

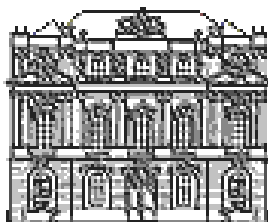


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United in Misunderstanding?
Asymmetry in Multinational Federations

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1. Introduction

How can a federation survive if its citizens do not agree on what it is composed of? Canada, for example, seems to be a different country depending on whether you look at it from Vancouver, Toronto or Montreal. For Don MacIver Canadian unity is “a continuous act of imagination and political will in defiance of the logic of both geography and economics” (MacIver 1999: 237). But Canadian debates about federalism convey a different impression: imagining contributes more to disunity than either geography or economics. Listen to how the political philosopher Will Kymlicka describes his country: “For the majority nation, federalism is a compact between equal territorial units, which therefore precludes asymmetry; for the national minority, federalism is a compact between peoples, which therefore requires asymmetry between nationality-based units and regional-based units” (Kymlicka 1998a: 14). A similar shift in perspectives occurs as you travel from Madrid to Barcelona or from London to Glasgow. Nearly all multinational polities in which power has been devolved to nationality-based units are plagued by the problem of asymmetry.

In a postmodern vein one could claim that certain difficult relations can only persist on the basis of mutual misunderstanding. If the partners had to undergo a therapeutic session with the aim of achieving agreement on the nature of their association they would agree to divorce. Yet this ironic answer to the question about unity in multinational federations is too facile. In the case of Quebec vs. RoC (Rest of Canada) the problem is that one partner is constantly threatening with divorce and has twice shown that she is quite serious about this.¹ In Spain there is no immediate risk that Catalonia would quit, but secessionist forces presently control the Basque autonomous community. The Scottish nationalists of the SNP campaign for independence but enjoy currently less popular support than the supporters of union. Even if a multinational federation appears to be relatively stable it may well be that excessive asymmetry is an inclined plane on which federations will glide downwards towards eventual dissolution. This would be a good reason to search for more symmetric arrangements instead of covering up the misunderstanding. Political divorce is a quite serious matter (Aronovitch 2000, Bauböck 2000). Dividing the family assets and debts is rather difficult; there are always children who would prefer to stay with both parents; and as the separated parents will go on living next to each other there is a risk that they will also continue to quarrel and harm each other, and will do so with less restraint than before.²

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¹ So far there have been two referenda on sovereignty for Quebec in 1980 and 1995. In 1980 40.4% voted for ‘sovereignty-association’, in 1995 49.4% for sovereignty with economic and political partnership with Canada. The Parti Québécois platform includes a pledge to initiate a third referendum when they could expect to win it. However, after a decline in the party’s popularity it has recently declared that it has no intention to call a referendum in the foreseeable future (International Herald Tribune, April 2, 2002).

² In his first inaugural speech Abraham Lincoln pointed out this major difference between secession and divorce: “Physically speaking, we cannot separate.... A husband and wife may be divorced, and go out of the presence, and beyond the reach of each other; but the different parts of our country ... cannot but remain face to face; and intercourse either amiable or hostile, must continue between them.” (Lincoln 1861/1989: 221-2). On the one hand, divorced partners cannot avoid being neighbours, on the other hand, the disputes that have caused

A second – and maybe even better – reason is that partners should have equal status and rights. Liberals and feminists concur that inequality is morally intolerable even if it would lead to more stable marriages. Multinational federations are not merely asymmetric in the imagination of their citizens. Politicians acting on these incompatible views of what the federation is about are likely to bargain for special deals that create unequal representation and powers of the constituent units. Asymmetric powers for nationality-based and regional-based federal provinces appear to violate the basic right of citizens to equal concern and respect (Dworkin 1978: 180-2, 272-3) because they ultimately translate into unequal rights of citizens in different parts of the federation.

A third objection to federal asymmetry is that it complicates democratic institutions and procedures to such an extent that citizens can no longer participate or hold their representatives accountable. I think that all three objections, which I will in shorthand notation call the cohesion, equality and transparency arguments,³ are *prima facie* plausible but ultimately less damaging than they appear to be. I will argue in section 5 of this paper that symmetry is indeed an attractive principle and a relevant standard for evaluating institutional arrangements in all democratic federations, including multinational ones. Sections 6 and 7 discuss various justifications for asymmetry and strategies for strengthening symmetry in multinational contexts. My conclusion is that the glue that can maintain federal cohesion in multinational democracies is not a shared national identity, but a shared conception of federal citizenship and multilevel self-government. This conception can accommodate persistent asymmetries of national identities, but it requires a fairly symmetric baseline for federal representation and the allocation of powers. Section 8 suggests three steps in determining such a baseline. The first step is a strong devolution of powers that satisfies aspirations for minority autonomy; a second step allows for legitimate moves towards recentralization; while the third step introduces incentives and controls that limit the extent of such deviation so that it does not undermine federal cohesion. Before embarking on these normative questions I will first present a more analytic discussion of different kinds of asymmetry, their origins and their dynamics in multinational contexts (sections 2, 3 and 4).

