

## A rather short History of Federalism in Germany

by Michael Kohlhaas

Germany in historical times consisted of many little or greater territories, even kingdoms like Bavaria. Well known is the patchwork-rug (*Flickenteppich*) of Germany, particularly after Thirty-Years-War. Now the Federal Republic of Germany consists of 16 federal states like Schleswig-Holstein, Lower Saxony (*Niedersachsen*) and Bavaria and towns like Hamburg and Bremen.

Probably lesser familiar to foreigners is the development since 800 A.D. up to the Federal Republic of today in particular as compared to unitary states like France, England or Poland and Spain.

We have to start with Charlemagne (748-814 A.D.) and thereto have a look into a historical atlas map to understand the formation of different states in the middle of Europe.

The Germanic tribe of the Franks had pressed forward into Celtic-Roman Gaul around 300 A.D. and had mingled sans problems with here already existing developed societies in terms of civilization.

The West-Frankish region turned into France, where, out of the Celtic-Roman mixture of language now added with dots of Germanic words, the French language followed.

In the East-Frankish region the Franks ruled over and with other Germanic tribes, so the German language of today was established gradually with rather few Roman influence.

The death of Charlemagne and the following separation of the Empire amongst his sons and grandsons finally resulted in two Empires around 1000 A.D., of which the territorial biggest had been the area of West-Germany, Benelux-countries, Alsace-Lorraine, Austria, Bohemia and Italy.

This Empire (in the beginning not called German, but Holy Roman Empire!) was reigned by the elected King of Saxony *Otto*, who was called Kaiser (Caesar, Emperor) Otto I. after coronation in Rom by the Pope in 962.

At this time King Hugo Capet (941-996) reigned in France, he was related to Otto I.

Otto, as well named Otto the Great, did not conquer Italy or Rom – it was fallen to him out of the inheritance of the Carolingian Empire, to which belonged as well the States of the Church, who on the other hand indeed had been independent to the doubtful Donation of Pippin, but from an inner deficiency had to rely on “concerned support” by the East-Franks.

To the self-conception of that time this meant to save, to support and to strengthen that Holy Rom for whole the Christianity. Anyway this was not an assignment of French or English Kings. This applied as well for all the following elected German Kings and it was virtually an obligation to them to be crowned subsequently in Rom as “Roman Caesar” or Kaiser, Emperor, as “Rex Romanorum” of the “Sacrum Imperium” by the Pope.

The designation “Holy Roman Empire of German Nations” (Heiliges Römisches Reich Deutscher Nationen) occurred in late Middle Ages.

This described role as “Roman” Emperor, whom we could see exaggerated as a guarantor of “Christian global dominance” and who with his title just only hold a representative position, was accepted this way by the other European rulers up to 1648 – and for sure not feared!  
 This conjunction between Emperor and Pope was eminent under Emperor Otto III. (980-1002); only later secular topics and purposes came to the fore.

In which way now the power in this Reich was spread, when the King was elected by some Dukes, later 4 Elector-Princes (7 at the end of 18<sup>th</sup> century) and 3 Elector-Archbishops?  
 There was nothing like a written constitution in Middle Ages, nowhere in Europe.

With the election there was associated rather dependence than power, still early they wheeled and dealt, moved money and fiefdoms.

The elected King did not have revenue or an army (of the Reich) at his disposal, he had to look after himself from his property, dukedom. If he wanted to carry on a war he had to rely on his vassals of high nobility – Dukes and Archbishops – however he expected fealty, when he summoned Knights and foot soldiers.

At this point besides: The kingly fief could be withdrawn, not the hereditament (*Odal*) of the duke.

It is now interesting, that there was hardly conducted a “German” war externally, upmost campaigns had been internally, e.g. against the stubborn and unruly Princes and towns in Italy. King Otto established his fame with the battle on the Lechfeld in 955, south of Augsburg, against the pagan Hungarians, he won together with all German tribes and also some battles against pagan Slavs; these had been indeed campaigns for expansion, defense and protection of Christianity, not for capture of land or secular power.

Another question is the controversy of single Princes with their outer neighbors, e.g. Henry the Lion of Welf-dynasty and Duke of Saxony *and* Bavaria with his fight against Slavs around 1160, extending his own secular power eastward.

Even later when Switzerland and the Netherlands bit by bit freed themselves from this “old union” it did not lead to belligerent corrective actions by the Emperor.

Even more some German Princes had belligerent quarrels among themselves – but that's quite another story!

