

# RETHINKING THE ORIGINS OF FEDERALISM

## Puzzle, Theory, and Evidence from Nineteenth-Century Europe

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### I. INTRODUCTION

STATE builders and political reformers frequently seek a federally organized political system. Yet how is federalism actually achieved? Political science scholarship on this question has noted a paradox about federations. States are formed to secure public goods such as common security and a national market, but at the moment a *federal* state is founded, a dilemma emerges. How can a political core be strong enough to forge a union but not be so powerful as to overawe the constituent states, thereby forming a unitary state?

This article proposes a new answer to this question by examining the two most prominent cases of state formation in nineteenth-century Europe—Germany and Italy. The aim is explain why these two similar cases resulted in such different institutional forms: a unitary state for Italy and a federal state for Germany. The two cases challenge the standard interstate bargaining model, which views federalism as a voluntary “contract” or compromise among constituent states that is sealed only when the state-building core is militarily so weak that it *must* grant concessions to subunits.

The evidence in this article supports an alternative state-society account, one that identifies a different pathway to federalism. The central argument is that all states, including federations, are formed through a combination of coercion and compromise. What determines if a state is created as federal or unitary is whether the constituent states of a potential federation possess high levels of what Michael Mann calls “in-

\*The author thanks the members of the Comparative Politics Workshop at Yale University, the Comparative Politics Faculty Group at Harvard University, and faculty seminars at George Washington University and Brigham Young University. Additionally, the author especially acknowledges the feedback and advice on earlier versions of this paper from Anna Grzymala Busse, Daniel Nielson, Paul Pierson, and three anonymous reviewers and the research assistance and critical comments of Will Phelan.

frastructural capacity.”<sup>1</sup> That is, federalism is possible only if state building is carried out in a context in which the preexisting units of a potential federation are highly institutionalized and are deeply embedded in their societies—and hence are capable of governance. Why? Only subunits with high levels of infrastructural capacity can deliver to both the core and the subunits the gains that were sought from state formation in the first place. If, by contrast, state building is carried out in a context in which the preexisting potential subunits are weakly institutionalized patrimonial states not embedded in their societies, then state builders turn to unitary solutions. It is only via high-infrastructural subunits that the basic paradox of federalism’s origins can be resolved. Absent such high-infrastructural subunits, the political core will seek to absorb *all* the preexisting subunits of a potential federation to establish a unitary state.

The article is organized as follows. The first section introduces the two cases to show the limits of existing theory. The second proposes a new framework that emphasizes the causal importance of subunit infrastructural capacity as the source of federalism. The third applies the framework to the two cases of nineteenth-century Germany and Italy. The final section discusses the implications of the argument for other cases and for our thinking about contemporary decentralization efforts.

#### AN EMPIRICAL PUZZLE: NINETEENTH-CENTURY GERMANY AND ITALY AND THE LIMITS OF CLASSIC BARGAINING THEORY

This analysis begins with a puzzle in the development of two late-unifying nation-states in nineteenth-century Europe: that Italy and Germany adopted divergent institutional solutions to the task of national unification. Though the cases are well known to historians, they have rarely been considered together in an effort to systematically test hypotheses on institutional development. A comparison of nineteenth-century Germany and Italy offers a promising opportunity for theory development—for understanding the factors that help state builders construct federal political institutions in different places and times.

What makes this particular comparison so promising? First, there are some broadly intuitive similarities in context: between 1859 and 1871 the conservative monarchs of the two states of Prussia and Piedmont undertook the bold political projects of forging modern German and Italian nation-states out of a similarly fragmented collection of in-

<sup>1</sup>Mann, *The Sources of Social Power* (Cambridge: Cambridge University Press, 1993), 2:59–61.



FIGURE 1  
MAP OF EUROPE, 1815

dependent and foreign-ruled states of Europe. Until the 1860s both Germany and Italy were a set of independent mostly monarchical states with borders and boundaries that in many cases had been drawn by others—by Napoleon after 1798 and by the Vienna Peace Congress of 1815. Figure 1 provides an overview of the German and Italian states in their European context as they stood between 1815 and national unification in 1861 and 1867–71.

As the figure demonstrates, the projects of national unification entailed fusing together a group of independent ministates—each with its own monetary system, legal code, and political institutions—into larger nation-states. In both settings national unification was violent, inspired by a new liberal nationalism, and shaped by the diplomatic interests of Europe’s great powers. In both cases, moreover, national unification was undertaken by two ambitious states—Prussia in Germany’s north and Piedmont in Italy’s north. The Italian historian Rosario Romeo has dubbed Piedmont, “the Prussia of Italy.”<sup>2</sup> Indeed, their similar expansionary actions provoked similar armed resistance on the part of other German and Italian states—chiefly Bavaria and several other states in Germany’s south in 1866 and the Kingdom of Two Sicilies in Italy’s south in 1860. Finally, the projects of German and Italian national uni-

<sup>2</sup>Romeo, *Risorgimento e capitalismo* (The risorgimento and capitalism) (Bari: Laterza, 1959).

fiction were inspired by a similar twofold motivation on the part of the Prussian and Piedmontese governments: first, to co-opt the nationalist movements with the aim of asserting monarchical control and, second, to expand territorial control with the aim of securing greater fiscal resources, more manpower, and more territory—all the hallmarks of “great power” status in late-nineteenth-century Europe.<sup>3</sup>

A second broad similarity, as recent scholarship on nineteenth-century Germany and Italy has demonstrated, is that the ideology of federalism thrived in both cases, as political leaders in both settings preferred to unify the two nation-states under a federal institutional form.<sup>4</sup> This is perhaps less surprising for the German context. But it is all too often forgotten that, as Robert Binkley has noted of the 1860s in Italy, “the idea of confederation had been present in Italian statecraft for more than a generation, not as an exotic political invention but as a seemingly inevitable alternative to the situation established in 1815.”<sup>5</sup> One important historian of nineteenth-century Europe has similarly written of post-1815 Italy: “The political discussions and proposed solutions returned time and again to the question of unity or federalism in a manner unknown even in Germany.”<sup>6</sup> Indeed, Cavour, the chief architect of national unification in Italy, reflected the ethos of his political environment and undertook his political project with deep *ideological* misgivings about excessive centralization. In his biography of Cavour, Mack Smith writes, “Cavour had always been a theoretical champion of decentralization and local self-government.”<sup>7</sup> Likewise, important members of the governing center-right coalition in Piedmont were advocates of confederative principles.<sup>8</sup>

Yet despite the broadly similar historical context and the common ideological preference for federalism, Prussian and Piedmontese state

<sup>3</sup> Additionally, in *both* settings, the political cores (Prussia and Piedmont) were wealthier than the states they absorbed. Recent estimates of preunification regional GDP per capita demonstrate that Prussia was on average 1.9 times wealthier than the states it absorbed. Piedmont was 1.7 times wealthier than the states it absorbed. This finding undercuts the notion that the different institutional choice in the two cases reflected deep underlying differences in regional socioeconomic inequality. See Alfredo Esposto, “Estimating Regional per Capita Income: Italy, 1861–1914,” *Journal of European Economic History* 26, no. 4 (1997), 589; see also Harald Frank, *Regionale Entwicklungsdisparitäten im deutschen Industrialisierungsprozess, 1849–1939* (Regional development disparities in the German industrialization process, 1849–1939) (Münster: Lit Verlag, 1996), appendix 8, p. 30.

<sup>4</sup> There were at least three intellectual strands that were self-consciously federal in nineteenth-century Italy: the neo-Guelphs such as the priest Vincenzo Gioberti, who advocated a confederacy of princes under the lead of the pope; liberals such as Carlo Cattaneo and Ferrera; and regional autonomists in Italy’s south.

<sup>5</sup> Binkley, *Realism and Nationalism, 1852–1871* (New York: Harper and Row, 1935), 197.

<sup>6</sup> Stuart Woolf, *The Italian Risorgimento* (New York: Barnes and Noble, 1969), 7.

<sup>7</sup> Denis Mack Smith, *Cavour* (London: Weidenfeld and Nicolson, 1985), 249.

