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Understanding task allocation in the European Union: Testing the value of a federal perspective

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**UNDERSTANDING TASK ALLOCATION IN THE
EUROPEAN UNION: TESTING THE VALUE OF A
FEDERAL PERSPECTIVE**

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Abstract

After a long period in the doldrums, federal approaches to understanding the EU have recently undergone a renaissance. However, some of their core claims remain somewhat ambiguous and many have still not been sufficiently tested empirically. This paper identifies several claims, namely that they: provide a taxonomic tool to classify the EU; permit direct comparisons to be made with other federal entities; allow scholars to re-analyse and re-interpret EU integration; and, critically, explain the allocation of decision-making powers (or tasks) across multiple levels of governance. In testing the value of the federal 'turn' in EU scholarship, this paper subjects the last of these claims to empirical testing within the area of environmental governance - a policy area where one might expect a federal perspective to be especially insightful due to its multi-level nature. Drawing on three relevant federal theories (namely fiscal federalism, regulatory federalism and, co-operative federalism), this paper concludes that each sheds new light on the interminable question of EU task allocation, but none is capable of entirely replacing established theories of European integration.

Key words: European Union, task allocation, multi-level governance, environmental policy, federal, federal theory

1. INTRODUCTION

In recent years, federal approaches to understanding the EU have undergone somewhat of a renaissance, as demonstrated by recent academic articles (e.g. Trechsel, 2005a). The growing popularity of federalism as an organising perspective might even lead us to describe this as a federal 'turn' in EU studies that challenges the dominance of better established theoretical approaches. But while Trechsel (2005b: 401) is probably correct in arguing that "[m]ost authors agree that the European Union (EU) is undergoing a process of federalization", we still do not know just *how* valid a federal perspective is on the EU? For many advocates, the value of federalism is treated very much as a premise, rather than something to be unpacked and critically reviewed. In examining the long-term value of federal theories, this paper seeks to test their theoretical validity in more detailed empirical terms, using the specific issue of task allocation - that is the vertical allocation of decision-making powers (or tasks) across multiple levels of governance.

The 'federal' nature of the EU is more contestable than some federal theorists appear to concede. EU integration theory has primarily involved an exchange between supporters of intergovernmentalism and neo-functionalism. Whereas neo-functionalism views political integration as a consequence of functional spillover, intergovernmentalism treats states - and specifically national governments - as the primary actors (Rosamond, 2000). More recently, academics have found it more profitable to conceive the EU as a system of governance (Marks *et al.* 1996), or even multi-level governance (MLG) (Hooghe and Marks, 2001; Bache and Flinders, 2004). MLG appears to offer a good description of the EU (Jordan, 2001), but may tell us too little about its evolution. By contrast, federal theorists view EU integration as a multi-level, polity-forming process, comparable with existing federal political systems.

A significant literature now exists which promotes a federal understanding of the EU. However, some of its claims are ambiguous to the say the least and many have not been subjected to rigorous empirical testing. As there are many variants of federalism, further clarity is required to assess the long-term value of a federal perspective on the EU. Based on a careful reading of the existing literature, we identify a number of truth claims made those advocating federal theories. Firstly, it is argued that federalism is a useful taxonomic device for classifying the emergent EU polity (e.g. Schmitter 1996b). Secondly, advocates claim that federalism allows direct comparisons to be drawn between the EU and other federal entities (eg. Nicolaidis and Howse, 2001), thereby overcoming the well known 'n=1' problem. Thirdly, federal approaches can be used to provide new insights into the historical process of EU integration (e.g. Burgess, 2000). Finally, and most significantly for our purposes, federal approaches arguably provide a theoretical 'lens' for viewing the vertical allocation of decision-making powers between different levels of EU governance i.e. supranational, national and sub-national (e.g. Börzel and Hosli, 2003).

This latter claim is especially worthy of further investigation as many federal theories aim to speak directly to the debate about the allocation of political "tasks" (Weale, 2005: 348) to particular levels of governance. In fact, one might say that if federal theories are capable of doing anything, it is to shed some light on the division of tasks between administrative levels of multi-levelled federal-type systems: what Alford and Friedland (1985: 3) call their "home domain". After all, federalism is said to delineate the functional or territorial distribution of power between constituent government units (or levels) within a single political system, so each maintains a degree of autonomy, whilst both sharing and submitting to collective decision-making. Indeed, a primary function of federalism is the achievement of "[a] vertical separation

of power by a division of responsibilities between two levels of government” (Börzel and Risse, 2000: 8).

The remainder of this paper unfolds as follows. In section 2, we explain why federal theorists believe that the EU is essentially federal in nature. Then, we seek to distil the existing literature in this area by classifying the principal ‘truth claims’ that have been made. As it would be impossible to test all these in one article, in section three we explain why task allocation represents such a potentially important (or ‘crucial test’) of the explanatory power of federal theories. Having done this, we construct an analytical framework by looking at task allocation from the perspective of three particularly popular federal theories, namely fiscal federalism, regulatory federalism and co-operative federalism. Having done this, in section 4 we present empirical evidence of task allocation, drawn from the existing literature, in the area of EU environmental policy since the late 1960s. The environment is arguably a good test bed for several reasons. Firstly, it is a well-established area of EU competence, which has attracted the attention of federal theorists (e.g. Reh binder and Stewart, 1985; Majone, 1992, Kelemen, 2004; Jeppesen, 2002). For example, McCormick (2001: 7) argues that:

While issues such as education, policing and tax policy are still very much the preserve of the member states, the environment has been ‘federalized’ as a policy issue in the sense that the balance of power has shifted more towards the EU.

Secondly, it is significant that the federal principle of subsidiarity (which suggests that tasks should be allocated to the lowest effective level), was first introduced by the EU in the environmental sector. Finally, some highly influential theories of federalism were originally developed to examine the question of environmental task allocation in more fully-fledged federal systems like the USA (e.g. Oates, 1972; Baumol and Oates, 1988). To narrow our empirical focus, we look at the one of the oldest and most well developed areas of environmental policy, namely water quality, where the EU is now *the* primary regulatory actor in Western Europe (Weale *et al.* 2000: 356-383). In section five we examine the evolution of water governance from the perspective of the three theories, to test their relative explanatory power. Finally, in section six we weigh the evidence in support of the claim (e.g. Burgess 2004) that federal theories deserve to feature prominently in the explanatory ‘toolkit’ of EU analysis.

