

Africa's contributions to comparative federalism: Levels of analysis, geopolitics, and ideas

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This essay reverses the normal direction of scholarly exchange in federalism studies between the West and the rest of the world. At this moment of significant changes in global politics, I argue that under three categories of explanatory factors, Africa could offer nuance and refinement to the global study of federalism, and by extension, help provide more workable applied blueprints. Firstly, case studies from the continent expose potential explanations above, beyond, and across national borders, and thus help bring attention to the importance of the levels of analysis in federalism studies. Secondly, African case studies also highlight how undertheorized geopolitical dynamics directly impact on the success and failure of federalism. Under the third category, I cover the ebb and flow of different ideas on federalism, and how these have had applied consequences on policy reform and constitutional design. Instead of treating explanatory factors from these three categories as *post hoc* contextual ones, I propose that the levels of analysis, geopolitics, and ideas should be part of the theoretical framing and investigation from the outset. This approach necessitates moving beyond constitutional formalism and including all (con)federal instances where subnational autonomy and national union coexist.

Key words: federalism; geopolitics; Africa; levels of analysis.

Introduction

In July of 2024, a new African confederation came into being when the heads of state of Burkina Faso, Mali, and Niger signed the treaty establishing the Confederation of the Sahel.¹ The continent had witnessed yet another cross-border confederal initiative earlier in the year, this time establishing formal ties between a federation, which was itself undergoing large-scale internal redesign at the time,

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and the breakaway region of another federation. The 2020 decision by one of Ethiopia's constituent states, Tigray, to hold regional elections without the approval of Addis Ababa had sparked an internal conflict between Tigray and the federal government, which rapidly escalated into a civil war. Ethiopia's neighbor, Eritrea, joined the federal troops in their battle against Tigrayan forces. After African Union-mediated negotiations in Pretoria, South Africa, a peace agreement between Tigray and Addis Ababa was signed in 2022. This paralleled the creation of four new regional states in the country's south.² But it was Ethiopia's external links to another federation's breakaway region that brought in more political attention.

The January 2024 Memorandum of Understanding signed by Ethiopia and Somalia's breakaway Somaliland region was a bold move with geopolitical consequences for the entire Horn. Not only is Somaliland internationally unrecognized, but the Ethiopian federation happens to include a regional state for Ethiopia's own ethnic Somalis that borders Somalia proper to the east.³ The Somali federation itself has been marked by conflict since the collapse of the Soviet satellite socialist state at the end of the Cold War. During this time, the international community had prescribed successive federal blueprints to reunify the country split into various regional entities. To the west of Ethiopia lies yet another federation, itself a product of secession from another multiethnic, multilingual, multifaith country with a diverse geography as well as rich oilfields spread throughout. South Sudan, similar to Somalia, has been subject to various federal blueprints collated and prescribed by the international community since the country separated from Sudan proper. In both countries, the federal government is at its strongest in the capitals Juba and Mogadishu and the surrounding areas. Elsewhere, however, its ability to project power and presence is nonexistent or patchy.

Most of these developments would be unfamiliar to many scholars of federalism. At first blush, there may appear to be little of interest to those who do not study the African continent. Yet, this quick overview also illustrates how analyzing Africa can make three types of contributions to the global study of federalism. One is how much causal factors above, beyond, and across national borders matter. Secondly, the workings of federalism are often impossible to decipher without factoring in changing geopolitical dynamics. And lastly, studying Africa illustrates how the ebbs and flows of different ideas on conflict-resolution, peace-building, and constitutional design have direct consequences on the fate of post-conflict federalism.

Of the three, it is the levels of analysis that carry most of the explanatory weight. Without attention to the levels of analysis (i.e., subnational, national, regional, and international), these empirical patterns opening the essay would not have been spotted. That is, a focus confined to the national level only would have missed important parts of the picture. Successive ideas driving federal initiatives for Somalia and South Sudan came from abroad; the formal institutional blueprints

prescribed by the international community often could not extend beyond the capital cities due to the various material limitations in security, infrastructure, personnel and resources; cross-border ethnic dynamics between Ethiopia and Somalia have direct bearing on the ethnic politics of federalism in both countries; changing global dynamics are bringing in new international players to the continent while the influence of former colonial rulers have been steadily eroding; and the changing geopolitics of the Sahel has now made confederalism a popular reference point. All have causal dynamics with origins beyond and across national borders. Neither political parties nor party systems, neither electoral systems nor the timing of elections, neither national and regional opinion polls nor voting patterns at the upper or lower houses, neither the number of constituent units nor the type of intergovernmental relations between them, neither the jurisdictional division of powers nor the decisions of a high federal court seem to have much relevance to the recent federal dynamics on the continent. Instead of seeing international, regional, or cross-border explanations as part of the unique context of a select case study, in this essay, I call for a more inclusive approach to federalism that rests on a more systematic, comprehensive, and disciplined incorporation of explanatory factors beyond the federal state in question, across borders, and at the international level. The explicit incorporation of the levels of analysis into federalism studies would not only help improve the reliability and validity of our theories; there are real policy consequences—especially in post-conflict settings—that would accrue from a more even-handed approach to comparative federalism. Amid unpredictable global changes, one does not need unwarranted certainties but the tools to navigate uncertainty. The more inclusive approach to federalism depends on letting go of the safety of theories resting on comparisons of only a handful fairly similar federal case studies from the West.

