Book Review


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Francesco Palermo and Karl Kösslers’ latest textbook approaches the subject of federalism from the perspective of comparative constitutional law. It focuses on how federal systems work in reality, and tries to offer an explanation as to why highly topical policy fields are treated differently in the selected states, that are considered to be – at least in a functional sense – federations. The authors take a global approach and consequently put emphasis on the more established federations such as the United States, Switzerland and Germany, but also include other federal organized states in their analysis, such as Canada, Australia, India, Belgium, Austria, Spain, Italy and Nigeria.

This latest academic publication is by no coincidence targeted to fill an undeniable gap in the literature: while federalism is a well-discussed subject in the field of political theory and comparative politics, the authors instead give special attention to the legal frameworks within federal states. Not surprisingly, this handbook may potentially be indispensable for both scholars and practitioners working in the field of contemporary federalism.

The book is divided into three main parts. The first part examines from the outset the foundations of federalism, namely its concepts and manifestations, its historical evolution over centuries, eventually completing this part by providing observations concerning some of federalism’s most essential debates. Due to the complexity of federalism, this first part helps readers get a better grasp of the topic and provides a mainstay to go deeper into the topic in the following parts. Furthermore, it is clearly pointed out that contemporary societal developments as well as historical and cultural backgrounds of new and long-existing federal states have paramount importance in an increasingly globalised and entangled world. Thus, these characteristics have great influence on how federations deal with the various policy challenges it must face.

The second part focuses on “self-rule and shared-rule”, taking predominantly into account the dynamic relationship between the federal government and the subnational entities in the respective states. The authors therefore try to evaluate how and to what extent powers are distributed and exercised among different levels of government. The focus is put on analysing the so-called “toolbox of federalism” from a procedural and institutional perspective as a first step. Hence, emphasis is put on the scope of autonomy of the subnational units, the possibilities of the latter to participate either formally or informally in decision-making processes at the national level, their financial relations, as well as appropriate tools to prevent and resolve occurring conflicts. Albeit not fitting in the dualistic approach of federalism, it is noteworthy that the authors also pay attention to the gradually increasing role of local governments and choose to dedicate a chapter to it within the second main part of the book (pp. 281-315). This is a convincing approach, as local governments are often responsible for some important public affairs such as the delivery of basic services to the local population. However, the authors recognise that focusing merely on institutional settings (e.g. second chambers) and the division of powers entrenched in the
states’ constitutions is not sufficient. This assumption might be the central message of the handbook. Consequently, emphasis is put also on different forms of cooperation that often even go beyond political and administrative borders, including entirely different “players” in the decision-making process like interest groups, experts, citizens or non-governmental organisations. Fortunately, the exceptional role of the apex courts in designing and shaping the functioning of federal systems is not neglected, quite the opposite. This is highlighted by the fact that the authors incorporate throughout the book, where necessary, explanations of how constitutional jurisprudence influences policymakers in practice. Palermo and Kössler even argue that courts are influencing “the practical functioning of federal systems if not more at least not less than political actors” (p. 1).

The practical approach to the topic of federalism is not only provided by referring to case law, but also represents the main approach used in the last section of this handbook. It studies some crucial policy fields, namely fundamental rights, social welfare and healthcare, environmental protection, immigrant and migrant integration and foreign relations in order to show how the federal states under study (United States, Switzerland, Canada, Germany and Spain) cope with these highly complex responsibilities. As the division of powers between the federal government and the subnational entities deviates significantly from case to case, there seems to be no “magic formula” for dealing with the same topic in different federal systems. It is pointed out, however, that “the political success of the federal idea and even more so of the federal toolkit is due to its ability to tackle the challenges posed by factors such as ethno-cultural diversity and the management of large territories, of complex policy areas, or multilevel democracy” and thus “allows for tailor-made solutions, for experimentation, for wider participation [and] for enhancing democracy by dividing and sharing powers” (p. 448). Therefore, “outside-law”-developments pertaining history, society and culture are at least significant factors, which cannot be disregarded in this context.

There is little doubt that this latest contribution to the functioning of federalism is a valuable addition for both scholars and practitioners, especially lawyers who are faced with challenges regarding this subject. The authors achieved to explain the functioning of federal systems in an easy manner by correlating the abovementioned main influential factors. This could be observed as one of the main achievements of this handbook.