Federal Approaches to the EU: A Multitude of Truth Claims?

Federalist arguments rest on the basic assertion that the EU is not a *federation*, i.e. a federal state, but exhibits characteristics of *federalism*. Elazar (1994) stresses that federalism as an organising political concept should be freed from any association with the notion of statehood, i.e. federation. The principle of federalism covers a great diversity of multi-level political relationships located along a broad continuum of sub-types, depending on the degree of autonomy held by the constituent units (Elazar, 1994; Burgess, 2000). At one end are loose political unions (or confederations), while at the other is the classic federal state, represented *par excellence* by the USA. Crucially, while the EU outwardly exhibits certain federal characteristics such as multiple levels of governance, shared government, legal supremacy and an elected parliament (Börzel and Risse, 2000; see also Abromeit, 2002), it cannot (at least yet) be regarded as a federation. This is primarily because the EU remains a treaty-based organisation in which Member States have progressively ceded some - but not all - their sovereignty to the European level. In this sense, the EU could be described as a system of “federalism without federation” (Burgess, 2000: 23).

What most concerns us here is not what the EU is (or might become), but rather that – recently - more and more academics have begun to utilise federal theories and approaches better to

understand the EU (e.g. McKay, 2001; Nicolaidis and Howse, 2001), regardless of its exact position on Elazar's continuum. How, then, are they being used? A review of the literature suggests four main uses, discussed in detail below: as a taxonomic tool to classify (parts of) the EU (i.e. what *is* the EU?); as a device to compare the EU with other federal-like structures (i.e. what *kind* of system is it?); to re-analyse and re-interpret the historical process of EU integration (i.e. *how* was it formed?); and, critically, to explain the allocation of decision-making powers (or 'tasks') across multiple levels of governance (i.e. how is it *structured internally*?). In the remainder of this section we examine each of these 'truth claims' in turn.

Describing and Classifying the EU

Federal systems can be seen as a diverse group of political forms located along a continuum (Elazar, 1994; Burgess, 2000). Elazar (1994, xvi), for example, identifies no less than nine major sub-types. Some authors have argued that the EU can be associated with confederalism (Lister, 1996; Elazar, 1994, 2001; Burgess, 2000), or consociationalism (e.g. Taylor, 1990; Chryssochoou, 1997; Costa and Magnette, 2003). It is a truism that the EU is more than a confederation but less than a federation (e.g. Weale, 1995). Weiler (2001), in particular, describes the EU exhibits features of 'federal' and 'confederal' systems, this being Europe's *Sonderweg* (or special way and identity). Opinion of course remains divided as to whether a federal end-point is desirable or even feasible. Schmitter (1996a: 2) believes it is (and one suspects always will be) a matter of "essential contestation".

Facilitating Comparison

Federalism has also been advocated as a way to make direct comparisons between the EU and systems such as the USA and Germany. This strategy is popularly used to offer normative insights into how the EU could function or be politically organised, given that many of its founding fathers were inspired by federalist writings. Several authors started to use federalism to explore the EU in the 1980s (e.g. Scharpf, 1988; Sbragia, 1992), a line of work subsequently developed by Nicolaidis and Howse (2001) and McKay (2001) among others. McKay (2001), for example, draws upon a comparison of five federal states to provide a series of lessons on 'designing Europe'. By contrast, others have looked at more specific political phenomena, e.g. the current constitutional process in the EU, from a federal perspective (Börzel and Risse, 2000; Swenden, 2004; Follesdal, 2005), or to analyse specific sectors or modes of governing, e.g. environmental policy (Hoornebeek, 2004; Vig and Faure, 2004).

Understanding European Integration

Federal thinking had a major influence on the EU's founding fathers (Burgess, 2004; Forsyth, 2003), but their chosen path to European unity (the so-called "Monnet method" of integration by stealth) (Weale *et al.* 2000; Weale, 2005), was much more pragmatic in its attempt to deepen integration via series of incremental advances in politically less controversial areas. Neo-functionalism evolved as an attempt to explain this process, but itself declined after the emergence of intergovernmental accounts in the 1960s. Some authors, however, have always steadfastly maintained that European integration was - and remains - a federal, or at least a federalising, process (e.g. Burgess 2000, xi). As the EU continues to adopt increasing federal-like political and legal mechanisms, norms, institutions and decision-making structures, so the potential salience of these views could be said to grow. Indeed, there is now a feeling that "something *akin* to a federal nation-state is the natural outgrowth of current developments" (Moravcsik, 2005: 1, emphasis added).

Explaining Task Allocation

It is argued that federalism is useful for examining the distribution of decision-making responsibilities across multiple levels of governance. Determining just how 'federal' the EU is

remains open to fierce debate. However, there is a relatively broad level of agreement (at least among EU scholars) that it has evolved into “a kind of federal system...where sovereignty is divided and shared between the central level and the member states” (Börzel and Hosli, 2003: 187). As federalism is directly concerned with how best to distribute powers amongst different institutional levels and actors in multi-tiered polities, it should, many have claimed, be well placed to explain task allocation in the EU. Börzel and Hosli (2003) argue that:

the constitutional language of federalism is more helpful in analyzing and discussing the ways in which the division of power is organized among the different levels of government in the EU (ibid.: 185)

While the precise extent to which the EU can be compared with federal states is open to debate, drawing on Koslowski (2001) they do claim that:

federalism provides a better way of understanding political relationships that are neither purely domestic nor purely international than do most theories of international relations or European integration, precisely because federalism does not rely on a state-centric ontology (ibid.: 185).

To summarise, scholars have made a number of truth claims - some more explicitly than others – in support of the wider use of federal approaches to understanding the EU. While these overlap to a great extent, we believe that there are essentially four in a number. As it would be impossible to test fully all of these in one paper, we have decided to concentrate on the issue of task allocation, as it has a fundamental place in federalist writings. In fact, it could be regarded as a “crucial test” of federal approaches to understanding the EU (Alford and Friedland, 1985: 3).