Stepping out of our comfort zone in federalism studies

The large-scale changes to the international order include both material and ideational factors. During these times of volatility in global politics, not only are interstate geopolitical dynamics in flux but the established ideas defining the post-Cold War consensus around liberal democratic principles modelled on the West are also coming under criticism.⁴ Since constitutional and policy-reform blueprints rest on prevailing scholarly perspectives, there are real-life consequences to missing, misreading, or misinterpreting things. And when applied federalism initiatives fall short of their promises and disappoint the inhabitants—especially in deeply divided societies or in post-conflict settings—this might end up inadvertently discrediting federalism itself.⁵ In order to avoid this, we might have to step out of our existing comfort zone of studying federalism with tools derived from the Western experience. Granted, in recent decades, the study of federalism has indeed shed its

earlier narrow outlook when it was only studied in the context of single countries, and too often by those who like federalism a little too much. We have certainly become more comparative and even-handed. But the recent insights and the new perspectives still mostly come from comparisons across the West.⁶ Amid global uncertainty, there is both an opportunity—and given how much federal-type solutions matter to the divided societies of the developing world—also the responsibility to continue trying to turn comparative federalism into a truly global field of study with both scholarly and applied relevance.⁷ This essay seeks to do so with lessons and insights from the African continent. It is rare that the non-Western world is said to have taught the West something. However, this should not be interpreted as a mutually exclusive portrayal of two competing worlds of federalism scholarship. There should be one common field of study where knowledge, ideas, and findings come together in the service of a global but more learned, nuanced, and even-handed canon.⁸ And Africa's experiences with federalism indeed provide multifaceted contributions to enrich our field.

To use the language of social science methodology, federalism studies' earlier concerns with *internal validity*, a focus on getting the unique contextual details of the select case-study right, have now been accompanied by a quest for more *external validity*, trying to spot and expose potentially generalizable causal patterns that apply across several case studies. Past scholars of federalism were once experts immersed in the complexity of their own federations; the newer generation shows more interest in comparative dynamics. While all this has indeed taken the study of the law and politics of federalism in a more global direction, relying on a small pool of case studies from the West has resulted in the overplay of some causal factors, while others that might matter have been relegated to the background as contextual specificities unique to individual case studies. The question then is how much of federalism's purported success reported in the literature is because of federalism itself, or because of other factors common to Western liberal democracies that might need some revisiting.⁹ Addressing this requires undoing some of the asymmetry in the scholarly literature.¹⁰ It is not about what the common conceptual and theoretical benchmarks characterizing federalism studies reveal about Africa; it is about what Africa can contribute to the law and politics of federalism—both in terms of the scholarly literature as well as applied relevance. The common theoretical anchor that makes federalism a distinct field of study is the constitutional coexistence of subnational autonomy and national union. What is not designated as “federation” might still have “federalism” in it.¹¹ One of the doyens of federalism studies and long-time editor of the journal *Publius: The Journal of Federalism*, John Kincaid, puts it in the following terms: “Federalism means divided power, even if minimal. . . There is no ideal way to distribute powers; different federations do it differently for different reasons” (Kincaid 2023: 45). What is common to all Western and non-Western cases of federalism is the

coexistence of autonomy and union, and indeed, the different power dynamics defining that very relationship. As long as our conceptual demarcations are more inclusive and defined by function rather than form, we can incorporate various experiences from non-Western world. Our potential pool of case studies from Africa, thus, might include countries that are not officially labelled federations but where federal dynamics of autonomy and union coexist.

Studying all instances where subnational autonomy and national union coexist is not the only scholarly approach that can improve the reliability and validity of the theories of comparative federalism. The opposite view associates scholarly progress with conceptual precision. In a recent piece in *Publius: The Journal of Federalism*, Alan Fenna and Johanna Schnabel argue that federalism scholarship needs not broad inclusiveness but stricter parameters instead, since “such conceptual clarity is required for analytical rigor” (Fenna and Schnabel 2024: 194). The Fenna and Schnabel approach is to seek precision in key concepts such as autonomy and co-determination in comparative federalism, and by extension, excluding case studies which fail to qualify. At the level of abstract reasoning and reflection, there are obvious scholarly returns to conceptual precision. The stricter approach potentially allows for the accumulation of findings from various studies from around the world conducted along common scholarly parameters. It thus enables a more focused theoretical debate in federalism studies. The problem is that many of the African case studies mentioned here would not qualify along the more formal constitutional indicators of autonomy and co-determination, including those whose federal blueprints were built on the West. Once we relax the strict adherence to constitutional formalism and instead include all case studies where subnational autonomy and national union coexist, we will not only enrich comparative federalism with new substantive, theoretical, and methodological insights, but we will also be bound to see improvements in the applied side.

