SUCCESS AND FAILURE IN FEDERATION: COMPARATIVE PERSPECTIVES

INTRODUCTION

Those of us who have spent most of our academic lives in one way or another working in the area of federal studies, whether it be on the Canadian, German or Swiss federations, intergovernmental relations and state constitutions in the United States, the federal evolution of the European Union (EU), or the federal practices evident in Spain, South Africa, Russia and Latin America, have little difficulty in appreciating the contemporary significance of the federal idea. Since the collapse of the Berlin Wall in November 1989 – an event that enabled us to rediscover Europe - we have witnessed a discernible trend toward federation in various parts of the world as this idea has increasingly been put into practice. The list of countries that have either embraced federation or have introduced or strengthened existing federal elements since then includes the following: Belgium and Russia (1993), the EU with the Treaty on European Union (1993), Bosnia-Herzegovina and Ethiopia (1995), Nigeria (1999), Iraq (2004) and Cyprus still contemplating the fifth Annan Plan.

The global picture appears increasingly to be one in which the international community in the shape of the EU and the United Nations (UN) is turning to the federal prescription in order to regulate the management of difference and diversity in those states where both old and new cultural conflicts have degenerated into violence. We may even be witnessing new methods of federal state formation and reformation and new federal models, with important theoretical implications, if we pause to reflect upon the constitutional consequences of international intervention in Bosnia, Iraq, Cyprus and eventually perhaps in Sri Lanka, Eritrea and Darfur in the Sudan. And if we construe this contemporary trend in the world of states as contributing to an evolving pattern or mosaic of federal responses, it is also obvious that the comparative approach to the study of federation has acquired a renewed significance.

The leading international scholar in this field of research enquiry is Ronald Watts whose first major work on comparative federalism, *New Federations: Experiments in the Commonwealth*, originated in his doctoral thesis at Oxford and was published over forty years ago in 1966. (Watts 1966) Since then he has effectively pushed back the intellectual
boundaries of this subject and opened a door through which many others have followed in eager pursuit of conceptual refinement and comparative insights into a peculiar kind of state formation in which it is often claimed over 40% of the world’s population live. Equally interesting in this regard is the important influence of his tutor at Oxford, Sir Kenneth Cecil Wheare, who supervised his doctoral research as a Rhodes Scholar during the early 1960s. Wheare’s early intellectual influence on the evolution of his thinking about the six new Commonwealth federations of India, Malaysia (formerly Malaya), Pakistan, the West Indies, Rhodesia and Nyasaland and Nigeria left several traces that have endured. In particular it had a great impact upon his approach to comparative federal studies in general, stimulated his continuing interest in matters of conceptual analysis, and, not least, underlined the clarity of thought and expression that continues to characterise his work. Today Ron Watts is fond of paraphrasing Professor J. A. Corry in reported speech: ‘A neat and tidy mind is a crippling disability when studying federalism’, but his own substantial contribution to comparative federal studies has ably demonstrated that this not undesirable disability can be successfully overcome.

These introductory remarks about the intellectual links between Wheare and Watts have a particular relevance here today because I want to use them as important reference points to help guide me in exploring an aspect of comparative federalism that, to my knowledge, has been almost completely neglected. This revolves around the use and continuing utility of the terms ‘success’ and ‘failure’ when applied to federal states. Wheare and Watts have both used them, implicitly and explicitly, in their own works and my own modest paper concerning the twin notions of success and failure in federation has been prepared in order to commemorate and celebrate the impressive lifelong contribution to federal studies of Ronald Watts in this memorable Festschrift.

There is a small established but growing literature on the pathology of federations – of why they fail – and Ron Watts has himself contributed to it, but very little has been written about the relationship between success and failure in comparative federal studies. (Watts 1977, Hicks 1978, Watts 1999) We commonly use these two terms in our intellectual discourse about federation in unthinking fashion, but a moment’s pause for reflection will confirm that these are actually blanket terms that are over-simplified descriptive labels frequently concealing more than they reveal. Success and failure are polar opposites: if you do not succeed, you are deemed to have failed. They are usually presented as either success or failure. I want to suggest that the assessment of federations in this peremptory way is over-simplified and therefore superficial. Consequently the principal purpose of the paper is to explore the meaning of the terms ‘success’ and ‘failure’ as applied to the comparative study of federal states. In short, I want to explore the perception and reality of these two terms in the different contexts of federation.
Success and failure are words that rarely coexist and yet in reality they do just that. Success in practice is always shadowed by failure, or the fear of failure. We succeed in some things and fail in others. Put simply, success and failure are not absolute but relative terms and they should be used carefully when trying to assess the performance of federal states in seeking to achieve their respective goals. Of course in the literature on the pathology of federations it is customary to declare the collapse of a federation, such as the short-lived West Indies (1958-62) and that of Rhodesia and Nyasaland (1953-63), in just such absolute terms as failures. After all, what else could their peaceful disintegration be? As two experiments in federation, both ceased to exist in short succession and remain forever immortalised as federal state failures. But is the question of success and failure in federation as simple and straightforward as these two cases suggest? Should the verdict of failure be restricted to just two eventualities: the secession of a constituent part or parts of a federation and/or its complete breakdown? (1) And correspondingly should success be judged primarily on mere endurance? The fact of longevity of federations need not automatically imply that they are condemned to succeed.