<sup>8</sup> William Salomone, *Italy in the Giolittian Era: Italian Democracy in the Making, 1900–1914* (Philadelphia: University of Pennsylvania Press, 1960), 13.

builders adopted starkly different institutional formulas for their nation-states. On the one hand, in Italy in 1861 Piedmontese state builders fused together the long-independent Italian states under a *unitary* political model that erased the formerly independent states from the political map. On the other hand, in Germany in 1867 and 1871 Prussian state builders adopted a *federal* political model in which the formerly independent states became regional states that maintained wide areas of discretion and jurisdiction in policy, administration, and public finance.<sup>9</sup>

It is this institutional disjuncture between a unitary Italy and a federal Germany in nineteenth-century Europe that suggests a broader question: under what conditions does the relationship between central and regional governments take on federal characteristics? William Riker remains the most influential theorist of federalism's origins.<sup>10</sup> In his first and still classic work on federalism, he examines "*all* the instances of the creation of federalism since 1786," from which he draws the compelling conclusion that has provided the central assumptions for most subsequent analyses of "coming together" instances of federalism.<sup>11</sup> A federal bargain is struck, that is, when two conditions are met. First, there exists a desire on the part of those offering the bargain to expand territory by combining constituent governments into a new political entity in order to secure a public good such as security or a common market. Second, for those accepting the bargain, there must be some willingness to sacrifice political control in exchange for access to the public good provided by the new federal government.<sup>12</sup>

The next question follows: under what conditions is the expanding core willing to make federal concessions to the constituent states of a potential federation in the process of state building? Riker identifies two constraints that determine whether the political core offers concessions: "Though they desire to expand, they are not able to do so by conquest because of either *military incapacity* or *ideological distaste*. Hence, if they are to satisfy the desire to expand, they must offer concessions

<sup>9</sup>It should be noted that post-1871 German federalism, often dubbed "executive federalism," contrasts with the classic American "dual federalism," insofar as most important legislation was national but was implemented by independent state-level bureaucracies. See Gerhard Lehbruch, "Der unitarische Bundesstaat in Deutschland: Pfadabhängigkeit und Wandel," Discussion Paper 02/2 (Cologne: Max-Planck-Institut für Gesellschaftsforschung, 2002). See also the discussion in Daniel Ziblatt, *Structuring the State: The Formation of Italy and Germany and the Puzzle of Federalism* (Princeton: Princeton University Press, forthcoming).

<sup>10</sup>See especially Riker, *Federalism: Origins, Operation, Significance* (New York: Little Brown, 1964).

<sup>11</sup>*Ibid.*, 10; Rui de Figueiredo and Barry Weingast, "Self-Enforcing Federalism" (Manuscript, Stanford University, 2001).

<sup>12</sup>Riker (fn. 10), 9.

to the rulers of constituent units, which is the essence of the federal bargain."<sup>13</sup>

The argument posits that the political center will always prefer to seek direct control over the periphery if that is possible. State building therefore results in unitary governance structures when the political center is militarily strong enough to impose itself on the periphery at the moment of polity formation. By contrast, federal "concessions" are granted when the political center is militarily too weak to impose itself on the periphery.<sup>14</sup> The expectations of this theory are clear and logical: the militarily stronger the political center is vis-à-vis the regions, the less likely is a federal structure, and conversely, the militarily weaker the political center is vis-à-vis the regions, the more likely are federal or confederal institutions.

How does this argument fare in the Italian and German contexts? It is here that the German and Italian comparison becomes so puzzling, as the cases run directly counter to these theoretical expectations: Prussia, according to all traditional measures of military power, could easily have conquered southern Germany while Piedmont, according to these same measures, was much weaker vis-à-vis southern Italy. Several years before national unification, Prussia possessed 57 percent of the future German Reich's population, 54 percent of all public expenditures on the military by German states, and 54 percent of the future German Reich's territory. By contrast, in the 1850s Piedmont possessed only 6 percent of the future Italy's population, only 29 percent of its soldiers, and only 22 percent of its territory.<sup>15</sup> Why did the well-consolidated and highly powerful Prussian state, after defeating Austria and its southern German allies in 1866, establish a federal system of territorial governance whereas the less powerful and less dominant state of Piedmont, after defeating Austria in 1859, established a unitary system?

<sup>13</sup> Ibid., 12, emphasis added.

<sup>14</sup> Ibid.

<sup>15</sup> The relative military power of Piedmont and Prussia is established by estimating each state's control over population, territory, and military expenditures (before unification) as a proportion of the future territory of each unified nation-state (that is, excluding Austria in both cases) after 1871. Italy's population figures are for 1861, from Vera Zamagni, *The Economic History of Italy, 1860–1990* (Oxford: Clarendon Press, 1993), 14; Italy's territory figures are for 1857, from Robert Fried, *The Italian Prefects: A Study in Administrative Politics* (New Haven: Yale University Press, 1963), 54; German population figures are for 1865, from Thomas Nipperdey, *Germany from Napoleon to Bismarck, 1800–1866* (Princeton: Princeton University Press, 1996), 86; Germany's territory data are from Rolf Dumke, *German Economic Unification in the Nineteenth Century: The Political Economy of the Zollverein* (Munich: University of the Bundeswehr, 1994), 55; Germany's military expenditure data are from Knut Borchard, "Staatsverbrauch und Öffentliche Investitionen in Deutschland, 1780–1850" (State expenditures and public investments in Germany, 1780–1850) (Ph.D. diss., University of Göttingen, 1968), 183–85; military personnel data are from J. David Singer and Melvin Small, *National Material Capabilities Data, 1816–1985* (Computer file) (Ann Arbor, Mich.: ICPSR, 1993).

Why did a strong center create a federal system and a relatively weak center create a unitary system? And, more broadly, what does this teach us about federalism's origins?

#### AN ALTERNATIVE FRAMEWORK: AN INFRASTRUCTURAL MODEL OF FEDERALISM'S ORIGINS

An alternative account of federalism's origins focuses not on the military power of the constituent states vis-à-vis each other but instead on the nature of state-society relations inside the constituent states of a potential federation. Rather than stressing *horizontal* interstate power relations among states, this framework stresses *vertical* state-society relations within the subunits of a potential federation as the structuring factor behind federalism. This alternative account, which can be called an infrastructural model of federalism, agrees with existing accounts about the impetus behind state formation. But it departs from those accounts in two ways. First, it argues that all states—including federations—can be formed through a combination of coercion and compromise. Second, the key issue that determines whether federalism is adopted for a state is the degree of institutionalization and the resulting *infrastructural capacity* of the subunits at the moment of polity formation.

An infrastructural capacity account argues that theorists of federalism's origins ought to be more attentive to the institutional prerequisites of federalism. This account represents a theoretically coherent alternative to standard accounts insofar as it identifies a new *causal variable*, specifies a different *causal mechanism*, and makes distinct *empirical predictions* of when federalism will be created (see Table 1). The key elements of the argument are spelled out in the following discussion.

#### THE IMPETUS OF STATE FORMATION

First, what gives rise to state formation? An infrastructural model of federalism agrees with existing accounts that state building is often motivated by the pursuit of public goods such as a national market and national security. Typically, large states seek to conquer smaller neighboring states to establish a common market and a larger military, thereby assuring greater geopolitical significance on the world stage. While the account I offer agrees with this assessment, classic bargaining accounts tend to fuse this question with the analytically distinct question of what type of state is created *after* state formation. By fusing the issues, as Gibson and Falletti observe, there is a tendency to mistake

TABLE 1  
TWO APPROACHES TO EXPLAINING THE FORMATION OF FEDERALISM

	<i>Impetus of State Formation</i>	<i>Causal Variable Determining Institutional Form</i>	<i>Causal Mechanism</i>	<i>Empirical Prediction</i>
Traditional bargaining model of federalism's origins	pursuit of public goods such as security and market	<i>horizontal state-society relations:</i> capacity of states vis-à-vis each other	core and periphery strike federal bargain when core lacks military capacity to force unitary solution	the militarily weaker the center, the more likely federalism
Infrastructural account of federalism's origins	pursuit of public goods such as security and market	<i>vertical state-society relations:</i> infrastructural capacity of subunit states vis-à-vis their own societies	core concedes authority and periphery seeks autonomy when subunits have infrastructural capacity to deliver public goods of union	the infrastructurally more developed the constituent states, the more likely federalism

the causes of national unification for the causes of federalism.<sup>16</sup> Therefore, it is critical to ask what determines the structure of a state after state formation is under way.