Task Allocation in the EU

Task allocation in the EU is highly complex, varying quite significantly between and within different policy sectors (for a useful summary, see Schmitter 1996b: 125). Within environmental policy, powers are shared (or ‘mixed’) between the EU and the Member States. In the absence of a specific environmental mandate in the original Treaty, initial interventions were justified using a combination of Treaty Articles 2, 100 (internal market), and the ‘catch all’ 235. As a result, environmental regulation became more centralised over time, as powers were progressively shifted upwards from local and/or national levels to the EU. Environmental policy did not, however, formally become a legal objective of the EU until the 1987 Single European Act (i.e. Article 130r).

How well does a federal perspective explain the allocation of tasks in a relatively mature and well-defined area like the environment? On closer inspection, federalism is actually a very broad church, offering a number of competing theoretical accounts of task allocation. In this section, we look closely at three distinct theories, namely *fiscal federalism*, *regulatory federalism* and *co-operative federalism*, and the rationalities which they posit for (re)allocating tasks between levels (see Table 1).

Table 1: Federal Theories and Task (Re)Allocation in the Environmental Sector

Theory	Key Concepts	Key rationalities for (re)allocating tasks
Fiscal- Environmental Federalism	Fiscal Equivalence Externalities	Tasks are either centralised or decentralised – depending on efficiency criteria, e.g. externalities or ‘spillover’ effects.
Regulatory federalism	Politics of competence Politics of discretion	Tasks are allocated to the federal level according to a predictable pattern determined by the preferences of state and federal actors.
Co-operative Federalism	‘Distribution des pouvoirs’ Interlocking politics/joint decision-making	Tasks are allocated functionally in response to multi-faceted problems requiring co-operative responses. Policy-making generally occurs at the federal level. Lower units focus on implementation but participate in central policy-making.

Fiscal Federalism

Fiscal federalism primarily concerns the effectiveness of multi-level political systems in delivering equitable, efficient distributions of resources. It makes the normative claim that “efficiency in the allocation of resources is best served by the level of government that most closely represents the beneficiaries of these outlays” (Ter-Minassian, 1997, 4). In other words, the costs of providing public goods should be borne by the tax raising jurisdictions that consume them. At the heart of fiscal federalism are the twin processes of centralisation and decentralisation. Oates (1972), in his decentralizing theorem, uses the principle of ‘perfect correspondence’ to suggest that policy interventions should be decentralised to match the preferences of local people. A critical factor in determining the most efficient allocation of tasks will be the distribution of benefits between jurisdictions (*ibid.*). In some cases, benefits of centralised provisions of public goods such as environmental regulations may not be evenly distributed across jurisdictions, e.g. due to geographical variability. However, the presence of negative “externalities” (Oates, 1972: 46), or the uncompensated costs of activities extending beyond the boundaries of lower jurisdictions, is seen as a major determinant. In the case of transboundary environmental problems, lower jurisdictions will not have a sufficiently strong incentive to choose *pareto* optimal solutions, especially when the costs of remediation are be ‘exported’ to cognate jurisdictions.

These basic ideas have been used to develop a distinct canon of federal theory known as “environmental federalism” (e.g. Esty, 1996). Because environmental quality exhibits many features of a public good, its provision will vary according to the scale of the problem, e.g. ‘local’ problems are generally addressed locally, ‘global’ problems addressed more globally. Decentralised decision-making is held to be normatively more efficient when lower jurisdictions can match their policy responses to citizens’ preferences and localised conditions. When decentralised decision-making is unable to meet these conditions due to the characteristics of certain environmental problems, centralised decision-making is said to have efficiency advantages.

Building on this work, Esty (1996) has developed a typology of three main forms of ‘spillover’. ‘Physical spillover’ (i.e. trans-boundary pollution) represents a clear externality, e.g. uncompensated costs imposed on one jurisdiction by a neighbour. From a utility-maximizing perspective ‘economic externalities’ arise when some states adopt more stringent controls than others, e.g. product standards. Here, a so-called ‘race-to-the-bottom’ can ensue as states compete on environmental standards. One way to overcome this is to harmonize regulation. More controversially, there is also a case for considering ‘preservation’ or ‘psychological’ spillovers (e.g. Lenaerts, 1994: 881-2), meaning welfare losses experienced by individuals because of damage to environmental resources in neighbouring jurisdictions (for example, the thought that blue whales swimming in the deep oceans may be driven to extinction). Put together, these economic principles would appear to provide a set of fairly clear rationalities for allocating tasks in an area like environmental protection.

Regulatory Federalism

In a series of influential publications, Kelemen (2000, 2004) has developed a theory of regulatory federalism. He argues that “the institutional structures of federal-type polities shape the development of regulatory policy” (Kelemen, 2000: 133). According to Kelemen (2000: 134) the theory rests on two basic propositions. First, the division of powers between federal (i.e. the EU) and state governments creates a “politics of competence”. As integration proceeds, the division of competence evolves sequentially until the federal government assumes the primal role in policy making, with the states retaining responsibility for implementation. Second, concentrations of power at the federal level alter the “politics of discretion”. Thus, when power is

fragmented between the executive and legislative branches, as in the EU, the judiciary (namely the European Court of Justice – ECJ) plays a significant role in overseeing implementation. These propositions are used to explain task allocation within the EU.

A key determinant of task allocation is the changing nature of actor preferences. Kelemen (2004) argues that both federal and state levels seek to maximise their popularity and scope of authority. The federal government thus seeks to realise its preferences by gaining popular support, eliminating potential barriers to inter-jurisdictional trade, and expanding its competences: a so-called “three for one offer” (*ibid.*: 13). State governments meanwhile also wish to gain popular support in order to increase their chances of re-election. In order to do this they seek to protect their own interests, even at the expense of neighbouring jurisdictions, and preserve their autonomy from the federal authority.

These preferences clash in a “politics of competence”, which evolves sequentially from a starting position, which Kelemen (2004: 12) terms the “initial status quo” (i.e. in which states hold the whip hand). This equilibrium is maintained until public concerns over health, safety or the environment force an issue onto the policy agenda, inducing changes to actor preferences. Some state governments may seek to maximise popularity by regulating where public demands are high. These so-called “strict” states enact stringent standards, whereas more “lax” states are less willing to intervene (*ibid.*). In these situations, strict states are more likely to pressure federal authorities to introduce harmonized product and production standards to maintain competitiveness. By contrast, states with “lax” regimes reluctantly support uniform product standards to ensure equal access to the common market. A key role in this process is played by the high court, which adjudicates when there are disputes over task allocation and non-implementation within states. Over time, a “new equilibrium” is gradually established between states and the federal authority (Kelemen, 2004: 15). Although conflicts may continue to surface, this new equilibrium is said to be relatively stable since each level is able to claim credit for policy successes while blaming the other for any failures.