In a detailed survey of the pathology of federations published in 1968 and entitled Why Federations Fail, Thomas Franck edited the best short collection of essays that addressed precisely these questions. (Franck 1968) Looking at the East African Federation (comprising the four constituent units of Kenya, Uganda, Tanganyika and Zanzibar), the Federation of Rhodesia and Nyasaland (comprising the three regions of Southern Rhodesia, Northern Rhodesia and Nyasaland), the West Indies (comprising ten islands or groups of islands including Jamaica, Trinidad and Tobago, Barbados, and the Windward and Leeward Islands) and Malaysia (composed of thirteen constituent units after the secession of Singapore in 1965), part of the purpose of this post-mortem was ‘to explore the possibilities for comparability and inductive generalization’ in the hope of ‘gaining knowledge necessary to prevent other failures’. Given that these four experiments in ‘creative federalism’ derived from ‘the same imperial connection’, it can be assumed that this team of American scholars construed the federal idea in this particular context of the end of empire as a normative ‘middle way’ between what was called ‘the two polar perils of imperium and anarchy’. (Franck 1968, ix and xv)

Franck confronted the question of failure directly and in so doing revealed ‘shades of grey’ rather than the absolutes of black and white. ‘When … we use the term “failure”, he argued, ‘we are merely invoking a historical fact: the discontinuation of a constitutional
association between certain units of the union, or the end of the negotiations designed to produce such a constitutional arrangement’. (Franck 1968, 170-71) But there is much more complexity wrapped up in this statement than the mere invocation of an historical fact. Franck’s definition of failure was actually double barreled so that if we add to this first definition of ‘failure’ the following observation taken from the same essay, we will more readily appreciate its duality:

‘If “failure” is generally the non-achievement of certain goals, in this study, failure is specifically a non-achievement of the necessary conditions for survival of a federation as initially conceived’. (Franck 1968, 169 italics the author’s)

The first part of Franck’s definition of failure identifies an either/or scenario: either the disintegration of an existing federation that has ceased to exist or the end of negotiations designed to create such a federation. The former refers to the complete collapse of an extant federal state while the latter alludes to the demise of Rikerian-style bargaining and negotiations among political elites in the process of federal state formation. However, in the second part of his definition of failure the complexity is much more apparent. This also had a dual purpose. First, he not only wanted to explain the reasons why his four federations had failed – in the sense that they either collapsed or were never created – but he also wanted to discover if there were common factors that had brought about their demise. Secondly, he was interested to find out if the negative factors that had wrought failure could, in turn, ‘offer some clues as to the necessary pre-conditions of success’. (Franck 1968, 171)

The search for common factors in the failure of federation was of course one fundamental precondition of serious comparative analysis, but Franck was also alert to the danger of what Sartori once called ‘comparative fallacies’. (Sartori 1970) Assembling factors even with a high degree of correlation in all four federations would still invite prescriptive caution and would not necessarily lead to a list of so-called ‘pre-requisites’ that might enable political scientists to predict either failure or success. Indeed, Franck argued that ‘the sharing of such things as culture, language and standard of living, while helpful to the cause of federalism, is not an ultimate guarantee against failure’. (Franck 1968, 171) And these factors, we are reminded, were also among those that Wheare had already identified as being ‘unexpectedly absent’ from the list of ‘essential prerequisites of the desire for (federal) union’. (Wheare 1963) Evidently the presence of common cultural, linguistic, religious and national characteristics was neither a guarantee against failure in federation but nor was it an essential prerequisite of the desire for federation.

Before we leave Franck’s insightful comparative survey of failure in federation, it is also
worth addressing some other related aspects of his thoughts on the utility of the term ‘failure’. Clearly the terminological significance of failure was, for him, more than a mere ‘semantic hazard’; it obviously had anticipated value in terms of learning ‘the lessons failed federations teach’. But it also suggested that such failed federations ‘frequently accomplish some very important objectives during their brief lifetime – objectives which could arguably be said to be more important than the continuation of federation itself’. (Franck 1968, 169) This remains an intriguing claim. In the case of the East African project that was stillborn, Franck observed that it was actually successful in reaching at least some of the economic, social and cultural objectives it was originally designed to pursue, while in the Central African Federation ‘certain important goals were achieved’, especially in ‘the awakening and mobilization of African national self-awareness’. (Franck 1968, 169) In the case of Malaysia, the early departure of Singapore from the federation in August 1965 did not bring about its complete collapse. Indeed, it led to the immediate constitutional readjustment and adaptation of the remaining constituent units in the federal state, a process that indicated how far they still desired federation for its own sake. Today the Federation of Malaysia is the only one of Franck’s four case studies that has endured intact since the rupture of its early years. Together the 11 constituent units of Peninsular Malaysia and the two states – Sabah and Sarawak – of North Borneo across the South China Sea comprise the 13-unit multiethnic, multicultural and multinational federation that most commentators would probably describe as a success. Consequently Franck concluded that ‘the “failure” or “success” of a federal scheme is not only relative but that failure in one sense may be – and even be attributable in part to – success in another, equally important sense, and vice versa’. (Franck 1968, 170)