A CAUSAL VARIABLE: INFRASTRUCTURAL CAPACITY AS CATALYST OF FEDERALISM

An infrastructural capacity account offers an argument distinct from a classic bargaining model. To understand when federalism is possible we ought not to focus on the *interstate* relations of constituent states and the relative “military power” of the constituent states of a potential federation vis-à-vis each other. We should focus instead on the vertical relations of constituent states vis-à-vis their own societies, or what Michael Mann in his important book on state formation calls the “infrastructural power” of states. “Military power” refers to the social organization of physical force, deriving from the necessity of defense against aggression. “Infrastructural power” describes state-society rela-

<sup>16</sup> Edward L. Gibson and Tulia Falleti, “Unity by the Stick: Regional Conflict and the Origins of Argentine Federalism,” in Gibson, ed., *Federalism and Democracy in Latin America* (Baltimore: Johns Hopkins University Press, 2004).



tions in reference to (1) the degree of institutionalization of a state and (2) the capacity of a central state to penetrate its territories and logistically implement decisions.<sup>17</sup> In the sense in which I use the term, the crucial issue is not merely whether the subunits of a potential federation exist. Instead, the issue is the extent to which the subunits of a potential federation possess both parliamentary institutions that are embedded in society via a constitution and well-developed administrative structures. If subunits possess these attributes, I argue, the coercion inherent in state formation will be accompanied by a process of negotiation and devolution of authority. Absent state structures with high levels of institutionalization via constitutional and parliamentary legitimacy, the subunits of a potential federation will be absorbed and swept away via a unitary strategy of state formation.

#### CAUSAL MECHANISM: HOW HIGH INFRASTRUCTURAL CAPACITY TRANSLATES INTO FEDERALISM

In addition to identifying a different causal variable, my account specifies different mechanisms linking state building to federalism. I argue that high infrastructural subunits that are constitutional, parliamentary, and administratively modernized states serve as a pathway to federalism, for two reasons. First, they can serve as credible negotiating partners in a process of state formation. Second, they can also deliver the benefits that state builders seek with state formation in the first place: greater tax revenue, greater access to military manpower, and greater social stability. Since these subunits already possess the infrastructural capacity to secure the public goods that unification is intended to bring, a state-building core will be inclined to leave the preexisting structures in place. Similarly, the occupants of these states will also insist upon holding on to some of their own autonomy because of their higher degree of institutionalization and infrastructural capacity.

If, by contrast, the subunits of a potential federation are patrimonial states lacking constitutions, parliaments, and rationalized systems of administration, negotiation usually breaks down and the prospects of self-governance after state formation are limited, leading the way to unitary political institutions.<sup>18</sup> When annexed, these states lack basic governance capacity vis-à-vis their own societies. As a result, political leaders in the political center are tempted by the prospects of sweeping

<sup>17</sup> This definition of “infrastructural capacity” borrows from Mann (fn. 1), 59–61.

<sup>18</sup> On patrimonialism, see Reinhard Bendix, *Max Weber* (Berkeley: University of California Press, 1977), 334.

away existing units, leading the way to greater centralization. Moreover, political leaders in the constituent states, facing government collapse, are willing to transfer all authority to the political center because they perceive that public goods of governance are more assured in a larger unitary state.

In short, when new states are forming and when political leaders seek federalism, it is not the military power of the political center that determines the structure of a state. Instead, the nature of state-society relations inside the states is key; highly institutionalized and hence highly infrastructural states provide the crucial building blocks of federalism.<sup>19</sup> But well-developed state structures do not lead to federalism simply because they are harder to conquer. Rather, well-developed governance structures provide the capacity to deliver the public goods of federalism both to the political core and to other constituent states. By identifying a different causal variable and a different set of mechanisms linking state formation to federalism, an infrastructural account makes an empirically distinct set of predictions that can explain cases that simply remain puzzling from the perspective of classic bargaining theory.

#### APPLYING THE FRAMEWORK: NINETEENTH-CENTURY GERMANY AND ITALY

In retrospect, Italy's centralism and Germany's federalism are often mistakenly viewed as inevitable features of each state. But to assume that the institutional form that actually carried the day in each case in the 1860s was the only form ever available is to miss the important dynamics by which institutions are created. Moreover, to assume, as a Rikerian approach might, that Piedmont achieved a unitary state because it *could* successfully use coercion to achieve its aims and Prussia made concessions and sealed a federal "contract" because it *had to* is to get the causal logic of federalism's origins backward. In fact, political leaders in both instances made strategic use of coercion to seal unification. Moreover, political leaders in both settings were inclined toward federalism. The key difference between the cases is that state formation was undertaken in the face of differing patterns of state-society relations inside the German and Italian constituent states.

<sup>19</sup>"Institutionalization" refers to the degree to which a political system has acquired value and stability, indicated by the adaptability, complexity, autonomy, and coherence of organizations and procedures. See Samuel Huntington, *Political Order in Changing Societies* (New Haven: Yale University Press, 1968), 12.

To summarize the argument: in Germany well-developed state structures were not stumbling blocks that constrained Prussian plans to create a Prussian-dominated nation-state. Instead, these well-developed institutions were an opportunity that allowed Bismarck to pursue the relatively low risk domestic agenda that Cavour sought but *could not* pursue for Italy: a unification process among monarchs that combined coercion with compromise by leaving a key constituency of existing institutions and actors in place. In Italy the absence of well-developed and effective institutions outside of Piedmont meant that a unitary strategy of unification was perceived as necessary across the entire peninsula. The Piedmontese, like the Prussians, sought monarchical negotiating partners to carry out what the Piedmontese themselves dubbed a “German” strategy of gradual or federal unification.<sup>20</sup> Yet by 1859–60 they found themselves instead adopting a strategy of unilateral “conquest” in both Italy’s center and south that between 1859 and 1865 gradually eroded the prospects of federalism in Italy.

The analysis proceeds in two steps to demonstrate that in Italy it was the structure of state-society relations that stood as the main barrier to federalism while in Germany it was a different pattern of state-society relations that made federalism possible. First, I focus on the state-building plans that were circulating in Piedmont and Prussia before national unification; both cases exhibited similar ideological commitment to federalism. Second, I will discuss the actual strategies of unification undertaken, demonstrating that the key factor distinguishing Germany from Italy was the differing structure of state-society relations in each of the preexisting states.

#### THE LIMITS OF IDEOLOGY: WHY WANTING FEDERALISM IS NOT ENOUGH

Observers of Italian and German affairs in the 1850s and 1860s would have found themselves frustrated by rapidly changing events had they tried to use the expressed intentions of Prussia’s and Piedmont’s leaders to predict which political institutions—federal or unitary—would be adopted after national unification. Though Italy eventually adopted a unitary political system in 1861 and Germany a federal political system in 1871, on the eve of national unification in both cases, there were deep similarities in the degree of ideological commitment to federalism and similar levels of strategic uncertainty about how to get there among the key state-building actors themselves.

<sup>20</sup> “Cavour to Victor Emanuel, Baden-Baden, July 24, 1858,” in John Santore, *Modern Naples: A Documentary History, 1799–1999* (New York: Italica Press, 2001), 164.

First, in Germany, as one analyst has put it, “For Bismarck and his contemporaries it was utterly self-evident that a union of German states could only take a federal form.”<sup>21</sup> Despite this *apparent* ideological certainty, however, there was great uncertainty over the strategic alternatives facing Prussia about how actually to achieve national unification. The question was asked: should a federal or unitary strategy of unification be adopted? In an 1866 session in the Prussian parliament, Bismarck presented the two choices and expressed his preference for a federal strategy over the unitary strategy used in Italy. He stated:

One [method] is the integration and complete merger with Prussia itself even in the face of popular resistance—resistance, in particular, by civil servants and officers (officer estates) who feel duty-bound to the previous governments. The Prussian government intends to overcome the difficulties of these [groups] in a German way, through indulgence for [their/local] particularities and through gradual habituation, and not—as is customary for a Romanic [Italian] peoples—all at once.<sup>22</sup>

The two choices of “complete merger” or “indulgence” were real alternatives for Bismarck. Facing pressure from the Prussian general staff and from national liberals such as Heinrich Treitschke to carry out a conquest and military occupation of southern Germany in the wake of military victory in 1866, Bismarck remained ambivalent. In correspondence with the Prussian ambassador in France in the summer of 1866, Bismarck again presented the two potential pathways to unification that he was pondering: one he called a “maximalist annexation strategy” and the other a “minimalist annexation strategy.”<sup>23</sup> Since the success of federalism in Germany in 1871 was dependent on making concessions to the southern German states, the critical analytical question concerns how it was that Bismarck was willing and able to pursue a strategy of “indulgence” with Germany’s south that generated federal concessions whereas Cavour and Piedmont were not?

