The retreat of the Central State in federalized decentralizing polities: the cases of Democratic Brazil, Spain, and South Africa

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INTRODUCTION

Brazil, Spain and South Africa belong to a small group of countries worldwide that experienced a process of decentralization and federalization after a transition from an authoritarian regime to a democratic one. Each of these polities witnessed important transformations in the political, administrative and fiscal realms that significantly changed the dynamics of territorial governance under the newly established democratic regimes. Indeed, the way in which these polities have been territorially governed in the wake of new democratic institutional arrangements is the reflection of systematic changes in intergovernmental relations that tilted the territorial balance of power and authority.

The adoption and/or revitalization of federal dynamics together with the implementation of policies of decentralization can be considered the main motors behind the emergence of new modes of territorial governance in Brazil, Spain and South Africa after their respective transitions to democracy. These modes of governance are characterized mainly by a tendency to disperse the locus of power and authority towards territorial units and by the establishment of less-hierarchical interaction in decision-making processes. Recent events in Brazil, Spain and South Africa confirm that gradual relationship of mutual reliance among different levels of government have become a norm rather than an exception.

Despite important differences among these countries in terms of how cooperation among different levels of government has been achieved, all of them increased the constellation of political actors with entrenched constitutional powers and access to greater resources. These political actors gradually became more autonomous to follow their own political strategies while acquiring some discretion over policy implementation and greater authority over certain policy areas.

As an illustration, consider the example of the Brazilian revitalization of federal dynamics and the implementation of decentralizing reforms that led to the empowerment of the already powerful state governors and, above all, opened a window of opportunity for city mayors to become important political actors. In the case of Spain, the creation of the Autonomous Communities (ACs), the continuous transfer of competencies and resources to this tier of government, and the never-ending demands for further devolution from the ACs forced the central government to be engaged in an increasing institutionalized intergovernmental bargaining. In South Africa the resistance of the central

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1 These defining characteristics of the new modes of governance follow the interpretation advanced by Treib et al. who make a distinction between three dimensions of governance —polity, politics and policy— and define the polity dimension in terms of hierarchy, locus of authority and forms of interactions.

2 In recent years the national government is relying more and more on the support of the mayors to pass important initiatives at the national congress. Take the example of the federal government’s attempt to receive the open support of the National Confederation of the Municipalities (CNM – Confederação Nacional dos Municípios) to pressure the national congress to vote in favor of the maintenance of a federal tax over financial transactions, an important source of federal revenue to finance health programs. The support was conditioned to future increase of revenue capacity of the municipalities granted by the federal government. Upon presidents Lula call for support from the mayors in November 2007, the president of the CNM, Paulo Ziulkoski, insisted that “in order to enter the campaign [in favor of the federal government], we want higher participation in the total revenue [...][" (Correio Brasiliense, 2007).

3 In the face of growing competencies devolved to the ACs, the architect of the first fiscal arrangement in Spain and main articulator of the first Spanish finance law (Organic Law on the Financing of the Autonomous Communities - LOFCA),
government to allow through the dominant party apparatus the provinces to exercise their constitutional powers did not prevent the growing center’s reliance on intergovernmental mechanisms for policy implementation. In addition, South African mayors are becoming in recent years important actors in territorial politics.  

All of these trends suggest that the central state in Brazil, Spain and South Africa is engaged in a strategic game of territorial politics with subnational political actors, in a context where subnational political elites have more autonomy and the central state has less room for power encroachment in subnational affairs. This retreat of the central state has initially created a hiatus in the intergovernmental dimension that gave birth to certain dynamics. Such hiatus created an unstable intergovernmental dynamics that is present in the three polities in question, and for this reason, I call them “transitional federations”.  

The retreat of the central states in the “transitional federations” is interpreted, on one hand, by the diminished capacity of central governments to be engaged in direct intervention on subnational political affairs. On the other hand, it is also understood by the growing central government willingness to make use of intergovernmental mechanisms for consultation and cooperation. In addition, this trend of central state retreat is followed by an increase in subnational governments’ autonomy. 

Recent scholarship, nonetheless, indicates that empowering subnational political elites is not necessarily a natural consequence of decentralization and that it can be used to favor the centre vis-à-vis subnational units (Falleti 2003; Eaton 2004; Dickovick 2007). I contend that the conflicting conclusions reached in terms of where the real power and authority in a decentralizing polity lies on two common faults: (i) the failure to identify causal mechanisms linking the process of transfers of power and authority with the observed outcome, and (ii) the lack of conceptual distinction between the different but related processes of decentralization and federalization, which could enlighten any analysis on how the locus of power and authority shifts in a polity. Assessing the consequences of decentralization and federalization without accounting for the normative differences between both terms and paying little attention to causal mechanisms had an important consequence: the neglect of structural and contingent factors leading to the vertical shifts of power and authority in a polity.

José Víctor Sevilla, manifested his concern with the open nature of the system which has been periodically reformed in order to accommodate demands from the ACs. He emphasizes that “It is not possible that every five years there is a need to reconsider the [fiscal] system.” (El País 2005).

4 A stronger opposition voice in an ANC dominated South Africa has been resonating from the City Council of Cape Town, controlled by the Democratic Alliance since mid 2007. Some analysts have pointed out that the mayor of Cape Town, Helen Zille, who manages a bigger budget than provincial governments or even ministerial portfolios, is in a position to make considerable changes in South African politics. I quote a political analyst who observes this new opposition coming from bellow: “Never before in the history of this country […] has the leader of the country’s main opposition party been able to operate from a position in government. An opposition leader with executive power” (Cape Times, 2007).

5 The term “transitional federations” is originally used by Watts (2005) to refer to four countries —Brazil, Spain, South Africa and India— whose fiscal arrangements are quite unstable years after an initial fiscal system has been negotiated.

6 In this paper I understand as subnational any tier of government that is not central (i.e. municipalities, provinces, states).

7 My definition of state autonomy is based on that of Nordlinger’s, who defines it as the state’s ability in “translating its own preferences into authoritative actions […]” (1981: 203).