Is it possible, then, to construe federations in this way? Can we suggest that it is in the very nature of federation – as a particular kind of state – for it to succeed and fail simultaneously? Or is it going too far to suggest that all federations, just like all governments, are in some sense foredoomed to failure? I think that scholars of comparative federalism and federation need to reflect upon the criteria that are used to determine success and failure from the standpoint of historical and comparative perspectives. The next section of the paper therefore attempts to conceptualise success and failure to encourage us to think about federations in a different way and perhaps also to obtain a better understanding of what they are for.
CONCEPTUALISING SUCCESS AND FAILURE

One way of approaching the conceptual complexities inherent in our subject is to consider some questions related to success and failure in federation as relative terms. Clearly we would need to know how to measure success and failure in relation to the declared goals and purposes of each federal state, that is, what each federation was created for. This, then, must be our first yardstick and it is why I have already suggested that we should use historical and comparative perspectives. And in looking at the historical processes of federal state and nation building, we will have to search beyond the standard criteria of territorial and military security, constitutional and political stability and the provision of welfare construed in its broadest sense. All states, whether federal or non-federal, are assessed in some sense for success and failure in these basic respects. Our task is different: it is to contextualise these elemental factors in terms of federal state formation and reformation.

I do not think that it is possible to establish hard and fast scientific criteria of measurement for terms like success and failure, but it is possible to seek a relative validity so that we can arrive at an assessment based upon a combination of subjective and objective factors. We can therefore establish a small but wide-ranging set of criteria to help determine success and failure by reference to the following four interrelated dimensions broadly conceived:

- Success and failure in relation to what primary goals?
- Success and failure from whose point of view?
- Success and failure in terms of federal values, interests and identities?
- Success and failure in terms of adaptability, adjustment and innovation?

**PRIMARY GOALS**

Here we are seeking to establish the basic elemental *raison d’être* of each federation. We are not asking how each one was created but rather what each was created for. Leaving aside the conventional analyses of motives for union that focus, like William Riker’s notion of the ‘federal bargain’, at a high level of generality upon military threats and security and basic commercial advantages, it is possible to identify and distil the many driving-forces making for federal union in each case to a handful of primary purposes.
For example, it is perfectly justifiable to conclude that one of the primary goals of the Canadian federation at its inception in 1867 was the bifocal commitment to two equal, distinct English-speaking and French-speaking communities, the former an expanding majority and the latter a large minority whose socio-economic and cultural-ideological development during the last 140 years has gravitated territorially to produce a Quebec that constitutes simultaneously a province, a distinct society and a nation while sustaining an important majoritarian provincial outlook from a minoritarian federal perspective. Few can doubt that this particular primary purpose of Canada as a federation has been successful, as has the extension of ‘peace, order and good government’ from sea to sea.

Similar investigations could be made about federal state formation in other case studies in order to establish the first criterion as a basis for assessment. Clearly context is crucial here and each case study will bear the hallmarks of an historical specificity with unique constitutional circumstances. In Nigeria, for example, the overriding priority – the primary goal - since formal constitutional independence in 1960 has been to keep the federation together while establishing strong liberal democratic institutions and processes in an essentially fragmented political culture. Nigerians have had to come to terms with the British imperial legacy that bequeathed them an extremely difficult federal inheritance with an emergent economy and society that have furnished the bases for deep-rooted, frequently violent, ‘ethno-national’ conflict and, more recently, increasing religious discord. The question of success and failure must therefore be set in the context of a ‘dizzying political odyssey’ that has meant six separate federal constitutions in four decades of independent statehood, ‘witnessed the rise and replacement of eleven different national administrations, and straddled the political poles between democratic pluralism and military authoritarianism, between pseudo-federalism and institutionally balanced federalism, between Westminster style parliamentary government and American-type presidentialism, and between inter-ethnic reconciliation and fierce, often violent, ethnic conflicts’. (Suberu and Diamond 2002, 400)

The complexities of the Russian Federation can also be filtered to reveal, as in Nigeria, an underlying primary goal of keeping the federation together combined with the need to cultivate a liberal democratic political culture. The historical context, however, is completely different. The Russian Federation that came into existence during 1991-93 emerged in the most difficult and unpromising of circumstances that certainly did not bode well for future liberal democratic stability. A combination of the burden of the enduring Soviet legacy of federalism in theory and practice, the tumultuous disintegration of the Soviet Union itself and the simultaneous resurgence of Russia during 1991-93 together with the implications of the Soviet collapse both for the nature of the succeeding Russian state and for its federal political system has meant that the relationship between
success and failure in federation is finely balanced between strengthening the central federal authority while simultaneously respecting the constitutional, legal and political standards required of a still emergent liberal democracy, currently dubbed a ‘managed democracy’.