Levels of analysis, geopolitics, and ideas

Africa's potential contribution to the study of federalism can be seen most clearly in three distinct categories, but it is the attention to the levels of analysis that promises the most returns. The subnational, national, regional, and international levels of analysis define what we see and examine, and what is obscured and left out.¹² The main scholarly subdisciplines traditionally comprising the study of the law and politics of federalism (i.e., Comparative Politics, Political Theory/Philosophy, Public Administration, and Constitutional Law) are all defined by their focus on a select country or by the use of explanatory variables across countries. Federalism is virtually always approached through the national level first, sometimes accompanied by the study of select subnational units within this national context. It is especially where autonomist, separatist, or secessionist

tendencies define subnational politics that we see closely integrated subnational and national levels of analysis. This is when we study Canada's Québécois, Britain's Scots, Spain's Catalans, Switzerland's Jurassiens, and their counterparts elsewhere. And when the case studies are from within the European Union, we see the joint use of the subnational, national, and supranational under the label "Multilevel Governance." The regional/international level of analysis in this literature typically focuses on the supranational level of European Union institutions, policies, and jurisdiction, but it has been used in contexts without the presence of a supranational level above the national.¹³

Evaluating federalism in Africa, both in terms of its promises and its pitfalls, requires attention to the regional and international levels. At the regional level, material factors such as borders separating ethnic groups, the territorial distribution of societal diversity, and the regional distribution of natural resources and economic activity, all play a profound role in shaping federalism. Yet the international order defining power relations also shapes federalism via external pressures, security threats, and global economic integration. There are also non-material factors at the international level that influence the choice of institutional design. These include ideational factors, such as development strategies, constitutional blueprints, and the popularity of various reform models and policy fads. No African case study would be complete without an acknowledgement that not all answers can be found from within. A study of the causes of both federal failures and successes on the continent would be incomplete without the incorporation of explanatory factors above and across states, in addition to those from the national level. International and regional factors can perhaps be safely excluded if one were studying—say—select sections of recent German federal reforms, the ups and downs of Swiss cantonal politics, the culture wars within the US and its reflection in different constituent states, party coalitions at the national level in Spain and the consequences on subnational autonomy, or the politics of federal judicial review in Canada. Leaving out factors from the regional and international levels does not make us miss the plot in these cases. Yet in Africa, that is a real risk if we delimit ourselves to national borders.

First, the types of constitutional autonomy and union that descend from the colonial era cannot be fully understood without integrating the role of imperial constitutionalism. Be it the short lifespan of the British Central African Federation or the resilience of the Nigerian federation, the legal and political traditions of the imperial center have left an indelible mark on both extinct and surviving examples of federalism on the continent.¹⁴ The formal constitutional status of the territory, the prerogatives imperial officials enjoyed, the voice of settler communities, the powers of the precolonial polities, and the recognition of their laws and customs, all were inseparable from what was happening in the metropolitan capitals. Protectorates, Dominions, lands of Royal Chartered Companies, League of Nations

Mandate and United National Trust territories, all came with different degrees of autonomy from imperial supervision and rule (Erk 2023b). Especially during the ten years sparked by Ghana's trailblazing independence 1957, constitutional repertoires of the former colonial powers still influenced what was happening at the national and subnational levels.¹⁵ Uganda, Kenya, Zambia, Nigeria, Ghana, all first adopted constitutions built on the British legal tradition, formally recognizing the various precolonial polities at the subnational level comprising the new states and their collective group rights.¹⁶

Similarly, in newly independent francophone Africa, French legal and political traditions remained in place, linking the new countries together in the confederal unions of the *Afrique Occidentale Française* (AOF) and the *Afrique Équatoriale Française* (AÉF).¹⁷ Victor T. Le Vine observes that even after independence, francophone Africa retained “an intra-territorial elite culture” (Le Vine 1997: 184). What also remained—especially in French West Africa—were confederal ideas about a union among the newly independent African states and France itself (Svensson 2021: 373). But there was also ambiguity and uncertainty concerning where things were headed. According to Frederick Cooper's study of this period: “Most political activists knew the old colonial order was gone, but they did not know what would replace it. Various forms of federation and confederation were on the table” (Cooper 2014: 467). One of the ideas at the time was to turn the old AOF, which itself had become part of the post-World War II confederal *Union Française*, into a federal union with Senegal, French Sudan (present-day Mali), Dahomey (present-day Benin), and Upper Volta (present-day Burkina Faso) (Kurz 1970). In the midst of France's tense transition from the Fourth to the Fifth Republic, and indeed, right in the middle of the continent-wide move toward independence, in 1958, Dahomey and Upper Volta left this pan-African initiative aiming to construct a federal union without French ties in 1958 (Martin 2000: 55–70). Studies by Sakiko Nakao and Modou Ndoye show how the French—with their local allies, the Ivory Coast—played the key role in bringing about the exit of the two (Nakao 2023: 239–41 and Ndoye 2020). The remaining members, Senegal and French Sudan, did attain independence as the new Mali Federation in 1960, but this was a very short-lived constitutional experiment which fell apart just a few months afterwards without much political drama (Wurzer 2020: 68). William Foltz' in-depth investigation published a few years afterwards exposes how much external factors trumped over internal ones, both in the formation and the quiet demise of the federation (1965: 65–66). As George Manue, perhaps a little derisively, observed at the time, the collapse of the new independent African federation “hardly affected the majority of French people on vacation” (“*L'événement n'a guère frappé la masse des Français en vacances*” 1960: 359).