8 I define causal mechanism as an agent driven action favored by structural circumstances and shaped by specific context that accentuate the original dynamics of an already occurring process.
The vast literature on decentralization mainly understands decentralization through the lenses of welfare economics and electoral incentives. As far as the more specific literature on federal dynamics is concerned, it takes a functional and electoralist approach to federal arrangements by focusing on equilibrium and balance. However, the shift in locus of power and authority has been assessed through a structural perspective in some cases through credible commitment to decentralization (Qian and Weingast 1996), the sequence of decentralization (Faletti 2005), the internal organization of subnational states (Bolleyer 2006), the strength of the party system (Montero 2001), the internal organization of the parties (Garman et al. 2001), and the institutionalization of intergovernmental mechanisms (Watts 2003), among others. Yet most of these analyses have failed either to account for the eventual differences between variables of decentralization and federalization, or to reveal explicitly the underlying causal mechanisms that lead to the final outcome.

By paying special attention to the difference between federalization and decentralization, and to the causal mechanisms fueling these processes, I propose a framework to understand the retreat of the central state through the following questions: (1) Are subnational political elites able to translate their political and policy preferences into authoritative actions (subnational autonomy)? (2) How federal arrangements protect subnational entities from authority encroachment (institutionalized authority)? (3) Where is the locus of authority and power (hierarchy)? All these questions are interconnected. Depending on the ability of subnational political elites to transform their preferences into actions and on the institutionalization of transactional relations to minimize an eventual counter reaction of the national political elites, the locus of power and authority in a polity can be determined. Guided by these questions the paper looks at some structural aspects and strategic interaction behind the processes of federalization and decentralization.

The paper will be organized as follows. Section one defines and delimits the universe of “transitional federations”. Section two individually describes the processes of federalization and decentralization in each case. Section three identifies the causal mechanisms connecting federalization and decentralization with the observed outcome, the retreat of the state and empowerment of subnational political elites. In this section, I elaborate on two causal mechanisms of territorial dynamics (i.e. boundary control and subnational authoritarianism) and contextualize the triggering factors of decentralizing and federalizing in Brazil, Spain and South Africa. The last section concludes with some observations on changes in the locus of authority in Brazil, Spain and South Africa.

THE UNIVERSE OF “TRANSITIONAL FEDERATIONS”

With two ongoing processes unfolding in the 1980s and 1990s —federalization and democratization— Brazil, Spain and South Africa experienced certain governance dynamics that rendered them the name of “transitional federations”. One of the most distinguished features of these dynamics is the ex post constitutional negotiations. In these negotiations national and subnational political elites bargained over the implementation and development of certain constitutional matters related to decentralization and

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9 More specifically this literature focuses primarily on electoral motivations of decentralization (e.g. O’Neill 2001, Jeffery 2003, Penfold-Bercerra 2004) and on welfare economics under the umbrella of fiscal federalism.

10 It can be divided into the ‘functionalist approach’ where optimal efficiency is used to determine ‘equilibrium’ in intergovernmental relations, and the rational choice ‘legislative politics approach’, where the political actors respond to the median-voter as they are concerned with their political careers. The principal goal of the former approach is to identify the factors leading to “equilibrium” and “balance” of intergovernmental relations (e.g. Dillinger and Webb 2001; Blanchard and Shleifer 2001; Fillipov et al. 2003; Shepsle 1986). The latter approach attempts to examine the political ambitions of politicians and attempt to determine the how geographical electoral constituencies affect actors’ choices along intergovernmental relations (e.g. Huber et al. 2001; Samuels 2003; Gibson et al. 2004; Volden 2005).

11 These questions are formulated around some traits of federalism that Weingast (1995) considers in the characterization of the ideal-typical federalism. The main traits: hierarchy, subnational autonomy and institutionalized authority.
federalization. In other words, constitutional pacts in these countries are the beginning rather than the end of a bargaining period.

The universe of the transitional federations is full of particularities: loose implementation of constitutional prerogatives, bargaining over basic institutional arrangements, encroachment of authority beyond a pre-agreed mandate. The three transitional federations in question show that regardless of the type of constitutional pact sealed at the time of promulgation of their respective constitutions, they experienced certain institutional dynamics after the constitutional pact that differentiated them from consolidated models (e.g. Germany, Switzerland, and the USA). These dynamics are characterized essentially by the unsettledness of the intergovernmental relations.

In the case of Brazil and Spain the reliance on supreme court’s ruling over some contentious intergovernmental disputes shows that the disagreements between tiers of government were best solved through arbitration and informal negotiations. In South Africa, power encroachment from the center was not challenged by provinces given the high degree of a centrally controlled dominant party system, though there were many tensions between the executives of the megacities and the central government. The central government through the dominant party governed most of the provinces and prevented the provincial heads of the executive to exercise some of their constitutional guaranteed rights (e.g. promulgation of provincial constitutions).

It is important to note, however, that such dynamics do not make them less of a federation, after all they share a crucial aspect with all other federations: (i) the enshrined constitutional right of subnational autonomy, as defined by Watts (1999: 7), and (ii) the separation of branches of government in at least two tiers of government, a minimum criterion for identifying federations as proposed by Cameron and Falleti (2005).

An important question to pose is how these cases can be grouped together and be interpreted as subtypes of classical federations. An important point of departure in the attempt to create a category of transitional federations is to identify whether the characteristics of the primary category—federations—appear on the secondary category—transitional federations. I proceed with this differentiation method in accordance to Collier and Mahon (1993) who suggest that secondary

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12 There are important differences among the constitutional provisions concerning the territorial institutional arrangements of these polities. While in the case of Brazil there were detailed constitutional provisions in the 1988 constitution reviving the role of the federal institutional design, in Spain the 1978 constitution engineered a “loose” institutional framework. In the case of post-apartheid South Africa, the implementation of some federal traits established in the constitution was not enough for the country to function as a quasi-federation.

13 Federalism as a concept has been defined in many different ways. Given this diversity of definitions, it is important to arrive at a minimum definition of federalism. An important point of departure in this direction is to identify the institutional arrangements that exist in federations nurturing the exercise of the principle of shared rule. One of the basic federal institutional features that guard the shared rule principle is the constitutional entrenchment of constituent unit’s autonomy. For example, in defining the essence of federations, Watts (1999:7) puts special emphasis on the constituent unit’s enshrined constitutional right of having “sovereign powers derived from the constitution rather than another level of government.” Another important minimal definition of federalism that encompasses the structural aspect of federal arrangements is the separation of branches of government in at least two tiers of government, as proposed by Cameron and Falleti (2005). They recognize the importance of going beyond the vertical division of power for a better assessment of power encroachment in federations.