This highly complicated scenario has served to place enormous demands on the political leadership in Russia with President Putin cast in the invidious role of the villain – for some critics – trying desperately to hold the federation together by increasingly undemocratic and coercive means, however temporary they might be. Richard Sakwa has argued that Putin’s overriding aim was to ‘make the federal system more structured, impartial, coherent and efficient’ and that he was caught between the opposing models of reconstitution and re-concentration. The former is a law-based federal model while the latter is a ‘more authoritarian attempt to impose authority over recalcitrant social actors in which it is the regime that is consolidated rather than the constitutional state’. (Sakwa 2004, 235-37) In this sense ‘success’ means strengthening political authority at home and restoring Russian pride and prestige abroad; ‘failure’ would not be an over-centralised federation but it would be to suffer the same fate as the Soviet Union.

These two examples demonstrate that it is possible for us to condense the number and complexity of the motives for federal state formation to just a few decisive criteria that could constitute a basis for the assessment of failure and success in relative terms. There is of course plenty of scope for disagreement about the nature of additional bargains to the primary goals, but we have nonetheless a firm footing upon which to build a developmental model of success and failure. In some cases the very survival of the federation as an end in itself might be construed as a success. Wheare warned that we should not blithely assume that ‘the reasons which originally led the regions to make a federal and not a unitary union have by now entirely ceased to operate’. (Wheare 1963, 241) Federations evolve but the underlying purposes for which they were originally formed do not necessarily fade from view; they are often kept alive as sources of legitimacy even if history becomes legend or myth.

**SUBJECTIVE VIEWPOINTS**

If we are to construe success and failure as essentially relative terms when assessing federations, it is obvious that we must engage with the partiality of standpoints. These come from several quarters, both territorial and non-territorial, and occur in many shapes and sizes. There are many aspects to take into account here and the subjective perspectives are potentially endless. Survey data is one particular form of indicator by which to measure the individual citizen’s views or distinct group or community attitudes
from both territorial and non-territorial angles. However, the methodological limitations of this quantitative approach are well documented and the result can only ever be impressionistic, indicating broad trends of opinion that encapsulate likely predispositions to action rather than action itself. Certainly the relationship between perceptions and action is not simply causal. Citizens’ perceptions therefore must never be confused with their actual political behaviour. Nonetheless, perception informs behaviour even if it remains unclear precisely how this relationship works in practice.

The recognition of subjective viewpoints in federations has been longstanding in the mainstream literature. Wheare acknowledged it when he referred to the compatibility of systems of public finance with the federal principle: ‘that question is one which citizens of federal governments have got to answer’. But his lament that they had ‘not dealt with it so far in more than piecemeal fashion’ is not a criticism that could be laid at Canada’s door. (Wheare 1963, 119) The proposition that citizens’ views of the successes and failures of federation can be ascertained by various forms of public consultation was famously addressed in Canada by the creation in November 1990 of the ‘Citizens’ Forum on Canada’s Future’, a task force that (while not a conventional royal commission) set out in eight months to ‘collect and focus citizens’ ideas for their vision of the country, and to improve the climate of dialogue by lowering the level of distrust’. (Citizens’ Forum 1991, 16) The end product of this unprecedented national conversation in which some 400,000 Canadians and over 300,000 elementary and secondary students’ views were canvassed was the eponymous Spicer Report, named after its Chairman, Keith Spicer. (Citizens’ Forum 1991, 17-22)

It is important to note that the Spicer Report was meant to be a ‘probing consultation and dialogue’ and not a national poll. (Citizens’ Forum 1991, 22) And despite its many shortcomings it did engage with those citizens throughout the country who wanted to express their views about national unity in Canada. For our purposes here, the report’s section subtitled ‘Improving Federalism’ identified the following areas of citizen concern: overlapping government services that led to the duplication of public service activities and spending; the remoteness of governments from the people they served; a functional reconfiguration of the division of powers between federal and provincial levels that would lead to more efficiency in public spending; a need in some cases for policy-making to be more centralised and its implementation in terms of programme delivery to be closer to the people; and an overall concern for equity and national standards while ensuring flexibility to meet local conditions. The report led the task force to conclude that a serious and credible effort should be made immediately to address ‘duplication and inefficiency’ and its recommendations included urging the federal government to work with provincial governments to ‘eliminate, wherever possible, overlapping jurisdictions
and programs, and to identify government efficiency as a major goal’, bearing in mind that effectiveness could be increased by placing programs as close as was practical to the people. Finally it warned that the onus was on the federal government, when ‘revising structures and processes necessary to achieve efficiency’, to ‘ensure that fundamental social values and essential national institutions be protected’. (Citizens’ Forum 1991, 133-34)