Another federal experiment straddling the last days of colonialism and the early days of independence was the Central African Federation of North Rhodesia

(present-day Zambia), South Rhodesia (present-day Zimbabwe), and Nyasaland (present-day Malawi). While granting concessions to local demands for more home-rule, the paternalistic top-down nature of the union was out of step with the mood of the times (King 2008). The changing global dynamics included material factors, such as the rapid drop in Britain's ability to project military, political, and economic power globally. But the changes also included ideational developments. Such as the decline in the pull of more traditional ideas on constitutionalism (emphasizing separation-of-powers, checks-and-balances, and gradualism) and the growth in the popularity of new ideas promising speedy development through modernist centralism. An updated version of the British colonial practice of limited and multiple franchise, which distinguished between groups of residents and their collective interests, garnered little support amid popular aspirations for independence. Nor was the constitutional acknowledgement of traditional polities at the subnational level something that sat well with the majoritarian impulses of the liberation movements. In the end, the combination of the material and ideational changes prevented the realization of Britain's rearguard federal designs for Africa. The Central African Federation of Rhodesia and Nyasaland was supposed to grow to incorporate the British High Commission territories of Bechuanaland (present-day Botswana), Swaziland (present-day eSwatini), and Basutoland (present-day Lesotho), the United Nations Trust/League of Nations Mandate territory of South-West Africa (present-day Namibia), and the four provinces of the Union of South Africa (Chanock 1977). But British coffers were empty, and South Africans were getting more assertive.¹⁸ By 1963, that federal experiment was over.

The failure of the Central African Federation to survive the transition to independence also derailed British plans for an East African Federation between Uganda, Kenya, and Tanganyika (the mainland part of present-day Tanzania). The idea of a British East African Federation had been around for a while, but there did not seem to be much local support for it. The East Africa Commission, chaired by Colonial Secretary William G. Ormsby-Gore, had carried out consultations with various communities in 1925. That earlier phase did not proceed beyond the commission's report, simply because, in his words: "We found little, if any, support in East Africa for the idea of immediate federation, and in some quarters we found definite hostility" (Ormsby-Gore 1925: 7). At that point no further action was taken, but the idea of an East African Federation continued to circulate within the official circles in London and was brought to the table once again in the late 1950s to coincide with decolonization process (Erk 2024).

Despite ongoing negotiations and an established groundwork for the eventual federal union, Britain's geopolitical power and its ability to influence the terms of the constitutional debates were ebbing, and Cold War dynamics were now flowing into the continent (Hughes 1963). Neither were newly independent countries that

had injected variations of federalism into their constitutions immune to the changes at the international level. Kenya's first constitution with federal characteristics adopted in 1963 coincided with the dissolution of the Central African Federation, right at the time when the winds had turned against federal ideas.¹⁹ Majoritarian politics led to the withering of federalism, and in a few years' time, the country became a unitary state (Maxon 2015: 19).

Similar dynamics were in place in Ghana, Zambia, and Uganda, which had all started independence with constitutions containing federal or semi-federal characteristics, and with asymmetrical degrees of subnational autonomy granted to some of the traditional polities (Erk 2022). The federal hopes of those who feared electoral, ideological, and ethnic majoritarianism were unmet. Liberation movements all sought the path of speedy development through modernist centralism.²⁰ Arnold Rivkin's paired comparison, written and published in the midst of the changes toward centralization, shows how in both Ghana and Kenya, federalism was discredited in national debates (Rivkin 1969: 86–7). In another study from that period, Donald Rothchild captures how quickly federal ideas disappeared from post-independence Africa's political and constitutional repertoire: "Whereas many Europeans continued to regard political federation as a practical and realizable goal in the not-too-distant future, Africans came more and more to question the system's capacity to create lasting unity and to solve the basic challenges of development" (Rothchild 1968: 275). As Heinz Klug puts it:

[T]he first postcolonial constitutions were largely negotiated instruments in which the nationalist parties were centrally concerned with their ability to exercise power as representatives of a new nation and thus they accepted many specific constitutional formulations largely designed by the retreating colonial authorities. Even if these constitutions sought, in a variety of creative ways to address what their designers thought were the underlying problems facing the newly independent states—such as ethnic diversity and legal pluralism—their shortened lives reflect the fact they are not embraced—neither by those who were to govern through the institutions and structures they created, nor by the governed, who often rejoiced at their demise, rather than defending them as reflecting their own social and political aspirations. (Klug 2020: 152).

Post-independence leaders perceived federalism to be a barrier in the face of the aspirations Klug describes. Some of the centralist dynamics were due to majoritarian populist politics bypassing the constitutional separation of powers; some of it was the modernist desire to reach economic development through the speediest path (which, at the time was an idea associated with centralization); some of it was the way federalism had been used by colonial authorities in the past to divide the population and was thus discredited as a Western ploy to keep Africa underdeveloped; some of it was the elites sharing the spoils of governing from the

center; some of it was the charismatic authoritarianism of the former liberation heroes; and some if it was a reaction to the civil wars sparked by secessionism in the federations of the Congo and Nigeria. The combined effect brought an end to post-independence federalism experiments. The quick adoption and evaporation of constitutional varieties of federalism turned the first years of independence into Africa's decade of defunct federations and failed constitutions: "The ten years between the early 1950s and the early 1960s is thus the decade of a graveyard for federal experiments" (Erk 2018: 363).