Co-operative Federalism

Co-operative federalism addresses the interactions between different levels in federal systems. It stems from the recognition that multi-faceted problems are difficult to solve by acting at any single level i.e. they need to co-operate. Co-operative federalism argues that instead of a strict separation of policy responsibilities, i.e. “*separation des pouvoirs*”, there should be a functional division of competences across different levels, or “*distribution des pouvoirs*” (Börzel and Hosli, 2003). In this model, the central-federal level generally makes laws and lower levels implement them. However, the power relationship is not completely asymmetrical. Decision-making competences are usually held either exclusively by the higher level or are concurrent, i.e. shared in the sense that loss of autonomy experienced by lower units is compensated for by a role in central decision-making. Joint tax systems contribute to functional and fiscal interdependence. Lower units may also retain legislative powers in certain areas, leading to complex patterns of task allocation and interaction between actors. Generally, however, powers that are not constitutionally ‘enumerated’ to the federal level, should reside with sub-units.

Two distinct forms of co-operative federalism are discernible. In the USA, co-operative federalism largely follows the “two-level” model first identified by Elazar (1962). Federal use of the “supremacy” doctrine increasingly led to a centralisation of powers in areas such as social and environmental policy. Although states have maintained a stake in Congressional decision-making, the federal ‘supercession’ of such state powers has proved a significant issue in the ‘states-rights’ debate over the overall extent of centralised intervention (see Bomberg, 2003). In contrast, powers in Germany are functionally divided between Länder and federal levels. The

federal government maintains exclusive powers in constitutionally designated areas. The Länder are responsible for implementing policy, although they also enjoy specific powers in certain areas. Scharpf (1988) uses the concept of “*Politikverflechtung*”, or political-administrative interconnections to describe the process of “joint-decision making” that ensues. This is also termed “administrative” federalism (Gunlicks, 2003: 386-8).

For most environmental problems, social welfare is maximised by concentrating legislative responsibilities at the central level, leaving lower levels to implement policy. Consequently, there is limited comparative advantage between federal sub-units – a key factor when dealing with inter-state externalities that may have public health or single market effects. Such functional divisions of responsibilities are balanced by the imposition of strong participatory rights for lower levels in federal decision-making (Börzel and Hosli, 2003). Additionally, tax revenues are ideally shared and re-distributed, allowing sub-units to implement federal policy, e.g. the US federal ‘grants-in aid’ funding scheme for state implementation plans.

Task allocation in action: EU environmental policy

Water quality was essentially a matter for national and/or sub-national action prior to the EU's involvement in the early 1970s (Jordan and Liefferink, 2004). But even at this very early stage, there were already pressures for greater supranational involvement. For example, contamination of the Rhine by French potassium mining led to disputes with the Netherlands as far back as the 1930s (Bennett, 1992). In 1950, an International Commission for the Protection of the Rhine was established which eventually produced a number of water agreements, e.g. the 1976 Rhine Convention. Given these precedents, it was a relatively uncontroversial decision – later enshrined in the 1973 First Environmental Action programme - to give the EU a role in shaping European level water policy. For the sake of simplicity, we have divided its subsequent involvement into three phases.

Phases one and two

The first phase began after the publication of the First Environmental Action Programme, which focused on regulating water used for “drinking, swimming, farming, pisciculture and industry, beverage industry, [and] recreation” (CEC, 1973: Chapter 6). Initial directives on the manufacture of detergents were quickly followed by more specific controls on water quality, which established minimum water quality objectives (WQOs), e.g. for drinking and bathing waters (in 1975 and 1976 respectively). Generally, Member States were given some licence to set more detailed standards and specify where they should apply, but within an overarching framework established by the EU. Other directives soon followed on drinking water (1980), groundwater (1980), and the emission of dangerous substances (1976) (Haigh, 2004). A second phase of legislative activity occurred after an inter-ministerial meeting in Frankfurt in 1988, and resulted in much more costly and wide reaching controls on wastewater treatment and nitrate pollution.

Throughout these two phases, tasks were shifted ‘upwards’ from national and/or sub-national arenas to the EU. The Commission gradually emerged as the major initiator of policy measures, often (but not necessarily always) with the active encouragement of states in the EU Council (Héritier, 1996), who were very anxious to protect their existing high environmental standards or protect domestic economic interests from unfair competition, e.g. the French government in relation to bathing water (Wurzel, 2002: 187). At the same time, Member States shifted from setting standards nationally, to implementing standards set at the EU level. Even though states enjoyed some freedom to fine tune EU standards to local circumstances, this right was very much circumscribed. Consequently, as the costs of implementation soared in the 1990s, Member States looked for different opportunities to reduce their compliance costs, which in turn

quickly generated political conflict with national environmental groups and the Commission (Weale *et al.* 2000: 360). But the Commission, backed eventually by the ECJ, refused to allow them to “water down” EU standards (Jordan, 1999). In so doing, the ECJ underlined the supremacy of EU law over national water law (Krämer, 2002).

Phase three

A third phase started in the 1990s, as moves were made towards greater public participation in policy-making. They also shifted, to some extent, powers downwards to lower levels. In part, these steps were taken in response to Member State demands for more flexibility in implementation (HOLSCEC, 1997), but also to international agreements to which the EU was a signatory. The Commission’s response was to propose a new integrated framework directive on water quality, which is now known as the Water Framework Directive (WFD) (2000/60/EC). During the policy initiation phase, the Commission more actively sought the views of interested parties (such as local authorities, water industry bodies and environmental pressure groups) than it had done in phases one and two (Richardson, 1994). Significantly, the WFD provides for an increasingly multi-levelled approach to water policy implementation. At its core is a requirement for Member States to establish management frameworks (or plans) based on river basins (Haigh, 2004: 4.2-2). Each management plan requires the co-operation of multiple stakeholders, e.g. government agencies, water companies, regional and local authorities. Article 14 also establishes new avenues for public consultation in the production of plans and the availability of monitoring data.