It is important to note that in their determination to be accessible to all parts of Canada, the report conceded that the participation of ‘francophone Quebeckers was lower than (they) had hoped, and lower than was representative of their proportion of the Canadian population’. Nor did they hear from as many aboriginal peoples as they would have liked, conceding that many of them reacted to the process ‘with suspicion’. (Citizens’ Forum 1991, 24-25) With regard to Quebec, this disappointment was explained by reference to a similar public participatory process that was already being conducted in the province during 1990-91 in the wake of the failed Meech Lake Accord. The Commission on the ‘Political and Constitutional Future of Quebec’, established in September 1990 by Quebec’s National Assembly and its subsequent report in March 1991, known as the Belanger-Campeau Report, rendered the Citizens’ Forum largely redundant in Quebec. In contrast to the Spicer Report, the principal focus of the Belanger-Campeau Report was its recommendation to the Quebec National Assembly of the adoption of legislation to establish the process by which Quebec would determine its own constitutional and political future. The choice was between a referendum on Quebec sovereignty and the offer of a new partnership with the federal government, thus reaffirming the predominantly bifocal perspectives of Quebec and the Rest of Canada (ROC). (Belanger-Campeau Report 1991, 79-84)

This brief cameo of a particular episode in recent Canadian constitutional history serves to underline the feasibility of gaining access to citizens’ and community group perspectives of success and failure in federation, but the context in which it occurred was unique. It emerged from extraordinary circumstances, what the Spicer Report called ‘creative chaos’, and it has no necessary implications for the variety of public consultation mechanisms that are routinely available to access public attitudes and opinions in federations. (Citizens’ Forum 1991, 30) Both Switzerland and the United States, for example, furnish ample evidence of regular political contact and communication between citizens and their federal and constituent cantonal/state governments via the use of a variety of electoral techniques and different measures of accountability. The real test of this kind of participatory democracy, however, is how far the results of such institutionalised public deliberations and national conversations have any real practical public policy impact. And where, as in contemporary Germany, there is
conspicuous evidence to suggest that public opinion across the federation has gradually come to favour more uniformity in some policy areas, such as in education standards, this does not necessarily imply that the federal form of government itself has been rejected. But if that was the only conclusion to be drawn, it may be that, as Wheare put it, ‘if the opinion of a majority of the people is a sufficient guide in a community, then it is likely that that community does not need federal government; that it will be most satisfactorily served by a unitary government’. (Wheare 1963, 236)

In Quebec of course there are good reasons to question many of the conclusions of the Spicer Report. Our short episodic survey of subjective viewpoints about the Canadian federation must not be allowed to overlook an important qualification to the evident success of the original ‘bifocal commitment’ mentioned above. There remains a strong perception among francophone Quebecois of an insidious cultural threat from the endless stream of Anglophone policy preferences that continue to flow from Ottawa and produce much disquiet and anxiety in Quebec. Sensitive policy areas like education, language and fiscal and social policies are intimately interconnected and impinge directly upon culture and identity, and the recent experience of the Social Union Framework Agreement (SUFA) has served to reinforce public misgivings in that province. As Wheare noted over four decades ago when reviewing the prospects of federal government, each constituent unit in the federation must be allowed ‘to govern itself and regulate its life in its own way’. (Wheare 1963, 244) This assertion brings us conveniently to the third of our four criteria, namely, success and failure concerning the values, beliefs and interests inherent in federation – what I call the federalism in federation.

VALUES, INTERESTS AND IDENTITIES

We have established that the longevity of federations should not be the sole criterion of their success or failure. It is important to look closer at how far each has managed to fulfil the goals and expectations of federal state formation, in Franck’s words, ‘as initially conceived’. (Franck 1968, 169) We can interpret this to refer to the intentions of the political elites who founded the federation and here we must tread very carefully because we immediately encounter problems of historical interpretation. As Wheare noted, ‘there is little help to be found in referring to the intentions of the founders’ because historical arguments can be adduced for many vested interests. (Wheare 1963, 219) However, as we have already noted above, we must make a distinction between the standard criteria associated with all historical state-building processes and those that relate specifically to federal states.

The presumption here is that a federation is a particular kind of state, one that at its core
is forged by the simultaneous desire for both union and autonomy so that its institutional structure and design deliberately combine unity in diversity. There are of course different kinds of unity and different kinds of diversity, but one implication of these circumstances for the organisation of the state’s political institutions and decision-making processes is that special respect and recognition has been paid to the values, interests and identities of each politically salient diversity whether it is principally cultural-ideological or predominantly socio-economic or, as is more likely, a complex blend of both broad characteristics. Federations, to paraphrase Preston King, are ‘still governed by purpose, and this reflects values and commitments’. (King 1982, 146)

Logically this line of reasoning leads us directly to engage the notion of federal values, interests and identities by which I mean those values, interests and identities that serve to preserve and promote federation qua federation. After all, it is these federal values, interests and identities that breathed life into the federation and continue to shape and determine how the federation works – or how it should work. Hence in seeking to establish what was the principal purpose in the conception of federation at its constitutional formation - what it was created for – we are compelled to investigate the values, interests and identities of those political actors who were responsible for federation in the first place. Put crudely, we could reformulate this in the question ‘who benefits from federation?’ But this really amounts to the same thing. (Burgess 1993)

Whose values are represented? What interests are at stake? What distinct identities should be preserved and promoted? Clearly once a new federal state is created such questions are historically contingent and the corresponding answers will reflect the relative significance of these values, interests and politically salient identities, but the issue of benefits and beneficiaries also applies to new federal bargains and commitments made long after the original formation of a federation. Consequently it is possible to assess the successes and failures of federal states from the standpoint of values, interests and identities that can serve as a kind of benchmark of what I shall call their federality, that is, how federal a federation has become or has remained.