The Cold War had arrived in Africa, but in a way that differed from the Northern Hemisphere. The bipolar international order and the specter of mutual assured nuclear destruction prevented an all-out war between the United States-led NATO and the Soviet-led Warsaw Pact in the north. In Africa, however, nuclear deterrence had little impact on restraining war by proxies. South Africa was playing an outsized role in the anti-communist coalition. In addition to fighting wars and supporting various insurgencies within unfriendly regimes, the country also supported friendly regimes and covertly interfered when allies faced domestic opposition. Cuba was playing a similar role within the pro-Soviet axis. During wars and insurgencies, federalism went dormant.

When it reappeared in the US-led unipolar post-Cold War, it had become part of the constitutional reform blueprints modelled along the West. Federalism and decentralization were part of the economic, social, legal, and political reforms supported by various international bodies. And it was the federations of the West from which various federal clauses and practices were adopted.²¹ The times were marked by optimism.²² Best practices from the various federations of the West were being assembled into mix-and-match federal designs intended to deliver the best policy performances.²³ Elsewhere, I had described this period when high hopes were put in various federalism and decentralization reform projects as one of "inflated promises of instant solutions" (Erk 2016: 415). It was not only the socialist approaches to economics, law, and governance that had evaporated overnight. Another by-product of the post-Cold War consensus around liberal democratic principles modelled on the West was a lack of interest in anything that was based on other systems of law and governance, especially the mostly uncodified systems of traditional customary law and indigenous forms of constitutionalism. While those outsiders promoting constitutional and policy reforms no doubt had good intentions, the long-term consequences have been largely disappointing. In his contribution to an edited volume on the non-Western world in comparative constitutional law, Jedidiah Kronke puts it in the following terms: "The rapid proliferation of constitutions over the twentieth century, and almost all modelled until recently on a few dominant paradigms from the Northern, was inflected by a presumptively unidirectional flow of expertise that has often led to some of the worst mismatches in intent and outcome" (Kroncke 2020: 113).

The inclusion of case studies from Africa, and the accompanying insights and lessons, will surely enrich scholarship. A truly global field of study is one that is learned, nuanced, even-handed, and not afraid of the unfamiliar. And such scholarly progress also comes with applied consequences: a more accurate diagnosis of the workings of federalism would set the stage for more workable policy recommendations based on an awareness of dynamics that exist in the non-Western world. Theoretical and methodological silos insulating various islands of federalism subfields not only encourage self-referential scholasticism, but due to the close relationship between the scholarly and the applied, it is also likely to result in prescribing unworkable blueprints to deeply divided societies, to those emerging from civil wars, or to those who are looking for constitutional solutions where autonomy and union could coexist. Related to all this is the need to go back and revisit the various instances of federal failures. Unless we learn from the past and finetune and nuance our assumptions accordingly, federalism's promise as a balance between subnational autonomy and national union itself might end up being discredited.

The scholarly side: methodological challenges

While all academic research requires careful attention to data quality, African case studies present unique challenges regarding representativeness and accuracy of evidence. There is an ever-present possibility that some of the formal indicators used for datasets might be unrepresentative or unreliable (Erk 2015a). Surveys and polls in authoritarian-inclined places could miss things; extensive field research in conflict zones or in places where safety concerns exist could encourage extrapolation of averages from other safer and stable regions; interviewees could express opinions that they think would please authorities; elites could be painting partial pictures in order to serve political interests; or the language proficiency of the foreign researchers and their local collaborators might not be sufficient to decode the subtle messages of speakers of marginalized languages. What is more, the categories in datasets designed beforehand might not capture some of the facts on the ground. One should therefore already have a good grasp of the political, legal, and social dynamics so that it can be spotted when this happens. Such knowledge could help determine when it might be necessary to step away from the existing categories in datasets and immerse oneself in the local context in order to incorporate previously unexplored explanatory factors into the analysis. Navigating uncharted waters requires accepting uncertainty and inexactitude. As I had put it in a study on decentralization reforms in Africa: "Decoding the workings of decentralization requires surefooted knowledge of the local context, lengthy field-research, trusted and trustworthy informants, often partial research results,

nuanced conclusions and cumulative but gradual growth of comprehensive and comparative knowledge.” (Erk 2015b: 412).

A healthy skepticism toward formal indicators is warranted on multiple grounds, including not only questions of data reliability but also the inadequacy of written measures to capture uncodified governance systems, given the prevalence of traditional systems of law and governance across all corners of the continent (Erk 2019). While the degree of official recognition of such indigenous systems differs across and within countries, what is common is that at least some part of traditional law and governance in Africa is unwritten. In sum, not everything that is written matters, and not everything that matters is written. And this might be one of the federalism themes where the West and the rest are indeed a bit different. Most uncodified systems of customary law in the West have not survived into modernity. Throughout Africa, on the other hand, they remain part and parcel of daily life. Since traditional polities at the subnational level constitute an important component of the law and politics of federalism on the continent, how to study the unwritten, unofficial, and uncodified is a methodological challenge.