The most obvious answer—that Bismarck’s aims were so starkly different from Cavour’s that he simply preferred a gradual process of unification while the architects of Italian unity did not—is not correct. This becomes clear when we explore the intentions, debates, and corre-

<sup>21</sup> Stefan Oeter, *Integration und Subsidiarität im deutschen Bundesstaatsrecht: Untersuchungen zu Bundesstaatstheorie unter dem Grundgesetz* (Integration and subsidiarity in German federal constitutional law: A study of federalism theory in the constitution) (Tübingen: J.C.B. Mohr Siebeck, 1998), 29.

<sup>22</sup> Otto von Bismarck, “Rede in der Kommissionssitzung des Abgeordnetenhauses zur Beratung einer Adresse an den König vom 17.8.1866,” in Eberhard Scheler, ed., *Otto von Bismarck: Werke in Auswahl* (Otto von Bismarck: Selected works) (Stuttgart: W. Kohlhammer Verlag, 1965), 3:799.

<sup>23</sup> *Ibid.*, 755. These terms come from a memo from Otto von Bismarck to his ambassador in Paris on July 9, 1866.

spondence of the chief architect of Italian unity, Cavour, in Piedmont on the eve of his nation's unification. Indeed, only two years before national unification in 1858, Cavour, who himself had never even been to southern Italy before unification, frequently articulated a vision of a confederation of Italian states, inspired in part by the German confederation. Cavour's vision was even criticized by the future prime minister Crispi as the "artichoke" policy in which unification would be achieved by peeling off each of the resistant regions one by one.<sup>24</sup> In a letter to the Piedmontese king summarizing a meeting with Napoleon III, Cavour articulated his vision of confederation. Just as Bismarck displayed a close knowledge of Italian unification, so Cavour had Germany's experiences in mind as a model. Cavour wrote:

After a long discussion, we agreed on the following principles: the valley of the Po, the Romagna and the Legations would constitute the Kingdom of Upper Italy, under the rule of the House of Savoy. Rome and its immediate surroundings would be left to the Pope. The rest of the Papal states together with Tuscany would form the Kingdom of Central Italy. The borders of the Kingdom of Naples would be left unchanged; and the four Italian states would form a confederation on the pattern of the German Confederation.<sup>25</sup>

As the events of Italian unification quickened their pace, in the spring of 1859, Cavour and his king, Victor Emanuel, pleaded with the new king in Naples to accept his proposal that "Italy be divided into two powerful states of the North and the South."<sup>26</sup> Like Bismarck, Cavour desired a federal solution for national unification. Why? For both actors, federalism represented what might be called "the path of least resistance." Both realpolitik statesmen, that is, believed the costs of a strategy of conquest far outweighed the benefits. Several reasons stand out. First, Bismarck and, to a lesser degree, Cavour fundamentally distrusted parliamentary rule and considered a "negotiated" unification in which monarchical leaders sealed unification to be the preferred route to institutional change. This was inspired in both cases at least in part by the motivation to co-opt liberal nationalists.

Second, both actors were also well enough aware of the concerns and reservations of Europe's "great powers" to seek too dramatic a redrawing of the maps in Italy and Germany. Bismarck complained to his wife that while those around him argued for southern Germany's immediate annexation to Prussia, he had "the thankless task of pouring water into

<sup>24</sup> Denis Mack Smith, *Cavour and Garibaldi: A Study in Political Conflict* (Cambridge: Cambridge University Press, 1954), 50–51.

<sup>25</sup> "Cavour to Victor Emanuel, Baden-Baden, July 24, 1858," in Santore (fn. 20), 164.

<sup>26</sup> J. A. R. Marriott, *The Makers of Modern Italy* (Oxford: Clarendon Press, 1931), 125–26.

the bubbling wine and making it clear that we don't live alone in Europe but with three other Powers who hate and envy us."<sup>27</sup> Indeed, Bismarck's relations with Napoleon III provided a key impetus for proceeding conservatively vis-à-vis the other German states.<sup>28</sup> Likewise, Cavour's limited territorial interest in southern Italy reflected the configuration of international power in Europe. Beginning in 1858 all Cavour's agreements with France assured a nervous Napoleon that Piedmont would respect the existing borders of the Kingdom of Two Sicilies.

In sum, both Bismarck and Cavour preferred and in fact initially sought negotiated settlements to national unification as the least costly route—diplomatically, politically, and financially—to national unification. Though both actors considered the two options of forced “merger” or gradual “indulgence” of local particularities, there existed in both contexts an ideological preference for a gradual, negotiated unification in which monarchical leaders would remain in power. Motivated by domestic and international considerations, there existed in both settings a demand for federalism. But only in Germany was such a strategy adopted. In Italy, between 1859 and 1865, the strategy of federal unification and federal organization was gradually abandoned, making clear that *actual* state-building strategies cannot simply be assumed from the expressed intentions of state builders. Why then did the strategies of state building diverge from each other?

#### THE CATALYST OF STATE-SOCIETY RELATIONS AND THE PATHWAY TO FEDERALISM

The key difference between the situation confronting Cavour in 1860 and Bismarck in 1867, the one that generated the divergence in strategy was that of the different contexts in which national unification was being carried out. That is, in the preexisting states of prenational Germany, a set of institutions with high levels of infrastructural capacity at the subunit level assured that the gains of unification would be secure if these states were left intact. By contrast, in the preexisting states of Italy, such institutional building blocks were decisively absent. In Italy state makers believed that if the constituent states were left intact after unification, the gains of unification would be insecure. This gave rise to a relatively desperate strategy aimed at unitary unification.

<sup>27</sup> Gordon Craig, *The Politics of the Prussian Army, 1640–1945* (New York: Oxford University Press, 1955), 200.

<sup>28</sup> Hermann Oncken, ed., *Die Rheinpolitik Kaiser Napoleon III von 1863–1870* (The Rhineland politics of Emperor Napoleon III between 1863 and 1870) (Stuttgart, Berlin, Leipzig: Deutsche Verlagsanstalt, 1926).

In both instances, the purposes of national unification were similar—to secure greater fiscal resources, greater military personnel, greater social stability, and prestige on the European stage. Like Prussia, Piedmont had ambitions to be a significant power in Europe. Also like Prussia, Piedmont faced a fiscal crisis, with three times as much debt per capita as any of the other Italian states.<sup>29</sup> Any effort to build up Piedmont's or Prussia's position on the European stage would require greater military manpower and greater fiscal resources. And the quickest route to these resources was national unification.<sup>30</sup>

*Italy.* In Italy, however, beginning in the summer of 1860, achieving these goals via Cavour's preferred federal solution was becoming increasingly difficult as a result of the nature of the governance structures in Italy's center and south. Despite continued pressure from the French emperor and his own inclinations, the prospects of federalism faded in the face of collapsing states across Italy. The states that Piedmont would inherit with unification were starkly different in their organization and in their relationship with society than were the states Prussia would inherit ten years later in Germany. In all six of the Italian states outside of Piedmont, the 1848 parliaments and constitutions had been overturned and absolutist monarchs once again ruled without parliamentary constraints.<sup>31</sup> Additionally, especially in Italy's southern Papal States and the Kingdom of Two Sicilies, public administration suffered from the absence of two classic hallmarks of administration modernization: concentration and differentiation. For example, in neither the Papal States nor the Kingdom of Two Sicilies did the central government retain a monopoly on taxation; in both cases, there were independent tax zones within the territory that in theory were controlled by the central government.<sup>32</sup> Similarly, the ability of these states to maintain control over their own territory was questionable; throughout the pre-unification period, peasant uprisings were subdued only with the assistance of Austrian troops called in to bolster the arbitrary and sporadic rule of the central government over its territory.<sup>33</sup>

<sup>29</sup> G. Felloni, "La Spese Effettive e Il Bilancio degli Stati Sabaudi dal 1825 al 1860," in *Archivio Economico dell'Unificazione Italiana* (Archive of Economic Unification of Italy), ser. 1, vol. 9 (1959), 5.

<sup>30</sup> This argument has a long pedigree. For the German case, see Helmut Böhme, *Deutschlands Weg Zur Grossmacht* (Germany's path to great power status) (1966; Cologne: Kiepenheuer und Witsch, 1972); for the Italian case, see Shepard Clough, *The Economic History of Modern Italy* (New York: Columbia University Press, 1964).