This third of our four criteria of success and failure, then, boils down to how far federal evolution has been true to its original goals and purposes, as Franck observed. From the methodological point of view, each federation has critical systemic characteristics – a peculiar constitution and institutional architecture - that are unique precisely because they betray the hallmarks of their origins and formation, but in reality this historical specificity always exists alongside structural features that also have a discernible commonality among other federal states sufficient to facilitate comparative analysis. Among the federal values that characterise the concept of federation are the following: human dignity and equality; mutual respect; recognition; voluntary consent; tolerance; and reciprocity. These
federal values, in turn, generate an assortment of federal principles that are common in a variety of ways to most federations, namely, equality of status, comity, proportionality, self-rule and shared rule, subsidiarity, asymmetry and guaranteed individual and collective representation. Together these principles find their way into the constitutional and political structures of federations and, indeed, are integral to their design, the distribution of powers in them and their operational capacity. In short, they are distilled as the distinctive hallmark of federation, namely, union and autonomy.

If we look again at the three multinational federations of Canada, Nigeria and Russia referred to above we can examine their federality by investigating how far their federal values, interests and identities are incorporated and practised in each federation. Wheare did this by distinguishing between the form of the constitution and the practice of federal government. (Wheare 1963, 18-19) His conclusion concerning Canada was that it did not have a federal constitution but it did have a federal government. Consequently the Canadian Constitution was ‘quasi-federal in law’, but it was ‘predominantly federal in practice’. (Wheare 1963, 20) In contrast, in Nigeria the reverse would appear to be the case. The incorporation of what is called the ‘federal character principle’ in Section 14 of the Constitution of May 1999 is designed to promote national unity, loyalty and integration and a ‘sense of belonging’ among the ‘peoples of the Federation’. (Constitution of the Federal Republic of Nigeria 1999, Section 14(3&4) In a multinational federation that has had military government intermittently for 28 years together with six separate federal constitutions since independence in 1960, the overriding priority has been the future territorial integrity of the country so that, like Malaysia, its high degree of social heterogeneity has placed a premium on national unity. This attempt to forge a national federal unity from the ‘plurinational’ state is supposed to be accomplished by provisions for the accommodation of the country’s territorial, ethnic and sectional diversity in the composition and conduct of public institutions throughout the federation. However, as Rotimi Suberu has ably demonstrated, although these provisions have ‘remained the basic institutional requirements for the practice of federal character in Nigeria’ and ‘the idea of federal character is widely accepted’, its implementation has been less than successful. (Suberu 2001, 114 and 140)

In the Russian Federation the historical legacy of centralisation bequeathed by the Soviet Union in conjunction with the apocalyptic circumstances surrounding the resurgence of Russia during 1990-1993 have combined to produce an unprecedented context for the formation of a federation, but the absence of a liberal democratic culture together with an understandable concern for the territorial integrity and security of the state have meant that the complexity of federal, confederal and treaty-based relationships forged from the chaos of those convulsive years has effectively rendered federal-state relations highly
unstable. Moreover, the so-called ‘parade of sovereignties’ that led to ‘contract federalism’ and the confederal ‘war of laws and sovereignties’ during the Yeltsin era pushed the concept of asymmetrical federalism to its *reductio ad absurdum* and initially created the impression that federation implied a weak central power in permanent conflict and competition with its constituent units. The subsequent shift in 1999 from the Yeltsin to the Putin era coincided with a determination to rein in the wayward constituent republics and consolidate the Russian Federation as a single economic and legal space, raising suspicions of a new ‘liberal authoritarianism’. (Sakwa 2004, 235-37)

The brief case study of the Russian Federation demonstrates that, like Nigeria, the existence of a federal constitution that enshrines many of the principles and trappings of an authentic liberal democratic federal state continues to struggle to live up to them in practice. Federal values, interests and identities have spawned federal principles, but they seem proverbially to be caught between a rock and a hard place. Historical legacies of centralisation and authoritarianism in Russia and Nigeria seem to have locked federalism and liberal democracy in a tangled relationship of endless tension and torment. How, then, should we judge Canada, Nigeria and Russia in terms of the practice of federal values, interests and identities – in short, of their *federality*? The basis of an answer must lie in how far we are sensitised to the historical legacies, contexts and specificities of each federal state in order to understand what federation was for. If success and failure are relative terms when assessing federations, they cannot mean the same things in each case study. In certain cases, as in the Russian Federation, compromising *federality* might be deemed by some to be a small price to pay for territorial integrity, political stability and economic welfare. Or it might be deemed a price worth paying for controlling the distribution of economic resources in Nigeria. In Canada where public policy issues directly related to the structure of the national political economy are also highly divisive, it is nonetheless more likely to revolve around Canada-Quebec relations.