Another aspect of African federalism that does not exist in the West is the presence of nomadic/pastoralist communities whose existence is marked by seasonal crossing of territorial demarcations—subnational and national. Nowhere in the West do we see such transhumance, but especially in and around the Sahel, various local practices of autonomy and union among pastoralist ethnic groups contain ways to address this challenge. The concept of federalism has deeper roots in the continent preceding colonialism, but its indigenous variations were not labeled as such for long (Jordan 2009). For this reason, federalism studies would benefit from more awareness of the teachings of subdisciplines like legal anthropology, where these themes are a part of the scholarly canon but under different conceptual labels. Incorporating their findings into the law and politics of federalism might then give us the scholarly tools to study, say, the grazing rights of herders who regularly cross sub-regional boundaries or the recognition and application of variations of traditional customary law at the subnational level.

Amid global uncertainties and turbulence emanating from different sources—be it political, economic, social, demographic, or environmental—there are yet more uncharted waters ahead of us. In these uncertain times, we should not wait until a new type of world order is consolidated and everything else is then realigned accordingly. Instead, we should see this as an opportunity to take the initiative and move beyond the scholarly perspectives informed from a small pool of familiar case studies from the West. To do this, it is not only imperative that we study federalism in the non-West more systematically, but we also come back with insights and lessons for our field in a way that seeks to balance internal and external validity.

The only way to make comparative federalism a truly global field of study is to step out of the comfort zone of the familiar in substantive terms; to let go of the certainty of controlled parameters and decontextualized datasets in methodological terms; and to move beyond the prevailing theoretical frameworks. Theoretical elegance and methodological sophistication resting on an asymmetrical knowledge where the West is overrepresented and the rest underrepresented risks producing skewed scholarly results. Superficial scholarly knowledge of non-Western case studies can then lead to suboptimal policy recommendations. A constitutional law scholar mostly renowned for his work on behavioral economics, Cass R. Sunstein, had in fact spent time working on federalism in Africa in the early 1990s: “In the context of federalism in particular, one needs to know an enormous amount about existing units, about the distribution of relevant groups within those units, and about the prospects of creating more entities.” (Sunstein 1993: 412–2). Sunstein’s advice was not heeded during South Africa’s constitutional reforms, as blueprints were collated from the various best practices without much attention to the local context.

The applied side: policy reform and constitutional design

There is perhaps something gleaned from that very period described above that could serve as a repackaged formula for the future of federalism. Injecting nuance and refinement to federalism studies does not only bring scholarly progress but it also brings practical lessons and insights for those involved in economic, social, legal, and political reforms. In the early 1990s, when a unipolar US-led international order defined by liberal democratic principles had emerged from the end of the Cold War, and when constitutional blueprints modelled along the West were just about to become the only available solution to all ills, Hastings Okoth-Ogendo was warning us about the risks of prescribing “constitutions” without “constitutionalism” (Okoth-Ogendo 1993). What Professor Okoth-Ogendo was arguing was that the form of a constitution meant little unless it was accompanied by constitutionalism defined by a principled acceptance of separation-of-powers and checks-and-balances.²⁴ We could repackage this insight and reframe it as the dangers of focusing on the form of federation—that is, the number of constituent units, subnational representation in the upper house, party systems at federal and subnational levels, electoral models, and so on—while avoiding the harder questions about federalism itself; in particular, questions about how to achieve a workable balance between subnational autonomy and national union that will survive through ups-and-downs of future unknowns, and how to establish a sense of grassroots embrace of a political order based on the territorial division of power between the center and its component parts. A principled rejection of one-size-fits-all political designs might fall short of the exactitude of counting and comparing

formal variables, but it is of utmost importance in holding back any form of absolutism, be it electoral, ideological, or ethnic. Looking ahead, Kincaid's earlier caveat retains its importance (Kincaid 2023: 45). Whatever form they take, it is the division of powers among the union and its component parts that matters. Otherwise, we have federation without federalism.

One other lesson for the future of federalism—perhaps more relevant to its applied side rather than the scholarly one—is that cutting-and-pasting technocratic best practices from elsewhere rarely delivers the intended results. Related to this is the projection of a type of scholarly and moral certainty distilled from the federal experiences in the West onto unfamiliar contexts in the rest of the world. Neither brings in longevity. The result is often the emergence of a disconnect between the people and their federal systems. For the public to feel some sense of ownership over the political system prescribed to them, they have to first understand what it is that they are getting. As Martin Chanock notes: “In nearly all African countries only a very small proportion of the people speak or are literate in the languages of constitutions, bill of rights and constitutional discourse” (Chanock 2010: 137). Taking into account the fact that almost every country in Africa is linguistically diverse (with the exceptions of Botswana and Somalia), the question of language is not only one of a scholarly discourse disconnected from the people. Not every language is represented among the elite political and professional classes making up African societies. Importing various assembled ideas and practices from the federal systems of the West contributes to the marginalization of demographically smaller, geographically peripheral, economically underdeveloped communities without international allies. Harry Englund's (2006) study demonstrates how institutions and policies imported into Africa failed to be understood and embraced by the public these very reforms were intended to serve. Without vernacular access and subsequent transparency, it was the already marginalized who ended up further disenfranchised (Englund 2006).