14 This grouping of countries that share attributes and particularities follows Collier and Levitsky’s (1997) strategy of “analytic differentiation”. However, as they also mention, this differentiation strategy can sacrifice the “conceptual validity” because grouping can be arbitrary and can lead to the proliferation of an infinite number of subtypes. To be conceptually innovative and relevant the grouping of the selected cases under the concept of transitional federations must find a middle ground between analytic differentiation and conceptual validity.
categories can either add (classical category) or subtract attributes (radial category). In the process of creating a secondary category of transitional federations I subtract some attributes that belong to the classical federations (see Figure 1).

One way to proceed with this subtraction of attributes is by concentrating on the pathologies of the federations in question. By focusing on the pathologies, I assume that the problems of the federal system are particular to the arrangements adopted, as Watts (1999:109) advises, and not as a result of federalism per se. It is true that all federations present some pathologies, however, they seem to be more accentuated in “transitional federations” where the role of some institutions and structures are problematic.

Three features, or pathologies, of the “transitional federations” reflect a subtraction of attributes from the traditional federal models. The features: (i) periodic amendment of constitutional provision, i.e. organic laws and amendments, (ii) imbalanced representation of interested in the second chamber, and (iii) absence of intergovernmental mechanisms created within a constitutional framework. From the outset of the constitutional pact they failed to comply with the following structural and institutional characteristics of traditional federations: the implementation of a supreme written constitution that is not easily amendable, equal territorial representation of different regions interests in the process of federal policy-making, and establishment of mechanisms to enhance intergovernmental collaboration (see Table 2).

In reference to the first missing attribute of transitional federations, the lack of fixed constitutional arrangements breaches the notion of fixed constitutional arrangements of federal countries. In Brazil, Spain and South Africa, unlike in the traditional federations, their constitutions were either amended or complemented by laws that gradually changed territorial governance. Contrary to this rigidity of constitutional arrangements, in Brazil constitutional amendments with direct implications to governmental relations were commonplace after 1988 (Melo 2002; Souza 2006). In Spain, though constitutional amendments are less frequent, the organic laws were meant to develop and/or implement certain constitutional provisions and were periodically used as an instrument to shape territorial dynamics. In South Africa, the Department of Provincial and Local Government is very active in proposing legislation to implement constitutional provisions that significantly affected territorial relations in the country.

As far as, the representation of interest in the higher chamber is concerned, it is one of the key features of federations to guarantee representation of interests in the national legislature. The overrepresentation of interest and the complete absence of this representation could distort the intergovernmental balance of power and authority. In Brazil, due to the malapportioned distribution of territorial interest, a small

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15 These characteristics are identified by Watts (1999:7).
16 Elazar (1982:1) recognizes as one of the principal characteristics of a federal system its reliance on fixed constitutional arrangements.
17 Watts (1994:16) observes that adaptations occur in federations through judicial review, minor constitutional amendments, reform of the fiscal system, among others. As examples, he mentions Switzerland, Australia and Germany as cases in which constitutional reviews have occurred but has not produced fundamental restructuring. This is not the case of Brazil, Spain and South Africa who incrementally have been witnessing fundamental changes through different forms of constitutional reviews and developments.
18 The ACs’ constitutions come into being through organic law. Since the creation of the ACs at least six ACs (i.e. Valencia, Catalonia, Andalusia, Aragon, Balearic Islands, Castilla-Leon) from 2006 to 2007 proposed the reform of their constitutions that once again required the national legislative approval through an organic law.
19 Given the prominent role of the Department of Provincial and Local Government in proposing laws, there is a chief directorate in the Department is responsible for formulating acts and proposing it to the Parliament (Malan 2005).
group of senators or representatives can effectively block important reform initiatives (Stepan, 2004:52). In Spain the Senate cannot be considered a chamber, as Requejo (2006:282) suggests, because it is devoid of any political identity and does not represent the interests of the ACs. The Spanish provinces, which are administrative units are the ones represented in the Senate. A similar situation is found in South Africa where the National Council of Provinces (NCOP) plays a rubber-stamping role, though its members are designated by provincial legislature. Most of the accommodation of interests is reached through other mechanisms (e.g. MinMECs), leaving little work for the NCOP (Simeon and Murray, 2001:86).

In reference to the pressures to shift the balance of power in the absence of intergovernmental mechanisms, most of the transitional federations have developed these mechanisms outside a constitutional framework. In Brazil, there is no mechanism of intergovernmental relations that is conceived in the constitutional text, though constitutional Art. 23 recommended that a complementary law, which never came into existence, would formalize the creation of such mechanisms (Souza 2006:198). In Spain, intergovernmental mechanisms were not anticipated in the constitution, though it was eventually created through an organic law (i.e. Law of the Autonomic Process - LPA). In South Africa, though the constitution mandates under section 41(2) that the national government must regulate intergovernmental relations, for most of its existence intergovernmental forums have been unregulated (Layman 2003). Only in 2005, one decade after some intergovernmental forums were already established, a legal framework regulating these forums was enacted through the Intergovernmental Relations Framework Act. In spite of recent regulation on intergovernmental mechanisms, many forums have not been consolidated yet and the decisions are not binding (Fessha and Steytler 2006).

All in all, the use of diminished subtypes can be applicable to the subtype of transitional federations as they often have missing attributes from traditional federations. For this very reason they provide high analytic differentiation. This explains the selection of Brazil, Spain and South Africa as cases representing the transitional federations.