Summary

This brief historical summary demonstrates how tasks have become increasingly allocated across political scales, involving multiple actors and institutional levels. During the first two phases, the locus of governance generally moved from the (sub)national level to the EU, to the extent that EU legislation became “as comprehensive - and more so in many cases – than many national systems of water regulation” (Richardson, 1994: 145). A ‘top down’ regulatory approach to decision-making evolved in which the EU rapidly expanded its powers in an entrepreneurial fashion (*ibid.*: 144) (see also Pollack 2000: 123-9), leaving Member States to concentrate on implementation. Throughout this period, disputes arose over the costs of initiatives and task allocation itself (Jordan, 1999). In its most recent phase, the process of distributing decision-making tasks has become more openly political, and the resulting distribution of powers increasingly more horizontally and vertically complex (Matthews, 1997). Crucially, the WFD represents a more multi-level, participatory and strategic approach to pollution governance, than previous forms of EU intervention and a “model than can be applied to other areas of EU environmental policy” (*ibid.*: 205).

Why did this pattern of task allocation emerge? At first, the Commission proposed new legislation using Articles 100 or, more controversially, 235. The Bathing Water Directive was thus presented as an attempt to address public health and environmental concerns, as well as to reduce the detrimental economic impact (on national tourist industries) of having differential national standards (CEC, 1975). It is fair to say that the Member States did not always take EU water law that seriously at first (Jordan, 1999). They badly under-estimated the binding nature of EU law (Weale *et al.* 2000: 359). Another factor promoting EU intervention in some measures was the prior establishment of global standards for water quality by bodies like the World Health Organization (WHO), to which the EU and its Member States were already party, e.g. bathing water (see Wurzel, 2002). Other trans-national regimes, e.g. the Rhine Convention, were also used by the Commission to justify EU intervention (CEC, 1973).

2. TESTING THE VALUE OF A FEDERAL PERSPECTIVE

Fiscal Federalism

As the form of European water governance changed in the 1970s, the influence of physical and economic externalities gave all the actors a motive to alter the allocation of tasks, i.e. upwards to the EU. Firstly, water pollution traverses national boundaries, imposing externality effects on non-polluting states. This was particularly evident in the long-running dispute between the Netherlands and French over potash mining. The potential for pollution to move across national boundaries was also used by the Commission to justify EU intervention in relation to quite localised issues such as bathing water (Jordan, 1999). Secondly, water pollution can have implications for the functioning of the common market, providing a further justification for harmonising standards at the EU-level. By ensuring more uniform health and ecological standards in water quality, the EU's motives could be interpreted as an attempt to avoid potentially divisive inter-state competition in the provision of environmental quality. Trans-boundary bathing water contamination, could, the Commission claimed, have damaged the economically significant tourist industry, and hence inhibited the free movement of EU citizens. More importantly, the status of water as a traded 'product' (primarily in food and beverage manufacture) was cited as a reason to revise the Drinking Water Directive in the early 1990s. Therefore, the upward assignment of tasks to the EU could be interpreted (at least by advocates of fiscal federalism) as an exercise in addressing trans-national externalities within a common market. From this perspective, the upward shift in decision-making power from states to the EU is entirely logical, since addressing water pollution problems at this level would appear to offer the 'least-cost' approach to internalising negative physical and economic externalities.

However, fiscal federal theories struggle to account for certain aspects of the story of EU water governance. Firstly, there appears to be a highly tenuous legal basis to some of the proposals introduced by the Commission, e.g. bathing water quality has few obvious competitiveness implications. Secondly, there is an ongoing debate amongst scientists about whether issues such as bathing and drinking water pollution are genuinely inter-jurisdictional. Finally, the EU lacks the ability to re-distribute the costs of many environmental policies. If fiscal federal theories are correct, we would expect to find the EU funding water initiatives in Member States to offset the implementation costs of centralised regulations. It does (via *inter alia* the cohesion funds) but not nearly to the extent predicted by fiscal federalists. Indeed, the short fall in centralized funding could be said to have fuelled disputes over the financial burden of water directives. Finally, fiscal federal theories struggle to explain the recent appearance of more complex patterns of task allocation. While moving responsibility for some issues down to the river basin level does in part fulfil the core criteria of 'perfect correspondence', the overall argument is rather tenuous. Thus, the WFD appears to provide local citizens with a greater input to determining environmental quality within their river basins, but only within an overall framework of standards set by the EU. Many of these inconsistencies stem from the theory's economic roots: political decision-making in complex, multi-level systems like the EU is arguably not conducted solely on the grounds of 'efficiency' and 'optimality' in task allocation.

Regulatory Federalism

Keleman's notion of regulatory federalism would appear to have some explanatory power in interpreting the upward shifts in task allocation, particularly during the earlier phases of water policy development. In line with his theory, the division of regulatory competences appeared to move consistently via an ongoing "politics of competence". Additionally, the increasingly contested nature of task allocation has triggered a lively "politics of discretion" involving the ECJ. Member States originally dominated water governance, i.e. the "initial status quo". As scientific evidence of harm became globally more prominent in the 1960s and 1970s, Member

States, mindful of public opinion, began to take unilateral and, later, increasingly multilateral steps, e.g. the Paris Convention 1974, to prevent trans-frontier pollution. Within the context of the EU, the pursuit of different national approaches was seen to conflict with the core aim of creating a common market, as well as subsidiary aims such as ensuring harmonious living standards. It therefore gave the “strict” states a motive to have uniform, EU-wide standards (Börzel, 2005; Wurzel, 2002), whereas “lax” ones like the UK opposed them. Until the Single European Act extended qualified majority voting, the lax states could block or, failing that, water down EU initiatives (e.g. the introduction of special provisions in the Dangerous Substances Directive) (Haigh, 2004, 4.2). As Keleman (2004: 140) suggests, although concerns over regulatory barriers to trade are arguably less important in relation to water pollution, increasing health standards were seen as a way of raising the popularity of the EU. By the same token, cases brought against many Member States for non-implementation has generated a “politics of discretion” involving the ECJ.