2. Federal asymmetries of power and identity

The debate about asymmetry in federal systems started in 1965 with an article by Charles D. Tarlton, in which he defined symmetry as “the extent to which component states share in the conditions and thereby the concerns more or less common to the federal system as a whole” (Tarlton 1965: 861). This is a broad definition that covers formal as well as informal relations

the break-up of their marriage are likely to sour relations after divorce. “Given the risks and uncertainties involved, voters in the seceding territory will need a strong motive to vote for secession, and this is most easily provided by appeals to ethnic particularism and hostility to the old state and its people. So secessions are not generally followed by relationships of close cooperation and partnership.” (Keating 2001a: 32-33).

³ In the literature on multinational democracies the equality and cohesion arguments are frequently discussed under the headings of justice and stability. I think that this is often a misleading classification because these conceptual distinctions need not coincide. First, concerns about cohesion can often be appropriately stated in the language of justice rather than as a conservative defence of the status quo. Cohesion in a multinational democracy may require extensive changes in the division of powers. And the question why and under which conditions minorities *should* respect the territorial integrity of a multinational democracy or may *legitimately* threaten to secede involves matters of justice and cannot be decided by merely looking at the balance of forces. Second, the “uncompromising nature of justice claims” (Norman 2001: 106) makes the language of justice sometimes inappropriate for deciding how to interpret norms of equality in federal arrangements. Conflicts between rival nationalist interpretations of federal equality can often be resolved only by inducing all sides to seek accommodation rather than justice.

between the parts and the whole. I suggest distinguishing two areas where asymmetry emerges in multinational democratic federations. One is the federal division of powers between institutions that represent the wider federation and those that represent constituent units (variously called states, provinces, *Länder*, cantons, regions or territories); the other area is that of citizenship and collective identities attributed to constituent units and to the wider federation.

In both areas we can find formal asymmetries as well as informal ones. National minority provinces often enjoy stronger autonomy rights than other constituent units but their representatives argue that this is necessary to balance an informal asymmetry of the opposite kind that results from the dominance of a national majority culture in public life. Federal citizenship is generally constructed formally in a symmetric way so that each member of the polity is simultaneously a citizen of her province and of the larger state. However, when asked about their political identities national minorities more often refer to their province while majorities identify with the federation.

(1) Asymmetric powers

There are three types of relations where asymmetries of power may arise: (1) a horizontal comparison between the powers of different constituent units to govern their own jurisdictions and their impact on political decisions at the federal level; (2) a vertical division of powers between institutions of federal and of constituent unit government; and (3) the power-sharing arrangement between different institutions at the federal level, such as the two chambers of a federal parliament, which represent the subunits or the undivided polity respectively.

From a normative perspective it is the horizontal comparison between constituent units that is most relevant. The second and third relation are less interesting because a general norm of equal powers, deviations from which have to be justified, does not make sense for these latter two comparisons. A symmetric division of powers along the vertical axis between federal and constituent governments is almost impossible to imagine. The peculiar U.S. tradition of dual federalism with its parallel institutions on both levels (Friedrich 1968: 8, 19) might be regarded as approaching an ideal of symmetry, but even in this case the respective powers are quite obviously not comparable. Constituent units cannot have the same powers as the federal government to coin money, to engage in foreign policy or to organize military defence.

In contrast, a symmetric distribution of powers between the two chambers of a bicameral parliament is possible and is to a large extent realized in the U.S. and Brazil (Stepan 2001: 343-5), whereas Austria's politically emaciated *Bundesrat* represents the opposite case of extreme asymmetry.⁴ In the literature the characterization of federal systems as symmetric or asymmetric focuses sometimes on this third relation (see Lijphart 1984: n. 9 at 179). This may be a useful classification for comparative purposes, but it is rather irrelevant for a normative theory. It would not make sense to say that the almost symmetric distribution of powers in the U.S. is somehow more democratic. Some might object that constitutions that give equal powers of both chambers show a stronger federal spirit. In a federation where the constituent units are regarded as truly constitutive, shouldn't the assembly representing them in federal government have the same powers as the one that represents the undivided *demos*?

⁴ The *Bundesrat* is a purely revisionary chamber (Stepan 2001: 347) that can raise objections against legislation passed in the popular chamber (Nationalrat). A simple majority in the Nationalrat can overrule these objections.