There is also something else when various best practices removed from the context within which they have originated are put on top of each other. Mix-and-match formal federal design with various components imported from elsewhere often makes it harder for the assembled pieces to function together. What is more, as Bertrand Badie points out, this also renders auto-correction difficult: “The years following decolonization clearly revealed the failure of all mimicry in the constitutional area. Everything indicates, however, that mimicry has not ceased and that it has even intensified. . . It is as if the logic of globalization goes from error to error, depriving political societies of the means to correct themselves” (Badie 2000: 2-3). While Badie was not referring to federalism specifically, his observation holds for almost all imported mix-and-match reform blueprints. For the federal balance between subnational autonomy and national union to survive the ups and downs of future unknowns, not only the professional and political classes but also the

grassroots have to understand how federalism works and thus embrace the political system as one's own.

Recalibrating federalism studies for an uncertain future

The existing scholarly division of labor in academia places interstate relations and global dynamics under the jurisdiction of the subdiscipline of International Relations. The international and regional levels of analysis are theirs. Scholarly subdisciplines that study federalism, that is, Comparative Politics, Political Theory/Philosophy, Public Administration, and Constitutional Law, thus end up having to direct their gaze to the national and subnational. Once these two levels of analysis delimit one's horizons, it is only normal to end up finding explanations for both federal success and failure within the country under examination. Explanatory variables from the federation, such as the number of constituent units, subnational representation in the upper house, party systems at federal and subnational levels, electoral models, are then put under examination. Such a division of labor based on the levels of analysis might not present a big problem for the study of federalism in the West. Analyses of federal party politics in Australia or public policy coordination between the center and the provinces in Austria can be easily accomplished without much worry about missing out causal factors beyond the borders of either federation. Across many parts of the non-Western world in general, and in Africa specifically, ignoring the international and the regional could skew our findings and thus affect the reliability of our analyses. We will overlook the impact of regional geopolitics on national politics, the consequences of having ethno-linguistic communities of kin across international borders, the way natural resources are spread over national borders, and the ebb and flow in the international influence of ideas on modernization, development, and reform.²⁵

The addition of case studies not only from Africa but from all corners of the non-West will surely help build globally more representative datasets, but this can only happen if we move beyond the confines of narrow constitutional formalism and include all federal instances where subnational autonomy and national union coexist. Provided our conceptual labels are more inclusive and defined by function rather than form, we can then incorporate these various experiences into our repertoire. There is a great deal of knowledge on and from Africa that still awaits excavation, but at this moment of big changes in global politics, our focus was on three categories where Africa could potentially offer nuance and refinement to the study of federalism. Bringing in the levels of analysis to the study of federalism led us to see the importance of geopolitics and role of ideas. The potential returns are not only academic. A recalibrated field of study with a more even-handed collection of case studies from the West and the rest is not only the path to more

representative and accurate scholarship, but also one that is likely to produce more workable applied blueprints for the long-term (Erk 2021).

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Notes

1. The founding treaty divides power between a ‘college’ of heads of states, ‘confederal’ meetings of councils of ministers, and ‘confederal sessions’ of the parliaments of the three constituent states (AES Treaty: Article 6). The brand-new Confederation of the Sahel seems to also contain references to previous (con)federal initiatives towards a union in the region. Abdoul Sogodogo, however, reminds us of the consequences of those past attempts: “External pressures, including the geopolitical interests of former colonial powers and Cold War dynamics, have often exacerbated internal tensions and undermined union-building efforts” (“*Les pressions externes, y compris les intérêts géopolitiques des anciennes puissances coloniales et les dynamiques de la guerre froide, ont souvent exacerbé les tensions internes et sapé les efforts de construction de l’union*”, 2024: 6).
2. The territory of the former Southern Nations, Nationalities, and Peoples Regional State (SNNPRS) has now been formally divided into Sidama, South-West Ethiopia, South Ethiopia, and Central Ethiopia regional states but not all are functional. At the time of writing, the new members of the Ethiopia federation are still falling short in personnel, resources, and infrastructure making them dependent on Addis Ababa to deliver on their new policy responsibilities. The creation of four new regional states is of course closely related to the changes within Ethiopia’s governing party. Assefa Fiseha believes that such change has also come with changes in the ideas underpinning Ethiopian

federalism—what he calls the different “narratives of federalism” (Assefa 2024: 174–178). His colleague Zemelak Ayele also observes similar changes in how federalism was conceptualized and framed, but he puts more emphasis on the international factors behind both the adoption and transformation of federalism in Ethiopia (Zemelak 2021: 189 and 199).