In these circumstances we are driven to conclude that the protection, preservation and promotion of federal values, interests and identities are likely to be subordinated to the practical priorities of federal governments. But this verdict is not novel in comparative federal studies. Wheare remarked about precisely this problem when he looked at the impact of fiscal federalism on the federal principle in Australia and Canada in his own classic work:

> The whole distribution of powers in the constitution is made subordinate to the taxing power of the federal government. This does not eliminate the federal principle
entirely from the constitution, but it does eliminate it so far as this aspect of public finance is concerned, and it does tend to eliminate it in the practical working of the governments. (Wheare 1963, 108)

In Wheare’s terms the federal principle was rooted in constitutional law. There was a constitutional commitment to sustain federal values and principles but he acknowledged in his review of federalism’s prospects that it would be an uphill struggle, involving some ‘modification of the federal principle to some degree, though it need not mean a complete denial of federalism’. (Wheare 1963, 243) Alas, he doubted whether the federal system in Australia could survive the two wars of 1914 and 1939 and the economic crisis of the 1930s because their combined impact had already gone ‘far towards converting Australia’s federal constitution and federal government into a quasi-federal constitution and a quasi-federal government’. (Wheare 1963, 239) The answer to the question ‘how federal is the federation?’, then, would appear to be that values, interests and identities that are enshrined in federal constitutions have an important symbolic role to play and can act as a moral imperative related to the legitimacy of both the state and government in practice. But, as Wheare lamented, the constitutional security of the constituent units in law ‘may be unreal to some degree in practice’. (Wheare 1963, 243)

**ADAPTABILITY, ADJUSTMENT AND INNOVATION**

The fourth and final of our interrelated dimensions through which we can explore success and failure in federations is one that applies to every state, whether federal or non-federal, and it is one that can be aptly summarised as ‘flexibility’. This refers in general to the capacity of the state to be able to adapt and adjust to contemporary change and to be able to innovate in order to endure. In the case of federations the challenge of evolution is one that requires flexibility – adaptability, adjustment and innovation – precisely because it is a federal state.

Both Wheare and Watts have paid considerable attention to the importance of change and development in the evolution of federations and they have confirmed the distinction between formal and informal change. Wheare identified formal constitutional amendment and judicial interpretation as legal factors making for flexibility while usage and custom or convention together with various forms of intergovernmental cooperation and the delegation of powers by either federal or constituent unit governments were a mixture of legal and non-legal processes of adaptation and adjustment. He concluded that ‘for some purposes’ federal governments had been highly successful in adapting to change while in
others, such as in times of economic crisis, ‘the degree of adaptability (had) not been so
great’. (Wheare 1963, 235) But his reference to ‘the degree of adaptability’ characteristic
of federal governments remains instructive: ‘the student must beware of applying
standards which are customary in judging a unitary government’. This was because
unitary states had unified central governments that faced far fewer obstacles than federal
governments to acting quickly. Federal governments were reputedly ‘too rigid, too
conservative, too difficult to alter’ and ‘behind the times’. (Wheare 1963, 236 & 209)
Nonetheless, Wheare implied that it was not only federal governments that should be the
focus of adaptation in federations. Rather it should also apply to the federation as a whole
and, indeed, to its very raison d’etre:

if federal government is really appropriate to a country, it
is most likely that government by a majority of the people
is not usually enough. Majorities of regions as well as
majorities of people may need to be consulted. The degree
of adaptability which a federal government should possess
will depend, therefore, on a variety of factors in situations
that are at times complex and dangerous. (Wheare 1963, 236)

Wheare was an Australian by birth and he brought to comparative federal government
his own personal experience of that federation, while Watts (though not born in Canada)
has always located his personal experience as an academic living and working in Canada
in the context of comparative federal studies. This has undoubtedly coloured his view of
the overall flexibility of federations via their adaptability, adjustment and innovation in
practice.

In addition to the factors making for flexibility in federations identified by Wheare, he
referred to extensive areas of concurrent jurisdiction in federal constitutions, processes of
“opting-in” and “opting-out” by a government of certain legislative powers and the
practice of formal intergovernmental agreements (federal-provincial and inter-provincial)
in federations. But we can also detect the indelible Canadian influences in his emphasis
upon asymmetrical federalism, multi-tiered government (related to Aboriginal self-
government) and in his own preference for ‘incremental non-constitutional adaptation …
supplemented where necessary by specific constitutional adjustments rather than by
efforts at comprehensive constitution transformation’. In other words repeated attempts at
‘mega-constitutional politics’ were redundant. (Watts 1999, 59-60, 118-19 & 123)
What about innovation? How do federations innovate in order to meet the challenge of contemporary change? All states are exposed to constant pressures to innovate but in federations this commitment is tempered by the need to introduce new policy ideas and programs that respect the primary goals – the particular values, interests and identities – which constitute the raison d’etre of each federation. In practice this means that the largely (but not solely) territorially based diversities in federations – the differences of socio-economic interest, cultural-ideological values and distinct identities – which are constitutionally structured in the state as constituent units must be guaranteed the opportunities to determine themselves in those public affairs that impinge directly on their sub-national integrity. In the United States this capacity to innovate from below, springing from the constituent states of the union, received official legal, albeit dissenting, recognition as long ago as 1932 in the famous words of Justice Louis Brandeis who referred metaphorically to the “states-as-laboratories”:

To stay experimentation in things social and economic is a grave responsibility. Denial of the right to experiment may be fraught with serious consequences to the Nation. It is one of the happy incidents of the federal system that a single courageous State may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country. (New State Ice Co. 1932, 285m U.S. 262, 311)

In the mainstream literature on federations and federal political systems it is now widely acknowledged that pressures to innovate in federal states derive from many internal and external stimuli but the notion that constituent units can be an influential source of incremental change in federations and may sometimes even act as catalysts for significant national modernization remains a relatively under-researched area of comparative federal studies. (2)

Examples of such public policy innovation abound if we look carefully for them. In Canada progressive welfare provision in the province of Saskatchewan, governed by the Cooperative Commonwealth Federation (CCF) during the period 1944-64, served as a “laboratory of experimentation” that paved the way for nationwide welfare state provision in the Canada Assistance Plan introduced in 1966 and the Medicare system in 1971 by successive Liberal federal governments. Quebec’s pervasive influence in the broad area of progressive social policy must also be included in this company.
Additionally, California’s pioneering initiatives in the field of environmental public policy, Hawaii’s health care system together with the progressive social policies of Wisconsin in the United States and the role of Saxony-Anhalt with its own “Magdeburg Model” in Germany are all examples of constituent units as political laboratories of experimentation.

The main conclusion to draw from our brief focus on the question of flexibility - construed here as adaptation, adjustment and innovation – in federations is that success and failure must be judged on how far the capacity to change and develop is fostered and facilitated by the federality of the federation. Different methods of adaptation operate in different federations because they are ultimately culture-specific, but all of them are consistent with their own respective constitutional structures, and each of them provides the institutional and policy spaces for sub-national self-determination to coexist with national (federal) policy preferences.

CONCLUSION: SUCCESS AND FAILURE AS DESTINY

Success and failure in federation is a difficult and complex subject that permits of no simple, sweeping generalisations. We have shown that federations succeed in some things and fail in others. The key to their success must always be how far they can achieve the sort of standard objectives common to all states while maintaining the hallmark of federation, namely, union and autonomy or, in Wheare’s terms, the integrity of the federal principle. Equally a federation can be deemed to have failed if the pursuit of good government has been achieved at the expense of the differences and diversities that were its raison d’être. It is in this sense that success and failure must be contextualised. And the implications of this task are far-reaching. They include an unremitting commitment to fundamental federal values, liberal democratic constitutionalism and the whole panoply of federal institutions together with a prudent recognition of legitimate demands for change and development emanating from the diversity within the federal polity.

One paradox that lies at the heart of federation exists in the very essence of its creation: the coexistence of self-rule and shared rule means that conflict, competition and cooperation are institutionalised in a peculiar way that perpetuates problems of great complexity. This raises the larger question about how far federal states, in seeking to accommodate difference and diversity, actually perpetuate and exacerbate old problems while perhaps even creating new ones. But since all federations are founded upon shared
and divided government they *necessarily* institutionalise particular antagonisms, acute rivalries and mutual distrust in the very fabric of the state. Complex problems are therefore inherent in federation. But this predicament need not equate to a tower of Babel – a house divided unto itself that cannot stand – for these differences and diversities are both vices and virtues. Indeed, they are its very *raison d’être* – the price of federation itself.

Wheare noted this paradox when he acknowledged the following conundrum:

> The essentials of federal government suggest difficulties and problems of great complexity at any rate to the citizen of a unitary state, unaccustomed to thinking of governmental problems along such lines. Federal government not only produces peculiar institutions; it produces also peculiar problems in the working of these institutions. … these peculiar federal problems … are … problems arising from federalism. (41) p. 91

The implications of this paradox for success and failure in federation are clear and can be conveyed plainly: federations are states that are deliberately founded upon divergent socio-economic and diverse cultural-ideological bases. It is therefore their destiny simultaneously to succeed and to fail. But any judgement about the future of federations based upon their perceived success or failure must be couched in terms of the shortcomings of the alternatives to federation and the emerging varieties of the federal form.

**ENDNOTES**

1. In his essay entitled ‘Survival or Disintegration’ (Watts 1977, 42), Watts appears to have made this broad assumption when he observed that many apparently stable federal systems had experienced ‘the secession of some regions or total disintegration’ which was ‘outright failure’.

2. An exception to this general paucity of research is Alan Tarr’s *Center for State Constitutional Studies* at Rutgers University in New Jersey where he is working on comparative subnational constitutions in federations.
REFERENCES