The size of the country made it necessary to tour the many German territories, towns and dukedoms, e.g. to administer justice, not so far it applied to the purple himself, but concerned trouble among the Princes themselves.

Initially there was formed no center of power, bound to any place or town, but the elected King or Kaiser travelled from castle (Pfalzburg) to castle; to each belonged greater estates to supply the crew of the castle and the visiting King and his followers. He might have stayed for months on his favorite castles or later in some rich towns (so called Reichsstädte, towns of the Reich, which had no other Prince over them), of course at cost of territorial lord or town lord – he was steadily “on the tramp”, though he surely sometimes lingered on his old family-castle.

Only at the end of Middle-Ages Speyer and Rothenburg/o.d.Tauber evolved as preferred and long-ranging “seats of government”, until 1440 under Friedrich III. the Habsburgs choose Vienna as principal office, effectively as capital of the Empire, however still restricted by the sovereignty of the other German Princes.

The Habsburgs didn't want to tramp anymore...

It was only convenient and indifferent to the territorial lords, who were bound to the Emperor by oath of fealty, so far their extensive independent and the consolatory feudal system would be retained – a too forceful ruler possibly would confine them in their rights.

We should see this relationship as well from the reverse side: The elected King and in Rom crowned Kaiser and ruler of the far greatest realm in Europe was dependent on support of the Princes of the Reich concerning his tasks of ruling, without considerable military resources of his own.

Casually spoken we could think this Empire as an association of neighborhood, wherein all people spoke the same language, except Italy (and Latin was the general language of church and office for long time).

Here we have the first main-brick for a later federal System.

Another circumstance will clarify this fact:

It was common that the elected Kings caused to swear an oath by the Dukes and Archbishops according to his childhood-successor, few years after his son's birth.

That time the humans appreciated the great dangers of life and tried to ensure familiarly succession – comparable to inheritable fief of a Prince – equally to the King, but to whom it was given by God. This procedure was no problem for the other Princes of the Empire, as long as their traditional rights kept untouched.

Only when a kingly tribe died out, a Duke of another noble family had to be elected as new King. This case was commonly occurring the first 300 years, especially at almost regular campaigns of the Kings or Kaisers against Italian Dukes and towns, whereby quite a few died at young age without descendants; Malaria occurred often. This way the Ottonians ceased, after them the kingly families of the Salians and the Staufer.

More frequently and longer absence of the Emperor and repeated elections of kings about every 100 years with their bargaining about advantages and new rights, strengthened the independence of the single Dukes over a long time.

Hereby the bricks of federalism had been reproduced, which however had not been part of a determined construction plan.

The three Archbishops (Electoral Cologne, Mainz and Trier) could not leave their fiefdom to a corporal successor (at least not a legal...) had been appointed by and dependent on the King and therefor his not inconsiderable support in power-tussle with secular Dukes.

Not to forget an important step to federalism in this context: It was caused by Frederick II. (1194-1250), a Staufer, with his "Love for Italy" – because of his lasting absence from his northern Reich, he had to concede more rights to his Archbishops and Dukes for their home rule.

The international Treaty of Westphalia in 1648 after Thirty-Years-War as well confirmed and strengthened the numerous little German principalities and weakened the position of the Kaiser, since 1440 up to 1806 continuously placed by the Habsburgs.

Undoubtedly this was on behalf of all European Powers, who surely would not promote a big and strong state in the center of Europe; the treaty was a further brick for federalism.

Furthermore the retrieved commitment of the various principalities to one of the christian creeds, which had been actually the origin of that war, who indeed ended not on a religious level, but very profane power/politically.

The withdrawal of Switzerland and Netherlands from Holy Roman Empire, actually fulfilled for a long time, was acknowledged under international law in this very first international agreement of Münster and Osnabrück.

Entirely different state formation proceeded in West-Frankish Empire, **France** of today, whereby the basic position after division of the Carolingian Empire and as well progress of state initially was similar to East-Frankish Empire, later a part became to Germany.

Here as well the elected king, a Capetian, leaned on Dukes looking for themselves; but the first kings had been rather weak and they only ruled in the region of Ile-de-France.

However the Capetians had expanded silently their influence and their rights by intensive marriage and branched descendants throughout France. Under King Philipp II. Augustus (1180-1223) – and far more under Louis XIV. – this diverted from prevalent Feudalism, proceeded from Salic fiefdom, to a centralistic idea of state, propped by developing officialdom and followed by an early sense of national identity – this did not occur in those many little German principalities!