<sup>31</sup> See Lucy Riall, *The Italian Risorgimento: State, Society, and National Unification* (London: Routledge, 1994).

<sup>32</sup> Luigi Izzo, *La Finanza Pubblica: Nel Primo Decennio Dell'Unita Italiana* (Public finance in the first decade of Italian unification) (Milan: Dottore a Giuffrè Editore, 1962), 3–4.

<sup>33</sup> For a description of these rural uprisings, see Charles, Louise, and Richard Tilly, *The Contentious Century, 1830–1930* (Cambridge: Harvard University Press, 1975), 124.

As a result of this institutional landscape, any Piedmontese inclination to establish a federation foundered on two fronts. First, efforts failed to achieve a negotiated settlement with Italy's central states that would have left these states intact. There exists a massive record of diplomatic correspondence between Cavour and his Piedmontese officials stationed in the central Italian states during the turbulent period of 1859–61.<sup>34</sup> We find in this correspondence two types of evidence that these were states not embedded in society with low infrastructural capacity. First, we see repeated efforts by Piedmontese officials to establish a diplomatic relationship among the Italian states that might have led to a German model of negotiated and federal unification.<sup>35</sup> For example, in the period 1858–59 Cavour's diplomatic representative in Tuscany made multiple offers of an alliance between Piedmont and Tuscany to evict Austria from the peninsula in exchange for continued autonomy of Tuscany.<sup>36</sup> As an absolutist monarch with limited contact with the growing civic unrest in his population, the grand duke of Tuscany rejected all offers and in April 1859 was suddenly facing the implosion of his regime, which left an institutional vacuum filled by Piedmontese sympathizers who feared "revolution" and "anarchy."<sup>37</sup>

In response to calls from Piedmont's envoy to Tuscany for a "military government . . . to prevent disorder," Cavour asked his Piedmontese envoy to form an interim government.<sup>38</sup> This de facto absorption of Tuscany by Piedmont established a pattern that would be repeated in each Italian state (a pattern that was unthinkable in Germany), as the diplomatic envoy *himself* became state builder. Without negotiating partners and with collapsing government structures, the Piedmontese orchestrated a process of unconditional annexation of each of the Central Italian states.

Similarly, repeated efforts failed to reach a negotiated settlement with the largest non-Piedmontese state of the Kingdom of Two Sicilies, prompting Garibaldi's invasion with his "Thousand" in May

<sup>34</sup> See Commissione Editrice dei Carteggi Di Camillo Cavour in Count Camillo di Cavour, *Carteggi di Cavour: La Liberazione del Mezzogiorno e la formazione del Regno d'Italie* (Cavour's correspondence: The liberation of the mezzogiorno and the formation of the kingdom of Italy), vol. 2 (Bologna: Nicola Zanichelli, 1961).

<sup>35</sup> For examples of repeated efforts at negotiation, see the collection of diplomatic correspondence in the multivolume work, Carlo Pischetta and Rosanna Rocca, eds., *Camillo Cavour Epistolario* (Camillo Cavour's letters) (Florence: Leo S. Olschki Editore, 2000).

<sup>36</sup> Ibid. Evidence of these diplomatic reports between Cavour and his envoy in Florence can be seen in "Da Carlo Bon Compagni di Mombello," Doc. 380, March 18 (p. 352); see also "A Carlo Bon Compagni di Mombello" (p. 619).

<sup>37</sup> Ibid. "Da Carlo Bon Compagni di Mombello," Doc. 800 (pp. 628–29). These are Cavour's envoy's words describing the situation in Tuscany in his April 27, 1859, report.

<sup>38</sup> Ibid.



1860. As the underinstitutionalized absolutist monarchy of the Kingdom of Two Sicilies collapsed, news of Italy's south trickled in to government ministries in Piedmont. In the summer of 1860 Garibaldi, who was in contact with the Piedmontese crown, began to hear from governors in rural areas of Sicily requesting Piedmontese troops to maintain order.<sup>39</sup> Similarly, Piedmontese officials on assignment in southern Italy sent word to Turin of their difficulties maintaining an orderly system of tax collection. Piedmontese Finance Ministry officials stationed in Italy's south in the early 1860s reported to Cavour of the "exhausted" state of public finances and the "collapse" of order and public safety.<sup>40</sup> Cavour received frequent calls mirroring the same sentiment from his officials in the south—"Permit me, excellency, to repeat to you the need for policemen (*Carabinieri*) to save this country from ruin!"<sup>41</sup> Also, to the surprised eyes of Piedmontese officials arriving in Naples, another basic governmental task—elementary school education—was in desperate disrepair. The number of public school teachers employed as percentage of the population was lower in the Kingdom of Two Sicilies than in any other Italian state.<sup>42</sup> According to one account, aghast Piedmontese officials discovered that "the system of elementary education did not need reform; it needed to be created."<sup>43</sup> To reassure those in the south, officials in Piedmont promised to provide not only police forces but more administrative "staff" and "clerks" to maintain order.<sup>44</sup>

But the effort to maintain order was insufficient. For example, the Piedmontese official (and future prime minister) Agostino Depretis who was sent by the Piedmontese government to restore order arrived in Sicily in 1860 optimistic that he could single-handedly reassert control over events. He was, however, soon overwhelmed by popular unrest, lack of security forces, and an unsustainable public finance situation. And he announced in letters to Bertani in July 1860 and to Garibaldi in September 1860 that the only solution for managing the fiscal and social chaos was immediate annexation by Piedmont.<sup>45</sup> In short, by the summer and fall of 1860 Cavour and the officials around him realized that they had inherited a set of states incapable of doing the work of modern governance.

<sup>39</sup> Lucy Riall, *Sicily and the Unification of Italy* (Oxford: Clarendon Press, 1998), 106.

<sup>40</sup> Pischedda and Rocca (fn. 35), August 16, 1860, Doc. 639 (p. 94).

<sup>41</sup> *Ibid.*, August 2, 1860, Doc. 528 (p. 8).

<sup>42</sup> Alberto Caracciolo, *Stato e società civile* (State and civil society) (Turin: Giulio Einaudi, 1960), 119.

<sup>43</sup> James Albisetti, "Julie Schwabe and the Poor of Naples" (Paper presented at the annual meeting of the International Standing Conference for the History of Education, Birmingham, England, July 12–15, 2001).

<sup>44</sup> Pischedda and Rocca (fn. 35), August 17, 1860, Doc. 647 (p. 99).

<sup>45</sup> Riall (fn. 39), 84.

TABLE 2  
 INFRASTRUCTURAL CAPACITY OF ITALIAN REGIONAL STATES (1850–60)<sup>a</sup>

	<i>Measure 1</i> <i>Extractive Capacity:</i> <i>State Revenue per</i> <i>Capita</i>	<i>Measure 2</i> <i>Conscription Rate:</i> <i>Military Personnel as</i> <i>% of Male Population</i>	<i>Measure 3</i> <i>Control: Enrollment</i> <i>Rate of Primary</i> <i>School Age Children</i>
Piedmont	32.2 lire	2.3	93
Two Sicilies	14.2 lire	2.0	18
Papal States	14.7 lire	0.7	25–35
Tuscany	19.2 lire	2.0	32
Modena	17.9 lire	1.6	36
Parma	22 lire	1.2	36
Lombardy-Veneto <sup>b</sup>	NA	NA	90
Ratio of Piedmont and average of remaining states	1.83:1	1.53:1	2.3:1

<sup>a</sup>Public revenue data from Izzo (fn. 32), 123; military personnel data from Singer and Small (fn. 15); enrollment data from Zamagni (fn. 15), 14–15; population data from Singer and Small (fn. 15).

<sup>b</sup>Because Lombardy-Veneto was part of the imperial structure of the Austro-Hungarian Empire, it is excluded from this analysis.

Beyond the perceptions of the state builders themselves, what further evidence supports this impression of low infrastructural capacity in Italy outside of Piedmont? The limited extant evidence on public revenue, conscription capacity, and stability also suggests that non-Piedmontese Italian states suffered from deep problems of infrastructural capacity. In Table 2 we can see an overview of each of the Italian states to make rough assessments of levels of infrastructural capacity in three defining areas: extraction, conscription, and education.<sup>46</sup> We see that in comparison with the German states Prussia would inherit (see Table 3), the evidence confirms the narrative account above. But, second, even more importantly, the *relative* gap between Piedmont and the states it inherited was very high, and as Table 3 shows, much higher than the relative gap between Prussia and the states it would inherit several years later.