FEDERALIZATION AND DECENTRALIZATION IN BRAZIL, SPAIN AND SOUTH AFRICA

The lack of conceptual clarity involving the terms federalization and decentralization are well known in the literature. Adding further to the confusion is the tendency to use both terms as synonyms. Indeed, exchangeability between federalization and decentralization is commonplace. A conceptual differentiation between federalization and decentralization helps to understand how distribution of power (federalization) and transfer of authority (decentralization) contributed to the retreat of the central state. I advance a definition of federalization that perceives it as an ex post constitution reviewing process of developing the rules and mechanisms to mediate central-subnational relations. More specifically I define federalization as a process of bargaining over and agreeing upon the creation and the reform of transactional institutions under the principle of shared rule. On the other hand, I borrow the definition of decentralization from Falleti (2005:2) who defines it as a transfer of resources, authority and responsibility to subnational governments and unpack the process in the political, fiscal and administrative dimensions. In short, I associate federalization with the idea of power distribution while decentralization with the idea of authority transfer.

Fessha and Kirkby (2008) are among the few scholars that distinguish between decentralization and federalization. According to them the main aspect of federalization that distinguishes it from decentralization concerns the division of power that cannot be altered unilaterally in the former case.
This normative distinction between federalization and decentralization helps to understand the pathways leading to subnational autonomy and the retreat of the central state. More specifically, through this distinction I intend to tackle the following issues: (i) how federalization and decentralization shaped preferences and strategies of central and subnational actors, (ii) how these processes unveiled themselves leading to the retreat of the central state and the gaining of autonomy to subnational levels, and (iii) how these distinct but interrelated processes influence each other.

Before proceeding to a discussion that addresses these questions, it is worth identifying the main negotiation background as well as the actors and their preferences of transitional federations after the critical juncture of transition to democracy. In the transitional period, national and subnational political elites engineered constitutions guided by the principal of shared rule among tiers of governments. The new constitutional pacts enshrined the subnational political elites with certain rights. In the *ex post* constitutional pact period, these constitutions had to be implemented and/or further developed through constitutional amendments and enactment of new laws impinging upon territorial governance.

In the early periods of *ex post* constitutional negotiations the central political elites wanted to guarantee governability under the new democratic regime by counting on the support of the subnational political elites. On the other hand, the subnational political elites demanded financial, administrative and political resources. Once the central government believed that democratic consolidation was no longer at stake, after many rounds of local democratic elections, and after some national policy priorities were established (e.g. macroeconomic stability in the case of Brazil and South Africa, and implementation of European Union directives in the case of Spain), it curtailed some of the subnational autonomy. In turn, the subnational governments acquiesced to the central government’s new strategy, responding reluctantly initially but shifting to a cooperative strategy.

The shifts in strategies from the central government are largely the result of institutional changes. As decentralization and federalization unfolded, the bargaining game between the central and subnational political elites suffered changes.

I propose below some degree variable to assess the evolution of federalization and decentralization in Brazil, Spain, and South Africa. Based on these variables I derive some propositions concerning the shift of power and authority in the referred countries.

**Federalization Propositions**

The variables and the related propositions regarding the process of federalization that contributed to assess the shifting locus of power and authority in “transitional federations” are the following ones:

**Federalization Variable 1: Degree of Judicialization of Intergovernmental Disputes**

Though in any federal system a constitutional court helps to define the contours of federalism by settling disputes between tiers of government, in the “transitional federations” this role seems to be more preponderant and decisive. Federal dynamics in Brazil, Spain and South Africa cannot be understood without including their respective constitutional courts as decisive players in the...
federalization process. Dispute settlements in these countries were exercised through challenges brought to the constitutional court.\textsuperscript{22}

In Brazil judicial review is exercised through the Direct Acts of Inconstitututionality (Ações Diretas de Inconstitucionalidade – ADIns) filed at the supreme court (Supremo Tribunal). The state governors are the main users of this constitutional instrument representing twenty-six percent of all the acts from 1988 to 2005 brought to the Supreme Court. The great majority of these appeals concern administrative issues, approximately sixty percent of the acts, followed by fiscal matter, representing almost thirty-two percent of the total acts.\textsuperscript{23} In Spain the ACs file in the constitutional court (Tribunal Constitucional) challenges, which are labeled Positive Conflicts of Competency (Conflictos Positivos de Competencia) and the Unconstitutionality Challenges (Recursos de Inconstitucionalidad) given that they concern competencies’ disputes. These challenges were predominant in the 1980s when the main institutional features of the territorial system were yet being deployed. Precisely in this period, Catalonia and the Basque Country wanted to preserve the autonomy acquired through their subnational constitutions (Estatutos de Autonomía) and the central government wanted to impose a controversial legal framework (LOAPA) to guide the development of the territorial organization of the state.\textsuperscript{24} In South Africa challenges over competency disputes are not frequent. Competency matters have been settled at the Constitutional Court only twice: in 1999 over liquor license and in 2002 over gambling taxation. Nonetheless, in several occasions, the Constitutional Court decided over issues over demarcation of provincial borders. In addition, at least one cases, court disputes had important implications for the provincial health service delivery, when the court’s decision to give the provincial government the discretion over the HIV/AIDS treatment.\textsuperscript{25}

\textit{Proposition 1: The higher the degree of judicialization, the higher the ability of the subnational political elites to challenge power encroachment.}

\textbf{Federalization Variable 2: Degree of Constitutional Transformation and Development}

Constitutions in most countries undergo transformations, however they vary in terms of the rate of their constitutional transformation. Frequent constitutional amendments over the years can change the original constitutional pact to the extent that a new constitutional order can be forged. The “new constitution” outside the “original constitution” is a reality in the “transitional federations” because of their high degree of constitutional amendments and/or the enactment of organic laws.

In Brazil the process of constitutional review is significant provided that within twelve years, from 1992 (the year of the first amendment) until 2003, the constitution has been amended thirty-seven

\textsuperscript{22} This dispute settlement process can be interpreted as a process of judicial review whereby challenges are brought to a supreme court to contest decisions, procedures and laws made by public bodies.

\textsuperscript{23} Though there is no frequent pattern in the evolution of the governor’s ADIns, they picked in the 1990 and 2002 (Vianna et al. 2007), showing that it is used with the same vigor as the beginning of the constitutional implementation. However, it is important to note that eighty-percent of all of the governor’s challenges were against the state legislature and only two percent against the national executive and five percent against the national legislative (Vianna et al. 2007).\textsuperscript{24}

\textsuperscript{24} It is important to note that the central government also challenged the laws approved by the ACs. However, as Heywood (1995:20) reports, while “between 1981 and 1991, the central government appealed to the Constitutional Tribunal against 120 of more than 1,500 laws approved by regional governments, […] regional governments appealed against 127 of 528 laws approved by the state […].” There is little doubt, as Agranoff and Gallarín (1997:16) point out, that these are important instruments in the hands of the ACs to increase their share of self-rule.

