrates on the financial basis of devolution in order to consider the impact of the recommendations of the Smith Commission for increased devolution and in particular the enhanced revenue raising powers. These powers will be granted to the Scottish Parliament following the passage of legislation in 2015. In the second part attention turns to England, as it will be explained that new forms of territorial governance and additional fiscal devolution for English cities are being discussed as a response to the substantial re-enforcement of devolution in Scotland. The final section relates to the latest attempts to address the West Lothian question and focuses on proposals to

reform the voting procedures within the Westminster Parliament as a response to the strengthening of devolution by restricting the voting rights of MPs. It is argued that despite a clear decision to remain part of the United Kingdom the Scottish referendum will have a far reaching constitutional implications for the United Kingdom. Moreover, the impact of these financial changes will be even more pronounced set against the unprecedented level of cuts in public expenditure which are due to be introduced in order to achieve a balanced budget by 2019.

About the right to decide: the peculiarities of the secessionist process in Catalonia (p. 885)

Alfredo Galán Galán

The present work aims at analyzing the peculiarities of the secession process in Catalonia, determining first of all the scope and the significance of the Catalans' so-called "right to choose", in the light of the Catalan Parliament resolutions and of the Constitutional Court sentences. The essay describes then the different ways followed to exercise this hypothetical right and the results of the recent referendum, concluding with a critical evaluation of the debate arisen over the independence process: the fundamental role played by the civil society, the conceptual simplification, the judges self-advertisement and the presence of the "idea" of Europe in the debate, together with the disregard for the function and the value of Law, are particularly highlighted.

Evaporation vs Consolidation: the Belgian challenge (p. 909)

Anna Mastromarino

In spite of the fact that the attention in Europe is preoccupied by the Catalan and Scottish events, there are more reasons to think that Belgium is an essential case study to deepen the secession issue. In fact, the characteristics of the ethnical-linguistic conflict and the dynamic centrifuge of the federal system are deeply shaping the independent Flemish debate, to change Belgium in a place of constitutional innovation, imagining its conversion into a confederal system sui generis.

Faith in Sovereignty: Religion and Secularism in the Politics of Canadian federalism (p. 939)

Benjamin L. Berger

This article seizes on recent controversies about the accommodation of religious difference in Canada to think more carefully about the relationship between federalism, sovereignty, and secularism. It examines the political origins and debates incited by the Charter of Québec Values, a bill proposed by the sovereigntist Parti Québécois minority government in 2013-2014 that sought to instill a particular vision of a “secular” State. By placing this bill in a long Canadian history in which assertions of a distinctive relationship with religion have served as the foundation for arguments about political and cultural distinctiveness, and for the claims of sovereignty that are thereby engendered, the article suggests that claims about the nature and demands of the secular serve as one modern and potent tool available in the politics of federalism.

Notes and Comments

Federalism and Secessionism (p. 963)

Brunetta Baldi

Secessionism has been enflaming several European Countries in the last years, raising an important question still unanswered in literature: the failure of federalism. In 2014, Scotland and Catalonia, despite the high degree of territorial autonomy already achieved, held secessionist referendums; a similar option was debated in Regions of Northern Italy, and a split of the Belgian federation still remains a possible scenario in the light of recent election results. In all these cases, federalism does not seem sufficient to meet the growing demand for autonomy and preserve the unity of the State, although federalism is usually recognized as an institutional mechanism able to accommodate territorial diversity and ethnocultural pluralism. This article provides an interpretative framework to analyze the development of secessionism in the above cases, and to investigate the more general relationship between federalism and secessionism.

The Catalan “derecho a decider” within the Constitutional democracy (p. 985)

Francesco Bilancia

The essay takes cue from the recent project of a popular consultation in Catalonia dealing with constitutional implications of legal limitation to popular sovereignty. People’s initiative for constitutional change’s procedures is on charge, with a focus on relationship between democracy and Constitution, people’s will and legal frameworks, legal procedures and right to vote. The essay also deals with legal foundation and bounds of people’s right to self-determination and the rule of law.

Secession and Constitutionalism. At the origins of a debate still taking place (p. 999)

Claudio De Fiores

The article examines the historical evolution of the relationship between the right of secession and constitutionalism, reconstructing particularly the debate on the right of secession in the American constitutional tradition: from the Declaration of Independence (1776) until the Civil War (1861-1865). The central part concerns the development of political and legal literature on the subject of secession, paying special attention to the theories of Story, Caldwell Calhoun, Tocqueville, Lenin. Finally, the work examines the principles of the right of secession recognized in the socialist constitutions explaining the legal aspects and contradictions.

Regional Observatory

The Veneto Region regulations concerning the establishment of commercial enterprises as a paradigm of the evolution of the city planning function (p. 1023)

Sergio Moro