The three measures of infrastructural capacity all point in the same direction. Using the measure of “state revenue per capita,” we can assess the ability of each of the Italian states to extract revenue from its popu-

<sup>46</sup>These three measures correspond to the concepts of “extraction, conscription, and control,” in Charles Tilly, “Reflections on the History of European State-Making,” in Tilly, ed., *The Formation of National States in Western Europe* (Princeton: Princeton University Press, 1975), 50.

TABLE 3  
 INFRASTRUCTURAL CAPACITY OF THE GERMAN  
 REGIONAL GOVERNMENTS (1850–66)<sup>a</sup>

	<i>Measure 1</i> <i>Extractive</i> <i>Capacity: State</i> <i>Revenue per</i> <i>Capita</i>	<i>Measure 2</i> <i>Conscription Rate:</i> <i>Military Personnel</i> <i>as % of Male</i> <i>Population</i>	<i>Measure 3</i> <i>Control:</i> <i>Road Density:</i> <i>KM Roads per</i> <i>Square 1000 KM</i>
Prussia	5.5 thaler	2.2	66
Bavaria	6.1 thaler	4.3	112
Baden	6.2 thaler	1.1	136
Württemberg	6.0 thaler	1.4	148
Saxony	5.4 thaler	2.3	228
Hannover	5.2 thaler	2.8	141
Kurhessen	6.0 thaler	2.1	143
Darmstadt	5.2 thaler	2.8	229
Ratio of Prussia to average of remaining states	1:1.04	1:1.09	1:2.45

<sup>a</sup> Revenue, population, and road density data are drawn from Borchard (fn. 15), 42–43, 274; military personnel data are from Singer and Small (fn. 15).

lation.<sup>47</sup> Using the measure “military personnel as a percentage of the male population,” we can assess the conscription capacity of each state, the ability of the state to access a basic societal resource. Finally, using the measure “enrollment rate of elementary age school children,” we can assess the capacity of the state to penetrate and transform society through education, one of the key areas of societal regulation for state leaders in the nineteenth century. Taken together, as Table 2 shows, the best available evidence allows us a glimpse into the infrastructural capacity of each of the Italian states in the decade before national unification. Given the absence of parliamentary and constitutional institutions, the data not surprisingly confirm the picture suggested by the narrative evidence: there was a large gap between Piedmont and the rest of the Italian states. On average, Piedmont had twice as much state capacity as the remaining five states, a gap that is much larger than that found among the German states, as discussed below.

Given both the *perception* and the *reality* of low levels of infrastruc-

<sup>47</sup>In response to the criticism that this measure and the other two might simply reflect underlying socioeconomic differences, it is instructive that the correlation between regional GDP per capita and each of the measures is very weak, suggesting that institutional capacity has a conceptual weight of its own. For GDP per capita data on the Italian states, see Esposto (fn. 3), 585–604.

tural capacity, it is not surprising that Cavour shifted in 1860 toward a unitary strategy of direct rule for securing the goal of unification. The shift in strategy proceeded in two steps. First, in the fall of 1859 new interim assemblies in Modena, Parma, and Tuscany, seeing an instable power vacuum in the northern and central states, called for Piedmontese legislation and voted for rapid Piedmontese annexation to replace existing structures. Similarly, in Italy's south in 1860, in response to instability and civic unrest twenty-five thousand troops were dispatched to the south, and the remaining state structures were dismantled. All twenty-four governors were replaced on the island of Sicily, for example. Moreover, the Piedmontese constitution was immediately extended to Sicily (August 3), along with the Piedmontese monetary system (August 17), copyright laws (August 18), the system of communal administration (August 26), the military code (August 28), and the public security law of 1859 (August 30).<sup>48</sup> Finally, by the end of the year, one hundred thousand Piedmontese troops were occupying Italy's south as a police force in response to requests from Piedmontese officials. Similarly, the organization of taxation and education and the collection of official state statistics were shifted from the other states' capitals to Turin. In sum, the first step of unification involved the ambitious strategy of dislodging all existing institutions and state actors from their previous positions of authority, shutting down former government ministries, removing leaders from their positions, and replacing these institutions and personnel with new Piedmontese institutions and personnel.<sup>49</sup>

The second step in this unitary strategy of state formation to grow out of the legacy of low infrastructural capacity in the Italian states (reinforced by the first step of unification) was the turn to unitary institutions and to a rejection of federalism in parliamentary debates between 1860 and 1865. Despite last-ditch efforts by Ministry of Interior officials to bring some system of decentralization to Italy, federalism foundered.<sup>50</sup> Given the prospect of seeing access to public revenue and manpower shift to low-capacity, imploding states, federalism was increasingly viewed as unsustainable. Two factors were decisive in the failure of federalism at this stage. First, having been dismantled in 1860, the formal southern political interests that might have insisted upon formal regional institutional autonomy were excluded from the

<sup>48</sup> Riall (fn. 39), 90.

<sup>49</sup> *Ibid.*

<sup>50</sup> Fried (fn. 15), 75

constitutional debates in the 1860s.<sup>51</sup> Second, Piedmontese officials feared that a return to the revolutionary disorder of 1860 would accompany any regional devolution.<sup>52</sup> As a result, by 1865, at an institutional level, the formerly independent states were erased from the political map with (1) no administrative autonomy, (2) no public finance discretion, and (3) no access to the national government via an upper chamber. The unitary constitution of Piedmont was extended to the rest of Italy.

The dissolution of six existing states and the creation of an all-encompassing apparatus of a unitary state centered first in Turin (in Piedmont) and later in Rome was above all a response to the lack of embeddedness and institutionalization and to the low infrastructural capacity of the preexisting states of the Italian peninsula. The unevenly distributed pattern of state building among the subunits of Italy gave rise to a unitary strategy of state formation that grew out of deep misgivings on the part of the Piedmontese about the prospects of autonomous self-rule in the preexisting Italian states. The lesson of the Italian case then for the study of federalism's origins is that the main barrier to constructing federalism is not an *externally* strong center but rather *domestically* underinstitutionalized governance structures in the subunits of a potential federation.

*Germany.* Six years after the events in Italy, the national unification of Germany was achieved in two steps: the creation of the North German Confederation in 1866–67 and then of the German Reich in 1871. Like Piedmont, Prussia faced a landscape of independent states. Also like Piedmont, Prussia confronted international pressure from Napoleon III to leave these states independent. Nevertheless, the German strategy of state formation contrasted sharply with the Piedmontese strategy of dissolving existing states across the peninsula to create a unitary state structure. Indeed Prussia's unification was achieved via the annexation of some states accompanied by regional concessions and pragmatic accommodations to other states. Rather than formally sweeping away *all* existing subunit elites and institutions, the new German state institutionalized a key set of regional monarchical leaders and institutions, leading to a federally organized state structure.

Even more than the Italian case, the German case stands as a challenge to the assumption that the political center will make federal concessions only in the face of internal threats. That the overbearing and powerful state of Prussia could create a federal system despite its over-

<sup>51</sup> *Ibid.*, for a summary of these debates.

<sup>52</sup> *Ibid.*

whelming military power vis-à-vis the other German states highlights an unexpected state-building irony: strong centers can make concessions that weak centers sometimes cannot make. The key issue in the establishment of a federation is not the strength of the center but the pattern of state-society relations in the subunits of a potential federation. With well-developed and highly institutionalized state structures throughout Germany, Prussia could adopt a negotiated or federal strategy of state formation that Piedmont tried to use but ultimately could not, a strategy that was designed to deal simultaneously with pressing international *and* domestic dilemmas of national unification.