\textsuperscript{25} As Steytler (2003) suggests based on the assessment of legal disputes between the Western Cape provincial government and the central government over the extension of treatment to HIV/AIDS positive mothers in 2002, intergovernmental competition has led to the a dynamics in which the provincial governments influenced national policy in the area of HIV/AIDS treatment.
times. Thought it is not necessarily easy for the executive to amend the constitution, as an absolute majority of three fifths in the lower and upper chambers is needed, Brazil belongs to a group of countries where constitutions are easily amendable.\textsuperscript{26} In Spain constitutional amendment is very rare given the barriers imposed on constitutional reviews. Nonetheless, it does not mean that important one hundred and twenty-seven organic laws have been approved in the national parliament from 1979 until the end of 2007. An important amount of organic laws hinges on territorial governance issues. In South Africa amendment bills are rather frequent given that since the 1999 constitution there have been sixteen constitutional amendments, and a series of new amendments are currently being discussed in parliamentary committees.

\textit{Proposition 2: The greater the degree of constitutional review, the greater the bargaining interaction between national and subnational political elites.}

\textbf{Federalization Variable 3: Degree of Establishment of Intergovernmental Mechanisms}

Intergovernmental mechanisms are often broadly defined as any instrument through which governments in different tiers relate to each other. More often than not, this type of definition tends to look at mechanisms created within a constitutional structure.\textsuperscript{27} This approach ignores that there are important intergovernmental mechanisms that operate outside the constitutional framework, such as intergovernmental forums and committees.\textsuperscript{28} These are precisely the types of mechanisms that started to proliferate in Brazil, Spain and South Africa.

In Brazil there are growing numbers of intergovernmental committees in different policy areas, most notably in the health (e.g. Tripartite Committee) sector where through cooperation strategies for policy implementation and harmonization. As far as intergovernmental mechanisms fostering political cooperation are concerned, these remain largely informal and are used irregularly. In Spain intergovernmental mechanisms are mainly operative for policy cooperation in certain sectors. In the political dimension, the bilateral commissions between the ACs and the central government are yet to be consolidated. Intergovernmental mechanisms in South Africa are gaining central importance in the delivery of services in the country. The evolution of these mechanisms from an informal to a formal institutions, regulated under the 2005 Intergovernmental Relations Framework Act, serve as evidence of the critical role they play in intergovernmental relations.

\textit{Proposition 3: The greater the establishment of intergovernmental mechanisms, the greater the ability of the subnational political to shape territorial politics.}

\textbf{Decentralization Propositions}

The variables and the related propositions regarding the process of decentralization in the administrative, political and fiscal dimensions that contribute to assess the shifting locus of power and authority in transitional federations are the following ones:

\textsuperscript{26} Though the Brazilian constitutional text is quite detailed and often there is a belief that the amendments are meant to modify some of constitutional provisions, Melo (2002) suggests that the amendments are adding to the constitution.

\textsuperscript{27} Opeskin (2001), for example, adopt a broad definition of intergovernmental mechanism and identifies the possible mechanisms at the disposal of each branch of government to examine intergovernmental relations in federations. Such a broad definition usually focuses on formal institutional mechanism with the danger of leading to redundancy given that in a federation most federal institutions are inherently intergovernmental.

\textsuperscript{28} Saxena (2006:23) shows that in India and in Canada most intergovernmental mechanisms were created and operated outside constitutional frameworks.
Decentralization Variable 1: Degree of subnational assignment of responsibility over health and education.

The decentralization of administrative responsibilities, such as the delivery of health and educational services might increase the discretion of subnational governments over the local social welfare policies. Recently, welfare development has been approached from a territorial perspective, based on which subnational governments have become important actors in welfare policy experimentation and motor for policy change at the national level (Moreno and McEwen 2005:5).

In Brazil the responsibility over primary and secondary education mainly falls under the competencies of the state and municipalities. In 1996, through constitutional amendment (no.14/96) and the Directives and Bases for Education Law, curriculum was decentralized and resources for primary and secondary levels became under greater control of the subnational governments, though they rely on central governments for earmarked transfers. Brazilian health decentralization is envisioned in the 1988 constitution. Based on the constitutional text the Unified Health System (Sistema Único de Saúde – SUS) was created placing the municipality at the central stage of primary care service delivery. The states under this system were responsible for technical assistance and management. The systems at its initial implementation stage contained many loopholes such as the method of transfer of funds to the municipalities. In 1990 the Health Organic Law attempted to correct these problems by specifying the power and resources of each tier of government in the health system. With greater responsibilities devolved to the states and municipalities, the total spending in the health sector has increasingly relied on these tiers of governments, especially on the latter one.

In Spain health and educational competencies were decentralized in an asymmetric manner, however the system has moved in recent years towards greater harmonization and further decentralization. Since 1986 when the National Health Care Law was approved the management and provision of the health services have been transferred to the ACs. Though most of the ACs depend on transfers from the central government, they are increasingly relying on their own revenues and are responsible for any overspending. As far as educational decentralization is concerned, since 1985 with the Organic Law on the Right of Education, the school decentralization has become a reality through the establishment of the local councils for education. The decentralization of curriculum occurred in 1990 under the Law on the General Organization of the Educational System.

In South Africa health and educational competencies are concurrent, though provinces and municipalities are responsible for implementation of policies elaborated at the centre. Education curriculum is centralized in South Africa. In 1996 the National Education Policy Act empowered the Ministry of Education with the tools to design curriculum for the primary and secondary levels (established through the Revised National Curriculum Statement). The only discretion to the local level is given to the language choice, which according to the South African Schools Act of 1996, the schools’ governing bodies have discretion over the language policy following guidelines established by the national and provincial governments. In the case of health, decentralization was carried out with the creation of health districts within provincial borders in 1995.