In another historical coherence we can explain the centralistic state structure in France and the federal compound structure of Principalities in Germany.

King Henri IV. of France had *warranted* exercise of religion in 1598 to the Calvinists (Edict of Nantes), but likewise *confirmed Catholicism* as official religion of the state.

Scarcely 100 years later the Edict was cancelled under Louis XIV. and the Huguenots were expelled from France.

Unlike in Germany:

With the Augsburg Confession, 1530, and the Schmalkaldic League, 1531, the Protestant Electoral-Princes *confronted* against Catholic Kaiser Charles V., who still was in a certain way dependent to them; though he shattered the League in 1546, he nevertheless could not prevent emerging schism of religion different reflected in regions; finally this division was confirmed 100 years later after Thirty-Years-War.

At this point I will give a short description of state formation of England and Poland to emphasize its differences to federal Germany.

William the Conquerer had eliminated the Anglo-Saxon nobility brutally in **England** in 1066 or expelled them from British Island.

He gave fiefs on new rules to his Norman-French outstanding people, what from the first led to a central ruled Kingdom; some decades later, however, granted a say to the nobility(!) by Magna Carta in 1215. Apart from this, the many brutal regicides actually confirmed the central position of the King in a cruel way – and finally after turmoils of English Civil War in 1688 the cornerstone of a constitutional monarchy was laid.

**Poland** had a hereditary right, which was obstructive not only in the early phase of state building, whereupon indeed the eldest son inherited, but because of frequent quarrels with royal relatives it came to continual allocation into many small principalities, so the amount of influential nobility increased much more distinctly than in other countries. The numerous nobility (Sejm, aristocratic republic) elected a King, who could be a foreigner and had to be a good 'paying' Prince, with a wish for title and glamorous reputation, not really interested in Polish affairs – essential he let the liberties of Polish nobility untouchable.

This 'princely' weakness next to imperial thinking neighbors finally led to demise of Poland at the end of 18<sup>th</sup> century. After WW I. it was founded new and organized centralistic like many other new states in Europe of that time.

This above described and deferred federalist formation of state in East-Frankish region and later Germany, in an otherwise imperial European surrounding, finally led to a rather weak “Holy Roman

Empire of German Nations”, which lasted up to 1806, turned into central united German Empire (Deutsches Reich) not until 1871 by a staged war against France, but still was made up of different German Kingdoms and Dukedoms.

Later they spoke of a 'belated nation' who at the end of 19<sup>th</sup> century was only now able to interfere in a world of by now imperial operating Powers and of growing and partly aggressive Nationalism in most of the European countries. Some warmongers of the Reich and their pompous Kaiser unnecessarily played the military card and lost. Finally it ended not before 1945 under centralistic leader-system of the Nazi-regime in a civil catastrophe and Europe as slaughterhouse.

The new Federal Republic of Germany (Bundesrepublik Deutschland, 1949 and 1990 after unification) is made up of 13 federal states and 3 town-sates: Schleswig-Holstein, Niedersachsen, Mecklenburg-Vorpommern, Nordrhein-Westfalen, Hessen, Sachsen-Anhalt, Brandenburg, Thüringen, Rheinland-Pfalz, Saarland, Baden-Württemberg, Bayern, Sachsen; towns like Hamburg, Bremen and Berlin.

Most borders of the federal states are historic, corresponding to old Principalities (many of them had been already merged out of little earldoms in 19<sup>th</sup> century).

In Weimar Republic the old Principalities had been consolidated to country-like administration units in an otherwise centralistic ruled state, later after WW II. organized new with help of the Allies as Federal Republic of Germany: Bundesrepublik Deutschland.

The federal character of the republic appears in our Federal Assembly (Bundesrat, comparable to Upper House): Members are some representatives out of the parliaments of the single countries, to counterbalance Parliament (Bundestag) and central Federal Government in Berlin.

There are certain sovereign rights to single Federal Countries, as there are: school, education, culture, police, finance and economics; there also is an agreement of finance-settlement from rich countries to poor countries, so it should not be surprising when you find a rather high standard of cultural institutions throughout the “provinces”, not only in Berlin.

With this construction and our Basic Law it is rather good to live in this country – despite fate and all human deficiency – and finally even accepted by our European neighbors.

Hope this was comprehensible; if there are some ambiguous formulations accused of my English, let me know.