What explains this puzzle? Why make concessions in the face of weak internal threats? Unlike the situation facing Piedmontese state builders in 1860, the Prussian political leadership had partners to negotiate with and, furthermore, could successfully and easily devolve fiscal, administrative, and political authority to the well-developed state structures outside of Prussia after national unification. While the Italian states outside of Piedmont were ruled to varying degrees by brittle absolutist states, Prussia in 1866 and 1871 inherited a set of highly institutionalized constitutional and parliamentary monarchies in the other German states. Despite entering the so-called era of reaction, by the 1850s, as one constitutional historian has written, in Germany “absolutism has definitely come to an end.”<sup>53</sup> Similarly, constitutions everywhere in Germany guaranteed that without parliamentary approval, “no law could be passed, no taxes raised, and no public debt undertaken.”<sup>54</sup> By no means liberal and with some internal variation, the subnational monarchical states, especially in Germany’s south (Baden, Württemberg, and Bavaria), nevertheless experienced far-reaching institutional development by the time of unification. Assemblies, constitutions, and differentiated and concentrated systems of administration developed at the subnational level in a way that stood in sharp contrast to the experience in the absolutist Italian states.<sup>55</sup> For example, of the six states Piedmont inherited in 1861, not a single one had a constitution or parliament. By contrast, the largest nine states Prussia inherited in 1871 *all* had constitutions and parliaments. As a result, with unifica-

<sup>53</sup> Dieter Grimm, *Deutsche Verfassungsgeschichte, 1776–1866* (German constitutional history, 1776–1866) (Frankfurt: Suhrkamp, 1988), 112.

<sup>54</sup> Reinhard Mussgnug, “Die rechtlichen und pragmatischen Beziehungen zwischen Regierung, Parlament, und Verwaltung,” in Kurt Jeserich, Hans Pohl, and Georg-Christoph von Unruh, eds., *Deutsche Verwaltungsgeschichte* (German administrative history) (Stuttgart: Deutsche-Verlags Anstalt, 1983), 2:96.

<sup>55</sup> For a description of these reforms, see Ernst Rudolf Huber, ed., *Dokumente zur Deutschen Verfassungsgeschichte* (Documents of German constitutional history) (Stuttgart: W. Kohlhammer Verlag, 1964), 2:182–223.

tion, Prussia was inheriting a set of states with highly institutionalized governance structures in place: well-developed public education systems, effective systems of public finance, and stable and largely nonrevolutionary populations.<sup>56</sup>

What systematic evidence is there that the gains of unification were secure in the German states outside of Prussia? In addition to simply noting the presence of constitutions and parliaments, we see in Table 3 an overview of the German states in terms of similar measures of “infrastructural capacity” that we used in the Italian context. Though not identical to the Italian measures, the data nevertheless point to important differences in the relative capacity of the German and Italian states, as also evidenced in the narrative accounts.

The data presented in Table 3, when compared with the data in Table 2, highlight two points. First, in terms of the *absolute* level of infrastructural capacity, the German states by the 1850s were far more developed than their Italian counterparts. Second, and perhaps even more importantly for the future development of federalism in Germany, the *relative* gap in infrastructural capacity between Prussia and the states it would inherit in 1867 and 1871 was much lower than the much larger institutional gap between Piedmont and the states it inherited in 1861. Whereas Piedmont was twice as developed along all three dimensions as the states it inherited, Prussia inherited states whose levels of institutionalization and infrastructural capacity were actually higher than its own. This institutional fact was critical in shaping perceptions and strategies of Prussian political elites as they negotiated national unification. In short, given the aim of securing greater fiscal resources, more manpower, and greater stability, Prussia’s incorporation of states in 1866 and 1871 entailed bringing well-functioning institutionalized states into the German Reich to assure that the intended gains would be secure.

The consequence in Germany was that a gradual path of unification was taken, leaving states intact and gradually incorporating them into a federal model. But how precisely did subunit institutionalization and infrastructural capacity affect the process of national unification? It proceeded in two steps: ending the war of unification in 1866 and adopting in 1867 the institutional formula for a North German Confederation that excluded the southern German states.<sup>57</sup>

<sup>56</sup> See the description in James Sheehan, *German History, 1770–1866* (Oxford: Clarendon Press, 1989), 439.

<sup>57</sup> The extension of the North German Constitution to southern Germany in 1871 might have represented an opportunity for further renegotiation, but instead it was not renegotiated. See Karl Bosl,

First, unification was achieved via a negotiated peace that combined conquest and compromise in ways that most theorists of federalism might not expect would lead to a federal outcome.<sup>58</sup> It was a strategy of annexation plus concessions that stands in sharp contrast to the Piedmontese annexation of the *entire* Italian peninsula. Indeed, at the end of the 1866 war Prussia coercively annexed the state of Hannover, increasing its bargaining power vis-à-vis the southern German states.<sup>59</sup> But Prussia undertook this explicit act of coercion, which eliminated a long-established monarchy from the map, while leaving the states of Germany's south intact.

After sweeping away the state of Hannover, Bismarck was wary of undertaking further coercive acts. He was motivated by both foreign policy concerns (French concerns with further Prussia's expansionary plans) and domestic policy concerns. Bismarck wrote to his ambassador in France: "I believe it is impossible to incorporate the Bavarian South German Catholic element [because] . . . the effort to violently conquer it would only create for us the same element of weakness that Southern Italy has created for that state."<sup>60</sup> Unlike Cavour, however, Bismarck could achieve his foreign and domestic policy goals precisely because the subunits he would inherit—in Bavaria, Baden, Württemberg, as well as the states of the North German Confederation—were high infrastructural states. In contrast to the unconditional "conquest" of southern Italy in 1860, the war of 1866 in Germany was ended with three sets of treaties that left the German states intact as future negotiating partners for national unification: (1) the Nikolsburg Preliminary Treaty of June 26, 1866; (2) the Prague Peace Treaty of August 23, 1866; and (3) seven bilateral agreements between Prussia and the states of Bavaria, Baden, Württemberg, Hessen, Saxony, and two other small states. The terms of these treaties left in place as much institutional and personnel continuity as possible in exchange for disbanding the German confederation and Austria's removing itself from the sphere of

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"Die Verhandlungen über den Eintritt der süddeutschen Staaten in den Norddeutschen Bund und die Entstehung der Reichsverfassung," in Theodor Schieder, ed., *Reichsgründung 1870–71* (Founding of the empire, 1870–71) (Stuttgart: Seewald Verlag, 1970), 148–63.

<sup>58</sup>The term "negotiated peace" is from Lothar Gall, *Bismarck: The White Revolutionary* (Boston: Allen and Unwin, 1986), 307.

<sup>59</sup>That Saxony was left intact and Hannover completely annexed can be explained by two factors. First, Hannover was of greater strategic and geographical importance, allowing Prussia to link its western and eastern provinces, creating a "tenable territory." For more on this point, see Stewart Stehlin, *Bismarck and the Guelph Problem, 1866–1890* (The Hague: Martinus Nijhoff, 1973), 34–41. The second reason for the contrasting fates of Saxony and Hannover was that Saxony's independence, unlike Hannover's, was insisted upon by both French and Austrian powers. See correspondence "Graf Goltz an Bismarck," July 23, 1866, no. 224, in Oncken (fn. 28), 372–75.

<sup>60</sup>Otto von Bismarck, in Scheler (fn. 22), 755.



German states.<sup>61</sup> This continued autonomy existed not only at a formal level but also at an informal level. In an order sent by Bismarck to Prussian troops in the summer of 1866, he insisted that all administrative actors of the still sovereign states be left in place with “as little interruption of administration as possible.”<sup>62</sup>

Another feature of the 1866 peace settlement was the institutionalization of a diplomatic relationship between Prussia and the other states. Between August 18, 1866, and November 25, 1870, eight separate public treaties between the Prussian monarch and the monarchs of the other states were signed to bring the German Reich into existence. Most important among these was the treaty signed on August 18, 1866, by the Prussian king and the kings of sixteen north German states. The treaty committed the states to a “defensive and offensive union” aimed at preserving the “independence” and “integrity” of the members of the new North German Confederation (Norddeutsche Bund). Two critical state-building features that made the confederation viable were (1) the call for the creation of a parliament and (2) the statement that the sovereigns all agreed to allow their troops to be under the leadership of the Prussian crown.<sup>63</sup> In short, we see the adoption of a federal strategy of unification that set the terms of unification via negotiation and rather than dissolving the formerly independent states, left them intact and in place for future negotiation.

Another key step in the process of making a distinctly federal Germany was the writing of the North German Constitution in the fall and winter of 1866. This would prove to be a critical period because the German Reich’s 1871 constitution was merely an extension of the set of agreements made in 1866–67. In this phase, federalism also represented a path of least resistance to national unification that was possible only because effective and legitimate states were in place outside of Prussia.