These districts were created for administrative purposes and were managed by the Health District Authority, which were under direct control of the National Department of Health as well as the provincial health departments. This system was financed through central government block-grants transferred to the provinces, which then passed to the municipalities. Generally speaking, health policy discretion at the subnational level is limited, with few exceptions, such as in the case of HIV/AIDS treatment as identified above.
Proposition 1: The greater the assignment of responsibility over educational and health provision to subnational governments, the greater the discretion of subnational political elites on local social welfare policies.

Decentralization Variable 2: Degree of electoral nonconcurrency among national and subnational elections.

The concurrency of national and subnational elections shapes electoral politics and can shape party organization. In “transitional federations” these observations are not different. In Brazil and Spain where there are different electoral cycles at the national and subnational tiers, the parties run for elections under a different platform, opening room for different coalitions’ formation at each tier of government. In South Africa the concurrency of electoral cycles tied provincial politicians to the political program of national ones.

In Brazil the elections for state government paved the way for the electoral competition as these elections, celebrated in 1982, were the first free elections before the beginning of the effective transition process to democracy. Competitive presidential elections were held only in 1990. The sequence of elections imbuing first the subnational politicians with political legitimacy and the nonconcurrency converted the gubernatorial elections as the focal point for coalition formation and political program creation.29 In Spain the electoral are nonconcurrent, though the sequence of elections following the transition to democracy was initiated by national elections, followed by subnational elections. As a consequence, the state wide political parties gained important leverage over non-state wide parties once the ACs’ and municipal parties were held.30 In South Africa the national and provincial elections are concurrent, while the municipal elections take place at a different time. In terms of sequence, municipal elections came only after national and provincial elections.

Proposition 2: The greater the electoral concurrency among electoral cycles, the greater the dependence of subnational political elites on the national government’s electoral platform.

Decentralization Variable 3: Degree of subnational fiscal expenditure and revenue.

The two main pillars of fiscal decentralization are the assignment of expenditure and revenue raising capacities to the subnational governments. Both aspects are interrelated as the adequacy of the revenue raising capabilities will be largely determined by the expenditure assignment. However, expenditure assignment can often be misleading in terms of where the real responsibility lies because often there are ambiguities and joint responsibilities in the assignment distribution. Also subnational revenue capabilities’ indicators might not reveal how autonomous subnational governments are in determining the rate and base of revenues.

In Brazil the expenditure assignment is specified in the 1988 constitution, though the division was not very explicit and took a while to be implemented. In fact, Brazil is a well-known case in which state

29 In regard to the sequence of the elections in Brazil, Samuels and Abrucio (2000:56) suggest that as a consequence “for virtually all of Brazil’s post-authoritarian experience with free elections, the political fates of all deputies, senators, and governors have been tied to state disputes and de-linked from national electoral-political disputes.”

30 Linz and Stepan (1992:127) observe that the sequence of elections in Spain which favored the national wide parties had important implications for the national unity: “We believe that if the first elections in Spain had been regional, rather than unionwide, the incentives for the creation of all-union parties and an all-union agenda would have been greatly reduced. [...] We also believe that if the first elections had been on the regional level, ethnic issues would have assumed a much more substantial and divisive role in the electoral campaign than they actually did, and that the nationalist parties and their affiliates would have been more extreme.”
and municipal governments have received transfers from the central government, while not having clear expenditure assignments. Another aspect of the Brazilian fiscal regime has been the great financial autonomy that state governors have enjoyed over the 1980s and early 1990s to acquire debt and refinance it through their state banks. As a response to this subnational fiscal profligacy, the central government towards the end of the 1990s was engaged in a fiscal reform aimed at guaranteeing macroeconomic stability. Generally speaking, the fiscal system has become more decentralized with the transition to democracy (Almeida 2005), though the main beneficiaries of the fiscal autonomy were the municipalities where their revenue raising capabilities doubled.

In Spain, it is difficult to assess generally the fiscal given the asymmetric nature of the system. However, one can infer that the Spanish fiscal system has been evolving towards greater decentralization. In 1997 the central government increased the revenue raising capabilities of the ACs through the “ceded taxes” (e.g. taxes on wealth, death and inheritance, gambling, and to a certain extent personal income taxes). In 2001, the ACs gained important legislative powers over these ceded taxes. The reliance on state transfers is still considerable in the case of some ACs (i.e. most notably Andalusia, the Canary Islands, Extremadura, Castile LaMancha and Galicia), where only via the Sufficiency Fund (Fondo de Suficiencia) these ACs are able to meet their expenditure assignment. Based on these considerations, some are of the opinion that fiscal decentralization has added little to the financial autonomy of the ACs mainly due to deficient institutional structures (Castells 2001), while others that more room were given for greater financial autonomy (Ruiz Almendral 2002).

Fiscal decentralization in South Africa has been partially determined by the 1996 constitution, where the expenditure assignment was idealized. The constitutional texts determined that provincial governments would be responsible for primary and secondary education, health and welfare services, provincial roads and local economic development, while the municipal governments would assume responsibility over housing, water, electricity and sanitation. Despite the decentralized expenditure assignment, the South African experience shows that devolution of functions has been conditioned to important expenditure controls (Momoniat 2001). The evolution of the fiscal regime has been led to a great extent by the National Treasury, which from the very beginning of the process has aimed at establishing fiscal responsibility. Though provinces and municipalities have greater autonomy to formulate their budget and spend almost unconditionally on assigned areas, they have relied on central government transfers. This reliance applies specially to the provincial tier, as the municipalities have considerable revenue autonomy vis-à-vis provincial governments. The distribution of total revenue in the period 2005-2006 reflects the vertical fiscal imbalance: provinces received fifty-seven percent of total national revenues while municipalities received approximately five percent (Yemek 2005).

**Proposition 3:** The greater the assignment of expenditure and the revenue raising capabilities to subnational governments, the greater the subnational policy discretion over fiscal issues.