However, regulatory federalist ideas exhibit some inconsistencies. Critical is the notion that differentials in regulations between “strict” and “lax” states promote new and/or exacerbate existing competitiveness problems. However, many water issues do not exhibit this feature, at least in the narrow economic sense, i.e. they are not traded ‘products’. Bathing water quality, for example, cannot be viewed solely in these terms, even though an economically dependent tourism industry has obvious trans-boundary aspects. Even drinking water, technically a traded product when used in food and beverage manufacture, was arguably regulated by the EU on public health (not competitiveness) grounds, at a time when EU environmental policy did not have a solid legal mandate. Regulatory federalism also cannot explain more recent changes in task allocation. Keleman (2004: 141-142) predicts that a “new equilibrium” will eventually emerge in the EU as it becomes responsible for policy-making, and the Member States concentrate on implementation. Although this has generally been the case, in recent years a much more complex division of responsibilities has begun to emerge, e.g. in relation to the WFD.

Co-operative Federalism

EU policy-making between 1975 and 1995 exhibited some characteristics of co-operative federalism. Firstly, as in the USA, tasks became rapidly centralised, with the perceived inability of states to confront inter-jurisdictional problems, single market competitiveness concerns and the need to harmonise public health standards providing the most powerful driving forces. There are interesting parallels here with the way in which the US federal government used various constitutional articles to enact “pre-emption” powers (see Andrews, 1999). Secondly, the overall approach was indeed primarily regulatory, with the member states playing an important implementing role. Thirdly, national governments still retained influence in the policy formulation process at EU level, reflecting a co-operative federal-state intergovernmental arrangement. Indeed, many EU measures were initiated by the Member States and then “uploaded” to the EU (Börzel, 2005). Fourthly, this was not enough to prevent disputes flaring in the EU policy process over the precise extent of central intervention. The UK, in particular, became embroiled in several conflicts with the EU over the scope and appropriateness of its actions, mirroring US federal-state disputes. Fifthly, the ECJ has become increasingly analogous to the US Supreme Court, adjudicating on the extent of centralised intervention and chasing up Member State compliance.

Concerns over excessive federal, i.e. EU, intervention may have prompted a move towards a more complex form of co-operative federalism in the area of water governance. Some limited powers have been shifted downwards, allowing greater freedom in implementation by lower levels. Indeed, the pattern of task allocation in the WFD has many similarities with the German

variant of federalism. There are, however, ways in which EU task allocation is not genuinely 'co-operative' e.g. the EU's lack of significant fiscal re-distributional powers. In the USA water investment programmes have been supported by federal funding to offset punitive effects of uniform quality standards on states and local governments, e.g. Drinking Water State Revolving Funds. Another significant difference is the absence of EU constitutionally enumerated powers. In Canada, for example, environmental competences are much more clearly outlined in the federal constitution than in the EU. Finally, the democratic controls on centralised decision-making are still underdeveloped compared to more fully federated states.

3. CONCLUSION

In this paper we have looked at the welter of truth claims made by those advocating a federal approach to understanding the EU, and arranged them into four main types. We have taken one of these – the claim that federal theories illuminate the process of task allocation better than existing theoretical accounts – and subjected it to empirical testing. As this is very much the home domain of federal theories, we might expect them to perform relatively well in relation to this particular claim. After all, some variants of federal theory were specifically developed to understand and explain task allocation in the environmental policy sector.

How well, therefore, did our three federal theories perform? Federal theoretical reasoning does help to explain why certain patterns of task allocation developed within EU water governance, particularly during its early phases. Critical drivers included the perceived trans-boundary nature of polluting effects, rising public health concerns in the 1960s and 1970s, competitiveness arguments, the growing demand for environmental protection, and, to a surprisingly great extent, the prior ‘internationalisation’ of issues through various inter-governmental initiatives. Many of these drivers correspond neatly with federal theoretical rationalities for (re)allocating tasks. For example, they sit easily with the fiscal federalist argument about addressing environmental concerns ‘federally’ when confronted with physical and economic externalities within a common market. Alternatively, Kelemen’s (2004) politics of “competence” and “discretion” may have some relevance, with its emphasis on how shifting actor preferences determine the pattern of task assignment. Finally, co-operative federal rationalities were also evident in the upward allocation of powers, particularly the need to ensure harmonious living standards through standardising approaches to public health and environmental quality.

However, the theories do have a surprising number of blind-spots in their “home domain” (Alford and Friedland, 1985: 3). One recurring problem is their strong emphasis on economic rationalities. Both fiscal-environmental federalism and regulatory federalism assume shifts in actor preferences are largely determined by changing perceptions of what constitutes economic competitiveness. Although the existence of economic externalities provides a powerful incentive to centralise tasks, task allocation is demonstrably not predicated solely on economic arguments. Theoretical explanations must also get to grips with overtly ‘political’ motivations such as the agenda-setting activities of individual agents and pressure groups who seek to portray reality to suit their purposes, institutional entrepreneurship (e.g. by the Commission), the ongoing regulatory competition between states, as well as increasingly strident demands for greater ‘subsidiarity’. Additionally, both fiscal federalism and regulatory federalism struggle to explain the (albeit limited) downward shifts in tasks that have occurred in relation to water governance issues.

If federal theories provide an incomplete explanation in their “home domain” how well do traditional theories of EU integration fare? Neo-functionalists would presumably interpret the gradual centralisation of tasks as an inevitable consequence of economic integration (see Weale, 2005). Indeed, arguments that ‘spillover’ from the common market in turn prompted states to transfer decision-making sovereignty to the EU, i.e. functional and political issue linkage, seem both logical and credible. But then again, neo-functionalist arguments do not tell the whole story. For instance, neo-functionalism all too easily assumes that tasks are inexorably re-allocated to the EU level. Although this was clearly identifiable in the earlier phases of water governance, in recent years Member States have partially re-asserted control, leading to a ‘downward’ assignment of some tasks. Water governance also exhibits many features of intergovernmentalism. In the initial stages of water policy, Member States were significant in

determining the strategic direction of water policy. But as the process of implementing the First Environmental Action Programme unfolded, EU water policy began to progress well beyond their initial expectations. Member States, therefore, have found themselves sharing an increasing number of powers and sometimes in conflict with, a variety of non-state EU actors, e.g. the ECJ, the European Parliament, etc. Therefore, on the basis of the evidence presented in this paper, federalism offers a strong but by no means complete account of task allocation in the EU.