Indeed, after viewing a set of constitutional proposals that Bismarck had commissioned his ministry’s officials to write in the summer of 1866, Bismarck went on vacation in September of 1866 to the island of Rügen, where he wrote two famous “dictates” that would serve as the final theoretical and strategic justification of the constitution in 1866 and 1871. Both his proposal for a federal structure and his justification of the federal structure in his dictates are revealing insofar as they show that he considered federalism to offer the “easiest” route to unification.

<sup>61</sup> Huber (fn. 55), 212–20.

<sup>62</sup> Otto von Bismarck, in Scheler (fn. 22), 739–40.

<sup>63</sup> Text of treaty is in Huber (fn. 55), 224–25.

First, Bismarck writes that one of his ministry's proposals was "too centralized for the eventual accession of the South Germans." Displaying sensitivity to southern German concerns, he argues moreover that the "central authority" of the Reich ought to be "not a single Ministry but a Federal Diet, a body consisting of delegates from the individual governments."<sup>64</sup> What was Bismarck's motivation? Here we see that what contemporary social scientists call "path-breaking" institutional change often requires rhetorical strategies that emphasize path dependence. Bismarck explains, "The more we link the institutions to the old forms, the easier things will be."<sup>65</sup> Displaying a remarkable appreciation for issues of path dependence, he continues, "In form we shall stick more to the confederation of states while in practice giving it the character of a federal state with elastic, inconspicuous but far-reaching form."<sup>66</sup> All of this was possible and desirable because the states that would retain exclusive control over taxation, conscription, education, and a whole range of other policy domains were effective states that did not threaten to undermine Bismarck's aims of national unification; hence the concern with the "easiest" route to national unification.

Second, the underlying framework of the North German Confederation had to be accepted by fifteen member states of the new confederation at a summit of those states held in Berlin in February 1867. The monarchs and their representatives negotiated and eventually accepted the terms of the Prussian-proposed constitution. To be made official, the proposal also had to be accepted by the new North German Reichstag in April 1867. Lengthy negotiations followed in which representatives of different states demanded many revisions and concessions. Yet the constitution was eventually accepted as a federal constitution that left fifteen member states intact as decisive actors in the new federation.<sup>67</sup> First, the states retained high levels of public finance and policy autonomy, giving the new federal level of government only limited revenue and nearly exclusive policy control only over military questions. Second, the states retained control over their well-functioning administrative structures, as the actors that would implement nearly *all* federal legislation. And third, the states maintained a direct control over federal politics through their membership in the Bundesrat. In short,

<sup>64</sup> Gall (fn. 58), 317.

<sup>65</sup> Erich Brandenburg, *Die Reichsgründung* (The founding of the empire), 2nd ed. (Leipzig: Quelle und Meyer, 1923), 219.

<sup>66</sup> Gall (fn. 58), 317.

<sup>67</sup> For an overview of these negotiations, see Otto Becker, *Bismarcks Ringen Um Deutschlands Gestaltung* (Bismarck's struggle in the shaping of Germany) (Heidelberg: Quelle und Meyer, 1958), 290–371.

with the creation of the new Norddeutsche Bund in April 1867, the groundwork was laid for the creation of the federal German Reich in 1871.

In sum, well-developed state structures allowed for the gradual unification of Germany to be achieved with lower chances of revolt, less risk of foreign intervention, and no need to undertake the financially costly project of dissolving existing states and creating new state structures. As Herbert Jacob has also argued in his study of German public administration, the task of layering a new national government (as was done in Italy) atop already well functioning states made little sense in the German context.<sup>68</sup> By avoiding the massive fiscal costs of dissolving existing states and constructing a new national government from scratch, Prussia's chief designer of political institutions, Count Otto von Bismarck, self-consciously and *intentionally* opted for federalism as, in his own terms, an "easier" route to national unification. In this sense, it was the combination of a militarily powerful center and well-developed constituent states that made federalism a viable strategy of state formation in the German case.

## CONCLUSION

To return to our original question: why would a center be unyielding enough to forge a union but accommodating enough to grant federal concessions to subunits? This article has demonstrated that the crucial issue for forming federations is not whether subunits exist, nor whether they have the military capacity to extract federal concessions from the core. Instead, the crucial issue is whether subunits are institutionalized, socially embedded, and highly infrastructural. Can they deliver the gains to the core and the subunits that were sought with state formation in the first place? Indeed, it is only high-infrastructural subunits that offer a route to resolving the basic paradox of federalism's origins. Without such subunits, the political core will seek to absorb *all* the subunits to establish a unitary state.

In broad strokes, this account makes two points. First, against the expectations of existing theory, the use of coercion does not *preclude* the formation of federations. Second, the key challenge to creating federalism is not simply constraining the power of a political center; instead, what is important is the task of building up the *infrastructural capacity* of subunits to do the work of governance in a federation.

<sup>68</sup>Jacob, *German Administration since Bismarck* (New Haven: Yale University Press, 1963).

These insights point the direction for future research in two areas. First, we ought to rethink what might be called the “federal-unitary divide” in the development of European nation-states. Scholars of European political development have long noted the presence of national institutional diversity in Europe. To explain the origins of macroinstitutional differences, they identify how diverse pathways of nation-state formation gave rise to diverse outcomes such as regime type, the national organization of capitalism, and the choice of national electoral institutions. But one area has remained out of the range of scholars: the federal-unitary divide—the fact that state building gave rise to three federal states and fourteen unitary states among the seventeen largest states of Western Europe. Could an infrastructural account of federalism’s origins explain broader patterns of European nation-state formation? At first glance, the proposed infrastructural framework does untangle much of the diversity of West European nation-state development.<sup>69</sup> While it is not possible within the confines of this article to do further testing across a broader range of national cases, the framework identifies a new hypothesis for proceeding along those lines.

Second, the results of the article may have policy relevance for contemporary decentralization efforts beyond Europe. It is true that my argument best explains state-building trajectories such as the European experience where internal domestic actors—and not external or colonial actors—played a primary role in determining the structure of states. As recent scholarship has demonstrated, we must be modest in trying to export the lessons of European state formation to postcolonial state settings of Latin America or Africa.<sup>70</sup> Where states were designed to reflect the larger colonial goals of external actors rather than internal constituencies, a fundamentally different causal logic of state

<sup>69</sup>Of the universe of seventeen cases, the only three in which state building gave rise to federal outcomes, Switzerland (1848), Germany (1871), and Austria (1920), all had regional-level parliaments, constitutions, and systems of administration in the constituent states at the moment of the first modern national constitution. In the remaining fourteen cases, state building resulted in unitary outcomes. Of these fourteen cases, only one case, Denmark (1849), had modern subnational parliamentary institutions at the moment of polity formation. In all other cases, including the Netherlands (1815) and Italy (1861), unitary institutions were adopted in a context where subnational parliamentary institutions were absent. The single exception, Denmark, might be explained by the absence of a federal ideology in 1849, which undermined the prospects of federalism. For further systematic testing of the infrastructural account vis-à-vis other arguments, see Daniel Ziblatt, “The Federal-Unitary Divide: Lessons of Seventeen European Nation-States,” Center for European Studies Working Paper (Cambridge, Harvard University, 2005).

<sup>70</sup>For a discussion of the limits of the European model in the African context, see Jeffrey Herbst, *States and Power in Africa: Comparative Lessons in Authority and Control* (Princeton: Princeton University Press, 2000). For a discussion of the limits of European models in Latin America, see Miguel Centeno, *Blood and Debt: War and the Nation-State in Latin America* (University Park: Pennsylvania State University Press, 2002).

building may be at work. Nevertheless, since in many regions of the world decentralization and federalism are viewed as possible solutions to a range of social ills, the question of how federalism and decentralization are achieved takes on renewed urgency.<sup>71</sup> Can my argument contribute any insights to other regions? Indeed, this argument fills a gap by proposing that the task of creating federalism is not about weakening government, as is so often assumed. Rather, creating federalism is ironically about *increasing* the capacity of government. While federalism is typically viewed as an institutional solution that disperses authority, to assume that this is a prerequisite of federalism is to mistake the *effects* of federalism for its *origins*. Indeed, insufficient attention has focused on the institutional “capacity” prerequisites of federalism at the subnational level. The central lesson of this article, a lesson potentially relevant for any decentralization effort, is that with the skills, resources, and institutional structures of high-quality governance, it is possible to overcome the paradox of federalism’s origins.

<sup>71</sup> See, for example, Ugo Amoretti and Nancy Bermeo, eds., *Federalism and Territorial Cleavages* (Baltimore: Johns Hopkins University Press, 2004).