**CAUSAL MECHANISMS AND THE CENTRAL STATE RETREAT**

Identifying a causal mechanism that explains how decentralization and federalization lead to non-hierarchical modes of governance is important to understand the trigger of changes in territorial

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31 The sixteen ACs have been under different fiscal regimes. Broadly speaking, there are two main ones: the fast-track regime where initially three ACs, i.e. the Basque Country, Catalonia, Galicia, and joined at a later stage by Andalusia, Navarra, Valencia and the Canary Islands; and, the slow-track the rest of the ACs. The ACs under the fast-track had expenditure responsibilities over education and health, which the slow-track ACs would progressively gain responsibility over.
politics. If one considers the existence of a relationship between the processes of decentralization and federalization, on one hand, and the shifts in the centre of authority in a federal country, on the other, an important question comes to mind. The question: What is the causal mechanisms linking these process with the new patterns of governance? In other words, once decentralization and federalization are unfolding, what triggers the change of the centre of authority in a polity?

Elaborating on the territorial mechanisms identified in Rokkan (1983) and Gibson (2004, 2005), I apply these mechanisms to the context of decentralizing and federalizing in Brazil, Spain and South Africa. This contextualization and transplantation of causal mechanisms follow a strategy recommended by Falleti and Lynch (2007) who consider causal mechanisms as portable. They add in this regard that the interaction between the mechanisms and the contexts help to explain the observed outcome.

There is a lack of systematic analysis on the linkages and mechanisms connecting different spheres of government. Stein Rokkan was one of the first scholars who attempted to understand the dynamics behind centre-periphery relations through the idea of “boundary control” (Rokkan 1983). When applied in almost any aspect and context of territorial governance, the mechanism of boundary control reveals that intervention from the centre on subnational affairs trickles a certain response from the part of the local political elites.

Such response is meant to reaffirm the political and cultural control it already poses over a certain boundary. This is a mechanism that can explain in different degrees certain dynamics of territorial governance in federal and non-federal polities.

Building further on Rokkan’s mechanism of boundary control, Gibson (2004) examines the strategies used by provincial political elites in Mexico after the democratization of the country and proposes that incumbent local political elites make use of political mechanism to maintain an authoritarian regime locally. Gibson argues that rivalry among provincial politicians in the process of democratization forces them to use the centre-local linkages in order to maximize the incumbent’s power and minimizes the opponent's influence. As such, incumbents are interested in increasing their influence on local affairs through boundary control, while opposition will try to diminish it by making national allies and bringing them into the conflict. According to Gibson, the strategies adopted by the regional political elites to achieve these ends are the following ones: parochialization of power, nationalization of influence and monopolization of national-subnational linkages.

**Subnational Authoritarianism in Brazil, Spain and South Africa**

One of the first questions that come into mind when attempting to apply the mechanism of subnational

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32 Boundary control as proposed by Rokkan can be considered a mechanism essentially because it reveals how subnational political elites systematically operate in relation to central state. The strategies that the political elites of peripheral regions are engaged in dealing with cultural “encroachment” from the center consist of a defensive mechanism. This defensive strategy can be perfectly used beyond the cultural dimension in centre-periphery relations.

33 The argument is built around some premises: territorial politics take place in a hierarchy, each level of government has a life of its own in spite of being linked to each other, and political elites have strategies to dominate the linkage between levels of government.

34 Gibson (2004) describes the strategies as follows: 1) Parochialization of Power: Maximization of local political elites’s power by minimizing national influence on local affairs. The tactic used to achieve this goal include, as Gibson (2004:14) describes, “blocking information flows from the center, controlling local media outlets, or preventing the installation of federally controlled agencies or monitors in the province”; 2) Nationalization of Influence: Local political elites attempt to maximize the subnational leverage over national politics; 3) Monopolization of National-Subnational Linkage: Control over formal and informal institutions that regulate national-subnational relations such as financial and communication flows, administrative apparatus governing intergovernmental relations, informal practices related to intergovernmental dynamics.
authoritarianism to Brazil, Spain and South Africa is how these elite strategies—parochialization of power, nationalization of influence and monopolization of national-subnational linkages—are related to the processes of decentralization and federalization in these three polities.

As the processes of federalization and decentralization in the selected “transitional federations” begin after their respective transition to democracy, the democratization is a background phenomenon that makes my three cases fit well into Gibson’s argument of subnational authoritarianism in democratizing countries. However, I take a step further and argue that democratization is not the only phenomenon that directly touches upon issues of territorial politics. I bring forward the argument that changes in territorial governance must be accompanied by processes other than democratization, which is negotiated at the central level and is essentially a macro phenomenon. I claim that the independent but intertwined processes of decentralization and federalization produce the changes in modes of governance.

The development of strategies by the local political elites to maintain power locally while the processes of decentralization and federalization are unfolding can be interpreted as the mechanism through which the emergence of non-hierarchical modes of governance come into being. In Table 2 there is a summary of the local political elite’s strategies in each of the selected cases. It is important to note that though the strategies in each country might be the same, the form in which these strategies unveil themselves might be different.

In terms of parochialization of power, Brazil has experienced repeated demonstrations of maximization of local political elites in the so-called “brown areas” of its national territory. In these areas, which encompass the Northern and Northeastern Brazilian states, the parties that won the first subnational democratic elections (e.g. the Brazilian Party for Democratic Mobilization (PMDB), the Liberal Front Party (PFL), and the Brazilian Labor Party (PTB) maintained themselves in power through the 1980s and 1990s. One of their strategies was to neutralize the local opposition to gain national influence by blocking any involvement of the centre in local affairs. In the Spanish case, a somehow similar strategy was followed by the Nationalist Basque Party (PNV) in the Basque Country and the Convergence and Union Party (CIU) in Catalonia as well as by many other non-nationalist parties in many other ACs. An illustration of the successful pursuit of this strategy is the little alternation between political parties at the subnational level in Spain.

For example, five ACs out of the seventeen existing ones have been dominated, from the first to the seventh legislature, by the same parties (i.e. Castilla-LaMancha by the Spanish Socialist Party (PSOE), Catalonia by the CIU, Extremadura by the PSOE, Galicia by the Popular Party (PP), and the Basque Country by the PNV). In South Africa, parochialization of power was a strategy followed most notoriously by the Inkatha Freedom Party (IFP) in KwaZulu-Natal where the cultural/ethnic and ideological motivations were legitimized the maximization of power locally. This strategy was equally followed by the New Nationalist Party (NNP) and the Democratic Party (DP) in Western Cape. In the

35 Borges (2007) shows that there are variations in the patterns of political competition across the Brazilian states. Despite this variation most of the states from the Northern and Northeastern regions belong show lower levels of political competition.