What then of the other federalist claims identified earlier? Although these are not expressly tested in the limited confines of this paper, they can nevertheless provide some potential pointers to future research. For example, using federal theory as a taxonomic tool to classify (parts of) the EU (Claim 1), decision-making on water issues could be said to correspond with a loosely-defined system of co-operative federalism, paralleling a number of existing multi-level polities, e.g. Germany, in which centralised regulation is offset by the participation of lower level bodies in tasks like implementation. However, attempts to draw direct comparisons with federal states (Claim 2) should be viewed with some caution. Despite acquiring democratic-type institutions and mechanisms, the EU is still evolving as a political system: at best, it is a “partial” or “part-polity” (Sbragia, 2004) – a “quasi-federation” (Weale, 1995). Thirdly, it is difficult to say with any exactness whether water governance has promoted, or been promoted by, an incrementally ‘federalising’ process (Claim 3). Our empirical evidence suggests that water governance could be termed ‘federal’ in task allocation terms, though the precise nature of its ‘federalism’ is eminently debatable. Like other aspects of EU governance, this remains a subject for further empirical investigation.

Where then does this leave federal theories? Firstly, it would be helpful if, as we pointed out above, some of those advocating a federal approach to the EU were clearer in their truth claims. Secondly, there is undoubtedly room for studies seeking to test variants of federalism in different empirical contexts. Perhaps the real promise of a federal perspective lies in its potential to assimilate and/or combine with other parts of the “overall mosaic of *European Integration Theory*” (Wiener and Diez, 2004: 242) (emphasis in the original). Space constraints prevent us from elaborating upon this point more fully, but it is noteworthy that some commentators are already moving in this direction. For example, Sbragia (2004: 3) argues “[f]ederalism can easily incorporate sub-central governments as important actors at the center...the...acknowledgement that states play a key role in the decision-making process is not a problem from the federalist perspective”. Others note that the Monnet Method of integration was a pragmatic but nonetheless conscious attempt by European political elites gradually to create a more federal Europe (e.g. Burgess, 2004). Finally, there are strong parallels between federal thinking and some of the concepts (e.g. uploading and downloading) that have emerged in relation to the process of Europeanization (see above) (e.g. Börzel 2005). Given the EU’s continued acquisition of ‘federal’ like features, further progress towards “theoretical convergence” (Burgess, 2004: 41) should, therefore, be encouraged, but, as we consistently emphasise in this article, also subjected to robust empirical testing.

References

- Abromeit, H. (2002). Contours of a European Federation. *Regional and Federal Studies*, 12 (1): 1-20.
- Alford, R., and Friedland, R. (1985). *Power of Theory*. Cambridge: Cambridge University Press.
- Andrews, R.N.L. (1999). *Managing the Environment, Managing Ourselves*. New Haven: Yale University Press.
- Bache, I., and Flinders, M. (2004). *Multi-level Governance*. Oxford, Oxford University Press.
- Baumol, W. J., and Oates, W. E. (1988). *The Theory of Environmental Policy*. Englewood NJ: Prentice Hall.
- Bennett, G. (1992). *Dilemmas: Coping with environmental problems*. London: Earthscan.
- Bomberg, E. (2003). Environmental Policy. In R. Singh (ed.) *Governing America*, Oxford: Oxford University Press.
- Börzel, T. (2005). Pace Setting, Foot Dragging and Fence Sitting: Member States Responses to Europeanization. In: A. Jordan (ed.) *Environmental Policy in the EU (2nd edition)*, Earthscan: London.
- Börzel, T., and Hosli, M. (2003). Brussels between Berlin and Bern: Comparative Federalism meets the European Union. *European International Journal of Policy, Administration, and Institutions*, 16 (2): 179-202.
- Börzel, T., and Risse, T. (2000). Who is afraid of a European Federation? How to Constitutionalise a Multi-level Governance System. *Harvard Jean Monnet Working Paper (Symposium)*. Cambridge MA: Harvard Law School.
- Burgess, M. (2000) *Federalism and European Union: The Building of Europe, 1950-2000*. London: Routledge.
- Burgess, M. (2004). Federalism. In A. Wiener and T. Diez (eds.) *European Integration Theory*, Oxford: Oxford University Press.
- CEC (Commission of the European Communities) (1973). Programme of Action of the European Communities on the Environment. OJ C 112, 20.12.1973.
- CEC (Commission of the European Communities) (1975). Proposal for a Council Directive relating to pollution of sea water and fresh water for bathing (quality objectives). OJ C 67, 22.3.1975.
- Chrysochoou, D. (1997). New Challenges to the Study of European Integration. *Journal of Common Market Studies*, 35 (4): 521-542.
- Costa, O., and Magnette, P. (2003) The European Union as a Consociation? *West European Politics*, 26 (3): 1-18.
- Elazar, D. (1962). *The American Partnership*. Chicago: University of Chicago Press.
- Elazar, D. (1994). *Federal Systems of the World: 2nd Edition. A handbook of federal, confederal and autonomy arrangements*. Harlow: Longman.
- Elazar, D. (2001). The United States and the European Union: Models for Their Epochs. In K. Nicolaidis and R. Howse (eds.), *The Federal Vision*, Oxford: Oxford University Press.
- Esty, D. (1996). Revitalizing Environmental Federalism. *Michigan Law Review*, 95 (3).
- Follesdal, A. (2005). Towards a stable *finalite* with federal features? The balancing acts of the Constitutional Treaty for Europe. *Journal of European Public Policy*, 12 (3): 572-589.
- Forsyth, M. (2003). The Political Theory of Federalism: The Relevance of Classical Approaches. In B. Nelsen and A. Stubb (eds.) *The European Union: Readings on the Theory and Practice of European Integration, Third Edition*, London: Lynne Rienner.
- Gunlicks, A. (2003). *The Länder and German Federalism*. Manchester: Manchester University Press.
- Haigh, N. (2004). *Manual of Environmental Policy: the EU and Britain*. Leeds: Maney Publishing.

