Introduction

Germany, like most European states, has a well-established parliamentary system with the typical array of rights and liberties associated with all recognized, functioning democracies. It is also clear to anyone who travels to Germany that the country is a federation. Even the most unobservant foreigner knows that Bavaria is somehow separate and distinct from other regions of Germany, and he or she may even be aware of the existence of the fifteen other states (*Länder*) that constitute the country. A beginning student of Germany soon learns something about the names and locations of sixteen capital cities other than the national capital, Berlin, including the anomaly of two capitals that are across the Rhine River from each other (Mainz and Wiesbaden). Later the student may learn that, unlike Washington, DC, Berlin is not the home of a number of very important federal institutions, such as the Federal Constitutional Court and other federal courts, the Federal Employment Office in Nuremberg, the Federal Statistics Office in Wiesbaden, and some ministries left in Bonn after the general move to Berlin at the turn of this century. The student also learns that in this respect Germany is very different from the typically more centralized, unitary European states such as Great Britain, France, or Sweden.

Making comparisons among democratic states

When comparisons are made between and among democratic political systems, one of the first steps is to distinguish between presidential, semi-presidential, and parliamentary institutions. The United States is the model for most of the few functioning presidential systems, which are characterized by the direct and separate election of the president – who is

both head of state and head of government – and the legislature. The American model is also characterized by a strong system of separation of powers between the executive, judicial, and legislative branches, the latter of which is further divided into two independent and co-equal legislative chambers. The French semi-presidential model provides for a directly elected president as head of state, who then appoints the prime minister as head of government. This head of government is responsible both to the president, who can dismiss him or her virtually at will when he has majority support in parliament, and to the popularly elected parliament, which can remove him or her in a vote of no-confidence under certain conditions. This provides a certain control of the otherwise rather weak legislature over the premier as head of government but not over the president as head of state. As suggested above, the president has more power over the premier when he has majority support in the parliament, but his options are rather limited if he is faced with a parliamentary majority in opposition. The president is not limited to ceremonial duties as head of state; indeed, there can be considerable overlap between the duties of head of state and head of government, especially in defense policy, foreign affairs, and other “high politics” areas. The degree of overlap depends to a considerable extent on the support or opposition the president has in parliament and whether the president can appoint a premier of his choice or is forced to “cohabit” with a premier who comes from the opposition. The semi-presidential system became popular in Eastern Europe after the collapse of communism, for example, in Russia, where the president has become even more dominating than in France.

Most democracies are parliamentary systems, of which there are many different models. The British “Westminster” model is characterized by a single-party government that is led by a strong prime minister as head of government who is supported by a disciplined party that has majority control of parliament. The role of the opposition party or parties is to offer alternatives, criticize the government, and draw public attention to the perceived flaws in the government’s policies. Given the nature of the “Westminster” model, however, there is little or nothing the other parties can do to change or delay government policy. The continental European models are more consensus-oriented, because with very few exceptions the governments (cabinets) are composed of coalitions of two or more parties (which is largely the result of the electoral system), with the head of government (prime minister, chancellor) usually drawn from the ranks of the largest party. Though the degree of party discipline varies to some

extent among different parties and countries, the parties are typically rather strongly disciplined. The reason, of course, is that the stability of the cabinet depends largely on the disciplined support it receives in the parliament, which has the right to call for a vote of no-confidence in the government under certain conditions. In all democracies, including parliamentary systems, there is a separation of powers between the judicial branch and the other branches; however, in contrast to the presidential systems, and especially to the American model, there is no clear separation of powers between the executive and legislative branches, because the executive emerges out of the legislature, i.e., the prime minister and all or most of the cabinet ministers are also members of parliament, the majority of which has the responsibility of supporting the cabinet. The separation of powers that does exist between the executive and the legislature is between the government and its majority on the one hand and the opposition party or parties on the other.

Democratic federal states

In addition to the institutional comparisons above, comparisons are made based on distinctions in territorial organization – that is, unitary, federal, and confederal organization of territory for governing and administrative purposes. Most states, including democracies, are unitary, while there are twenty-three federations, most but not all of which are also democracies. There are no states organized as confederations today, but Ronald Watts suggests that the European Union (EU), Commonwealth of Independent States (CIS), Benelux, and the Caribbean Community are examples of contemporary confederations. The twenty-three federations contain about 2 billion people or 40 percent of the world population.¹ India alone has almost a billion people, and most of the other billion come from the United States, Russia, Brazil, Mexico, Nigeria, and Germany. Many of these federations also cover very large territories, for example, Australia, Canada, Brazil, Russia and the United States. There are five federations in Europe: Germany, Switzerland, Austria, Spain and Belgium.

Some of the twenty-three mostly democratic federations have parliamentary systems, others have some form of presidential system. The differences between the federal parliamentary and federal presidential systems have consequences for the nature of the political system. For example, as noted above the separation of powers between the executive

and legislative branches is weaker in parliamentary systems, and the direct popular election of a president as opposed to the selection or confirmation of a prime minister by a parliament can affect not only the party system but also the relationships between the head of government at the national level with the heads of governments of the individual regional territorial units such as states or provinces.