36 Moreover, among this group of ACs dominant parties, three of them (i.e. Castilla-LaMancha, Catalonia, and Extremadura) had the same politician as at least of the executive of the AC for at least six consecutive legislatures. It is also interesting to note that seven ACs have had the same politician as head of the autonomous government for at least three consecutive times, e.g., Mr. Chaves in Andalusia, Mr. Cañellas in the Balearic Islands, Mr. Lucas in Castilla-Leon, Mr. Leguina and Mr. Gallardon in Madrid, Mr. Valcárcel in Murcia, Mr. Sanz in LaRioja, Mr. Lerma and Mr. Camps in Valencia.
2004 provincial elections this strategy came to an end as the ANC won most of the votes forcing the incumbents into coalition governments.\textsuperscript{37}

As far as nationalization of influence is concerned, in Brazil, parliamentary representatives of certain states in the National Congress are very effective in blocking some initiatives proposed by the national executive as a way to obtain some influence nationally (Ames 2001). This strategy also helps the parliamentarians to articulate effectively their interests nationally (Hagopian 1996; Samuels 2002). In the case of Spain, nationalization of influence also appears in terms of parliamentary support from regional to national parties. In the 1990s there was room for a mutually beneficial deal between statewide parties and the regional parties. As a result, while the former bent to some demands coming from the ACs, the latter became key players in the formation of a minimum winning coalition (Heller 2002). In the South African experience with nationalization of influence, this strategy has been hindered by the dominant party system.

The monopolization of national-subnational linkages in Brazil does not exist as a formal mechanism of facilitation of intergovernmental collaboration between different tiers of government.\textsuperscript{38} Instead, the monopolization of the linkages is often realized through coalition of governors over a particular policy area.\textsuperscript{39} Spain, on the other hand, witnessed the proliferation of formal and informal intergovernmental mechanisms. The formal mechanisms, the Bilateral Commissions and the Sector Commissions increased progressively in Spain after the establishment of the ACs. While in the sectoral commissions the centre government has an upper hand, in the bilateral commissions the ACs seem to have a greater voice.\textsuperscript{40}

As far as the bilateral commissions are concerned, the ACs have more initiative and some ACs, notably Catalonia, even made use of these forums more frequently (Ramos Gallarín 2006). In the case of South Africa, the intergovernmental forums are proliferating though they are being built under a top-down approach in a context of a dominant party system. In effect, most of the established forums are under the direct control of the central government’s Director Generals and have an ad hoc nature (Simeon and Murray 2001).

**FINAL REMARKS**

This paper offers a general framework to understand institutional changes that account for the development of a territorial dynamics in Brazil, Spain and South Africa, which are interpreted in this paper under the label of “transitional federations”. This framework identifies two processes, federalization and decentralization, and their respective institutional variables. These constitutionally

\textsuperscript{37} This coalition for convenience was a form of the once dominant provincial parties to maintain themselves in power despite their huge ideological differences with their partners. As Kadima (2006:68) observes in regard to the ANC coalitions with the IFP and the NNP, the latter were aware of the hidden intentions of their partners to reduce them to irrelevance.

\textsuperscript{38} In the absence of any type of mechanism to facilitate cooperation between the national and subnational executive in Brazil, during Cardoso’s government a type of compartmentalized federalism (federalismo compartimentalizado) emerged, as Abrucio (2006) called the practice of not sharing responsibilities among tiers of government.

\textsuperscript{39} It is often the case in Brazil that state governors form coalitions among themselves in order to impose their agenda on the national executive. Take the example of the Forum of the Governors of Northwestern States (Forum de Governadores do Nordeste) who eventually meet in order to organize strategies to develop and implement joint development initiatives. Through this Forum they created an arena for regional cooperation and eventual articulation of regional interest at the central level. A recent example of this type of initiative is found on the call from the governor of Minas Gerais, Aécio Neves, who invited other governors to demand a renegotiation of a federal pact and demand greater financial autonomy from the center (Correio Brasiliense 2007b).

\textsuperscript{40} Since the creation of the Conference of the Autonomic Presidents in 2004, only three annual meetings have been held.
embedded variables are associated to some propositions regarding the increase of subnational autonomy. In addition to identifying variables and stating proposition, the paper identifies mechanisms that drive the decentralization and federalization processes leading to the retreat of the central state.

Bringing subnational political elites to the fore of the territorial politics through the processes of federalization and decentralization has forced the central state to retreat from its position of main agenda-setter. Nonetheless, this does not imply that the central state has resigned from its position of important player in many fronts. For example, in the case of Brazil and South Africa the central governmental are important players in the policy formulation and implementation supervision of important developmental initiatives. One can also observe in these three countries that in face of the growing autonomy from the subnational political elites, the central states were engaged in certain strategies to curb subnational power, as the cases of Brazil and Spain suggest, or to prevent in practice the subnational elites to exercise power, as the experience of South Africa shows.

All arguments considered, this paper suggests that the intergovernmental dynamics in the “transitional federations” are uncertain, and that amidst these dynamics the central states retrieved from a position of sole determinant of the course of territorial governance.

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BIOGRAPHY

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CHARTS, FIGURES, GRAPHS

Figure 1: Diminished Subtypes of Federalism

Source: Own elaboration based on Collier and Levitsky (1997)
### Table 1: Local Political Elites Strategies in Brazil, Spain and South Africa

<table>
<thead>
<tr>
<th>Cases Strategies</th>
<th>Brazil</th>
<th>Spain</th>
<th>South Africa</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Nationalization of influence</strong></td>
<td>Senators and representatives from certain states blocking legislature dynamics in the national congress.</td>
<td>Regional parties guaranteeing government majority: Legislatures V, VI, VIII and IX.</td>
<td>Absent given the dominant party system.</td>
</tr>
<tr>
<td><strong>Monopolization of national-subnational linkage</strong></td>
<td>Absence of formal linkages. Informally, coalitions among governors have proven to be effective.</td>
<td>Intergovernmental forums are dominated by certain Autonomous Communities.</td>
<td>Absent given the dominant party system.</td>
</tr>
</tbody>
</table>