- Héritier, A. (1996). The accommodation of diversity in European policy-making and its outcomes: regulatory policy as a patchwork. *Journal of European Public Policy*, 3 (2): 149-67.
- Hooghe, L., and Marks, G. (2001). *Multi-Level Governance and European Integration*. Lanham, MA: Rowman & Littlefield.
- Hoornbeek, J.A. (2004). Policy-making institutions and water policy outputs in the European Union and the United States: a comparative analysis. *Journal of European Public Policy*, 11 (3): 461-496.
- HOLSCEC (House of Lords Select Committee on the European Communities) (1997). *Eighth Report: Community Water Policy*. London: The United Kingdom Parliament.
- Jeppesen, T. (2002). *Environmental Regulation in a Federal System*. Edward Elgar: Cheltenham.
- Jordan, A. (1999). European Community Water Policy Standards: Locked in or Watered Down? *Journal of Common Market Studies*, 37 (1): 13-37.
- Jordan, A. (2001). The European Union: an evolving system of multi-level governance...or government? *Policy and Politics*, 29 (2): 193-208.
- Jordan, A., and Liefferink, D. (eds.) (2004). *Environmental Policy in Europe*. London: Routledge.
- Kelemen, R. D. (2000). Regulatory federalism: EU Environmental Regulation in Comparative Perspective. *Journal of Public Policy*, 20 (3): 133-167.
- Kelemen, R. D. (2004). *The Rules of Federalism*. Cambridge MA: Harvard University Press.
- Koslowski, R. (2001) Understanding the European Union as a federal polity. In T. Christiansen, K. Jorgensen and A. Wiener (eds.) *The Social Construction of Europe*, London: Sage.
- Krämer, L. (2002). *EU Casebook on Environmental Law*. Oxford: Hart Publishing.
- Lenaerts, K. (1994). The principle of subsidiarity and the environment in the European Union: keeping the balance of federalism. *Fordham International Law Journal*, 17: 846-895.
- Lister, F. K. (1996). *The European Union, the United Nations, and the Revival of Confederal Governance*. Westport: Greenwood Press.
- McCormick, J. (2001). *Environmental Policy in the European Union*. Basingstoke: Palgrave.
- McKay, D. (2001). *Designing Europe: lessons from a comparative federal experience*. Oxford: Oxford University Press.
- Majone, G. (1992). Regulatory federalism in the European Community. *Environment and Planning C*, 10: 299-316.
- Marks, G., Scharpf, F.W., Schmitter, P.C., Streeck, W. (eds.) (1996). *Governance in the European Union*. London: Sage.
- Matthews, D. (1997). The Framework Directive on Community Water Policy: A new Approach for EC Environmental Law. *Yearbook of European Law*, 17: 191-206.
- Moravcsik, A. (2005) The European Constitutional Compromise. *EUSA Review*, 18 (2): 1-7.
- Nicolaidis, K., and Howse, R. (2001). *The Federal Vision*. Oxford: Oxford University Press.
- Oates, W.E. (1972). *Fiscal Federalism*. New York: Harcourt Brace Jovanovich.
- Pollack, M. (2000) The Commission as an Agent. In: Nugent, N. (ed.) *At the Heart of the Union* (2e) Basingstoke: Macmillan.
- Rehbinder, E and Stewart, R. (1985). Legal Integration in Federal Systems: European Community Environmental Law. *American Journal of Comparative Law*, 33: 371-446.
- Richardson, J. (1994) EU Water Policy: Uncertain Agendas, Shifting Networks and Complex Coalitions. *Environmental Politics*, 3 (4): 139-167.
- Rosamond, B. (2000). *Theories of European Integration*. Basingstoke: Palgrave.
- Sbragia, A. (1992). Thinking about the European Union: The Uses of Comparison. In A. Sbragia (ed.) *Euro-politics*, Washington DC: The Brookings Institution.
- Sbragia, A. (2004). *The Future of Federalism in the European Union*. Keynote Address delivered at the European Community Studies Canada (ECSA-C) 2004 Biennial Conference.

- Scharpf, F. (1988). The Joint Decision Trap: Lessons from German Federalism and European Integration. *Public Administration*, 66, 239-278.
- Schmitter, P. (1996a) Examining the Present Euro-Polity With the Help of Past Theories. In: Marks *et al. Governance in the European Union*. Sage: London.
- Schmitter, P. (1996b) Imaging the Future of the Euro-Polity with the Help of New Concepts. In: Marks *et al. Governance in the European Union*. Sage: London.
- Swenden, W. (2004) Is the European Union in Need of a Competence Catalogue?: Insights from Comparative Federalism. *Journal of Common Market Studies*, 42 (2): 371-392.
- Taylor, P. (1990). Consociationalism and Federalism as approaches to International Integration. In A. J. R. Groom and P. Taylor (eds.), *Frameworks for International Co-operation*, London: Pinter: 172-84.
- Ter-Minassian, T. (1997). *Fiscal Federalism in Theory and Practice*. Washington DC: IMF.
- Trechsel, A. H. (2005a). Introduction. *Journal of European Public Policy*, 12 (3): 397-400.
- Trechsel, A. H. (2005b). How to federalize the European Union...and why bother. *Journal of European Public Policy*, 12 (3): 401-418.
- Vig, N., and Faure, M. (eds.) (2004). *Green Giants?: environmental policies of the United States and the European Union*. Cambridge MA: MIT Press.
- Weale, A. (1995). Democratic Legitimacy and the Constitution of Europe. In R. Bellamy, V. Bufacchi and D. Castiglione (eds.) *Democracy and Constitutional Culture in the Union of Europe*, London: Lothian Foundation Press.
- Weale, A., Pridham, G., Cini, M., Konstadakopulos, D., Porter, M., and Flynn, B. (2000). *Environmental Governance in Europe*. Oxford: Oxford University Press.
- Weale, A. (2005). European environmental policy by stealth. In A. Jordan (ed.) *Environmental Policy in the European Union (2nd edition)*, London: Earthscan.
- Weiler, J. H. H. (2001). Federalism without Constitutionalism: Europe's Sonderweg. In K. Nicolaidis and R. Howse (eds.) *The Federal Vision*, Oxford: Oxford University Press.
- Wiener, A., and Diez, T. (eds.) (2004). *European Integration Theory*. Oxford: Oxford University Press.
- Wurzel, R. (2002). *Environmental policy-making in Britain, Germany and the European Union*. Manchester: Manchester University Press.