3. While the contents of the Memorandum are not publicly available, leaders of both sides have talked about leasing a twelve-mile zone along Somaliland’s Red Sea to Ethiopia and the formal recognition of Somaliland sovereignty in return. This follows the recent infrastructural investments along Somaliland’s coastal strip by the United Arab Emirates. Victor Marsai shows that, in addition to external forces interfering with internal federal politics of the country, Somalis also use “foreign proxies for domestic agendas” (2025: 53). While Somaliland is making overtures to the Ethiopian federation, there is now a new regional state of the Somali federation just next door to its east. Sool-Sanaag-Cayn Khatumo, or SSC-Khatumo, is not a formal but a *de facto* member of the federation. Nicole Stremlau calls it a “proto-state” (2025: 73).
4. I expand on this theme in a recent journal article (Erk 2023a).
5. Those who have had the opportunity to visit and talk to the citizens of places subjected to numerous internationally driven and financed federal reform initiatives in the last two decades, such as South Sudan, Yemen, and Somalia, will attest to the widespread disillusionment at the grassroots level.
6. One example is Benz and Broschek (2013). The seventeen chapters on the varieties of federalism around the world do not include any reference to the African continent. Another example is Nicole Bolleyer (2009) proposing a comprehensive and definitive theory of comparative federalism (‘and beyond’) resting on intergovernmental relations. The non-Western world is not part of this theory.
7. This comparative turn in federalism studies is covered, through various angles, in the collection edited by Erk and Swenden (2009).
8. This is a bigger question than pitting scholarship on and from the West against the rest of the world, including Africa. Carol Weissert’s (2011) study shows that even within the Western context, one case-study is still over-represented in scholarly publications on federalism—that of the United States (US). What is more, her survey of the literature demonstrates that there is also asymmetry in what is read and cited, as US scholars seem to be less inclined to engage with the comparative literature on federalism.
9. A recent collection taking stock of the state of affairs in a few non-Western case-studies shows that, despite all its purported promises, federalism has indeed failed to work as an all-round magic formula for deeply divided societies (Kropp and Keill 2022).
10. One recent attempt to challenge the unidirectional intellectual flow in federalism studies from the West to the rest is my contribution to the 30-year anniversary special issue of the journal *Regional and Federal Studies* (Erk 2021).
11. Along Preston King’s formulation, *federalism* is the political principle about the territorial division of power between the center and its component parts; *federation*, on the other hand, is the formal designation of a constitutional order purported to give voice to this principle (King 1982).

12. The notion of ‘levels of analysis’ is one of the conceptual foundations of the subdiscipline of International Relations. While not its *raison d’être*, when applied to federalism studies this analytical construct helps us realize how we tend to prioritize the national and subnational levels at the expense of the regional and international. For a timeless piece marked by clarity in reasoning and writing, see (Singer 1961).
13. The analytical framework of multilevel governance—despite its origins in the constitutional order of the European Union made up of supranational, national, and subnational levels—has also been put to use in the African context. See De Visser and Steytler (2018).
14. John McCracken’s overview of the first four decades of the 20th century looks various British policies which brought in elected and appointed members into local legislative councils (McCracken 1986: 604). But this “imperial constitutional repertoire” of gradual and partial reforms fell short of addressing the majoritarian-inclined liberation movements, and this led to a number of failed federal attempts such as the East African Federation (Erk 2024).
15. As Michael Crowder notes in the Nigerian context: “The constitution that enshrined the ideals of Westminster had been patiently negotiated over a decade between the British and the leaders of the three main political parties”. (Crowder 1987: 7).
16. Gray Cowen’s 1954 account of the local politics across British Africa in the mid-1950s reveals how federal models derived from the imperial repertoire of autonomy and union were being debated at the time (Cowan 1954). Such imperial references were in place just months before independence (Read 1959).
17. For the formal governance structures under the two French confederations, see Iliffe (2007: 206–7).
18. Due to its size, wealth, and power, the Union of South Africa had always been able to carve out a fairly independent course of action for itself within the British imperial order. But by 1961, the country officially left the Commonwealth and severed ties to the British monarchy. It had now become a close ally of the United States and the key player in the battle against the spread of communism and Soviet influence in Africa.
19. Karuti Kanyiga argues that the process to undo federalism started right away: “The government deliberately undermined the now federal units by denying them resources to implement critical policies. This certainly meant undermining the interests of elites who represented KADU [the opposition party against KANU], the party most vocal about federalism” (Kanyinga 2013: 54).
20. Across British Africa, the Westminster model of parliamentary democracy and federal constitutions built on the repertoire of imperial federal ideas were soon to be replaced by single-party presidential systems. For an overview, see Gertzel (1984).
21. As an insider to the process, Judge Dennis Davis recounts how much of South Africa’s democratic transition had “drawn heavily upon the Canadian, American, German constitutions” (Davis 2003: 188).
22. Zachary Elkins’ work looks at the post-Cold War spread of democratization and tracks the outbound international diffusion of constitutional ideas from the West characterizing this process (Elkins 2010).

23. As Tom Ginsburg, Zachary Elkins, and Justin Blount note, cutting and pasting constitutional clauses from the West was almost preordained: “Certainly, scholars have long noted a high degree of similarity across documents, and nearly anyone privy to the details of a case of constitution-making can recount an episode of international borrowing” (Ginsburg et al. 2009: 208).
24. Professor Okoth-Ogendo’s caveat has remained relevant to this day—not only in his native Kenya but throughout the continent. Judge Catherine O’Regan of the Constitutional Court of South Africa (retired) calls this the ‘political paradox of African constitutionalism’; and in particular, she finds fault with the tendency of the governing political parties to rule through the extensive constitutional amendments (2024). Another giant of Kenyan constitutional law, Professor Yash Ghai, has also recently revisited his former student Okoth-Ogendo’s work. He also highlights the timelessness of the caveat and how politicians still use the ‘formal means’ in the constitutions to justify their rule (2017: 155).
25. Otto-Brun Bryde, a former judge on the German Federal Constitutional Court and a veteran of various federal reform projects around the world going back decades, testifies how the international popularity of various ideas on constitutional and political design changed over time. What remained constant was that the new idea was promoted as “the best road to development without due regard to the conditions of the receiving country” (Bryde 2008: 11).

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