The size of the overall state is one factor which may lead to federation. The large states listed above, for example, Canada and the United States, would be difficult to govern from a central government in a unitary system. Another factor that may lead to federalism is racial, ethnic, religious, language, and cultural differences among the people who may live in distinct parts of the federation that encompasses them, for example, India and Russia, or even Canada with its French-speaking minority in Quebec province, where it is the majority. Federation is a practical alternative to fragmentation into small independent states if there is sufficient recognition among these people of the common economic, security, or other advantages of union that they might enjoy while also retaining some degree of autonomy. A third reason for federation is history. It is difficult to imagine the federations in Germany or Switzerland without considering the impact of the Holy Roman Empire, and, in Germany, the German Confederation after 1815, the Bismarck Reich after 1871, the Weimar Republic from 1919 to 1933, and the Third Reich from 1933 to 1945. Some would argue that the role of the Allies in the postwar years was an even more important factor in the re-emergence of federalism in Germany after 1949.² It is also difficult to imagine federalism in the United States without the experience of the colonial era, the Revolutionary War, and the Articles of Confederation. A fourth reason is the promise of more grassroots democracy and popular participation in public affairs offered by a federal system. Switzerland is a good example of this, but so is Germany since 1945. If one looks at the number of elected public offices in Germany, for example, in comparison with France or Great Britain, there is a very significant difference. Thus, there are almost 2,000 deputies elected to the parliaments of the German *Länder* who have no counterparts in France, Great Britain, or in the other unitary political systems of Europe. A fifth and more abstract reason that has been important in American political theory and to some extent in Germany is the division of power that federalism promotes. In other words, American theory suggests that a tyrannical state can be prevented or countered not only by the institutional separation of powers mentioned above but also by the division of government into different territorial spheres of influence and

activity.³ This was one of the reasons why the Americans, in particular, pushed for the federal organization of Germany after 1945. The division of power is related also to popular participation in that political parties may not be so successful at the national level but may have a strong regional base which may reduce potential centrifugal pressures from frustrated supporters. An example for Germany would be the Greens in the 1980s and the PDS (Party of Democratic Socialism) and some right-wing parties in the 1990s. That these considerations may be completely irrelevant for another federation is one indication of the variety of federations.

While perhaps not consciously proposed reasons for forming a federation, there may be some positive consequences of a federal system that can be important at times. For example, the regional governments in a federation may engage in certain policy or administrative experiments that are of interest to other regions and to the national government. This “laboratory function” is especially important in federations in which the regional units enjoy a high degree of autonomy. Sometimes federalism is also seen as a means of relieving the central government of responsibility for certain problems that are region-specific. Regional elections might also be seen as providing voters with the opportunity to demonstrate support or opposition to national policies.

The basic notion behind a federal system is that there is a combination of shared rule for some purposes and regional self-rule for other purposes within a single political system so that neither is subordinate to the other. But federations differ, not only in the ways mentioned above, but also in the character and significance of the underlying economic and social diversities; in the number of constituent units and the degree of symmetry or asymmetry in their size, resources and constitutional status; in the scope of the allocation of legislative, executive, and expenditure responsibilities; in the allocation of taxing power and resources; in the character of federal government institutions and the degree of regional input to federal policy making; in procedures for resolving conflicts and facilitating collaboration between interdependent governments; and in procedures for formal and informal adaptation and change.⁴

The variety of federal structures, procedures, and conditions is reflected in the large number of adjectives used to describe different federal systems. We speak, for example, of dual federalism, cooperative federalism, picket-fence federalism, coercive federalism, fiscal federalism, “fend-for-yourself” federalism, and many other “kinds” of federalism in the United States. Germans also speak of dual federalism, cooperative federalism, administrative federalism, executive federalism, participatory federalism,

and, more recently, competitive federalism. One author found as many as 500 such terms in the scholarly and popular literature in 1984,⁵ and many more have been added since then.

If the twenty-three federal states that Ronald Watts has identified differ in a variety of both minor and important ways, what kind of federal state is Germany? Is it more like the former British colonial states of the United States, Canada, and Australia, each of which has a history and a territorial expanse very different from Germany's? More like the multi-ethnic and religiously fragmented India or Russia? More like Switzerland, which contains ethnic divisions quite different from India's or Russia's? Or is federalism in the relatively homogeneous German state *sui generis*? A systematic comparison of German federalism with other federal states is not the purpose of this book, but the many unique features of this system will become apparent to any reader with some knowledge of or background in comparative politics and institutions of government. The purpose of this book is to present in some depth the major features of German federalism, including its origins and development, especially since the founding of the Federal Republic of Germany in 1949. We will be taking a close look at the German model of federalism which has been the subject of much admiration as well as criticism, depending on one's understanding of federalism and the expectations one has from that understanding.

Notes

- 1 Ronald Watts, *Comparing Federal Systems in the 1990s* (Kingston: Queen's University Institute of Intergovernmental Relations, 1996), pp. 4, 10–11.
- 2 Roland Sturm, "Das Selbstverständnis des deutschen Föderalismus im Wandel," in *Krise und Reform des Föderalismus*, edited by Reinhard C. Meier-Walser and Gerhard Hirscher (München: Olzog Verlag, 1999), p. 111.
- 3 Arthur B. Gunlicks, "Can Comparative Federalism Really Be Comparative?," in *The American Federal System*, edited by Franz Gress *et al.* (Frankfurt and New York: Peter Lang, 1994), pp. 217–226.
- 4 Watts, *Comparing Federal Systems*, pp. 1–2.
- 5 Ellis Katz, "Cooperative – Dual – Competitive Federalism: The Pros and Cons of Model Building," in Gress *et al.*, *The American Federal System*, p. 91.