I do not find this argument convincing for two reasons. First, the essential interest of constituent units is in robust self-government. They will often face a trade-off between their regional powers and those of a territorial chamber, whose collective decisions override the particular interests of individual units. For this reason it is far from obvious that the constituent units themselves will favour symmetric powers for the territorial and the popular chamber.⁵ Second, the two institutions are based on qualitatively different principles of representation. While it will be important for the cohesion of a multinational federation that the territorial chamber is not as powerless as the Austrian *Bundesrat*, this does not entail that powers ought to be distributed *symmetrically* between the two chambers.⁶

The analytic distinction between symmetric and asymmetric federalism generally refers to the first of the three comparisons, i.e. between the degrees of autonomy and impact on federal government of the various constituent units.⁷ Tarlton recognized that “[n]o federal arrangement is likely to be made up of states each of which stands in exactly the same relationship to the whole system” (Tarlton 1965: 870). Yet he invoked the cohesion argument to defend an ideal of symmetry in the strongest possible terms. For Tarlton, the extent of asymmetry in a federal system determines its “secession potential” and he recommends centralization as an antidote: “Relieving the tensions and discord often attendant upon asymmetrical systems requires not further recognition of the elements of diversity and their protection in the complicated processes of ever-increasing federalization, but rather increased coordination and coercion from the centralizing authorities in the system” (ibid.: 874).

Tarlton seemed to assume that under the pressure of social diversity democratic federations develop a natural inclination towards asymmetry that must be counteracted by a centralizing authority. Against this view I will argue that in democratic federal constitutions the idea of an – at least initially – equal status of the federal partners serves as a corrective norm against claims for special powers by particular units. And there is some empirical evidence that the constituent units themselves invoke this norm just as often as central governments.⁸ If symmetry is an inbuilt norm in democratic federations, how can we then explain the development or persistence of asymmetric arrangements? To answer this question we have to look at the composition of federal polities.

(2) Asymmetric identities

The relevant distinction here is between uninational and multinational federations. In the former only the federal polity is conceived as a nation, in the latter one or several constituent units are regarded by the majority of their citizens as distinct national communities within the

⁵ Keating points out that Canada, Spain and Britain so far have not reformed their second chambers, which still do not fully represent the constituent territorial units. There is a “reluctance of central governments to see their power curtailed, but there is also a lack of urgency on the part of minorities, given that second chambers are often seen as the second-best form of representation” (Keating 2001c: 120).

⁶ The Spanish and Belgian territorial chambers have relatively weak powers, but the Spanish one can block armed intervention of the central government in an autonomous province and the Belgian Senate has to consent to constitutional amendments and international treaties as well as to changes in the structure of federal institutions (Stepan 2001: 346).

⁷ Kymlicka, for example, defines as asymmetric “a system in which some federal units have greater self-governing powers than others” (Kymlicka 2001: 104).

⁸ In the various failed attempts to reform Canadian federalism, which culminated in the Lake Meech and Charlottetown Accords of 1987 and 1992, the federal government was always more inclined to accept special arrangements for Quebec while the other provincial governments tended to insist on symmetrical status and powers for all provinces.

federation. All federal systems with some historical depth develop particular collective identities at the level of their constituent units. In uninational federations these identities are regional ones. They can have strong cultural underpinnings such as the predominance of a particular religion, a long history of regional autonomy, or a distinct dialect of the national language. Regional differences may even be marked by languages that are mutually unintelligible. In Switzerland and India many internal federal boundaries correspond to language differences of this kind without turning cantons and states into separate nations and the federation into a multinational one.⁹

Where cultural markers of this sort delimit regional communities with traditional aspirations of self-government, there is certainly a potential for the development of national identities. However, whether a collective identity can be called national is never fully determined by 'objective' historical and linguistic differences.¹⁰ Like beauty, nationhood is in the eye of the beholder. More specifically, to become visible it needs to be either politically mobilized or institutionalised.¹¹ National identities are invoked in political demands for self-government raised on behalf of distinct cultural communities, or in the activities of established institutions of government that claim to represent a culturally distinct community.

A second characteristic of nationhood is a peculiar structure of boundaries that requires exclusive cultural and political affiliations. This structure contrasts with the fluidity of cultural identities in democratic civil societies and with multiple levels of citizenship in democratic federations. On the one hand, cultural identities of all sorts coexist and overlap in modern multicultural democracies. Their citizens can be at the same time churchgoers, speakers of a regional dialect and members of a distinct life style community. On the other hand, the self-governing political communities of democratic federations are nested in such a way that individuals are simultaneously citizens of the constituent units and of the federal polity. For the "imagined community" (Anderson 1983) of nationhood both overlapping and nested memberships are anathema. The normative boundary structure of nationhood is one of self-governing cultural communities with separate jurisdiction over distinct territories and populations.

It is this combination of a mobilization potential for self-government with an exclusionary boundary structure that distinguishes national identities from regional or ethnic ones. These characteristics make multinational compounds highly combustible. Regional federations can be very stable in spite of profound cultural differences between constituent units as long as the prevailing sense of national belonging in all these units is attached to the larger federation. Once any of these units develops a distinct national identity, there will be an inevitable clash with the claim that the larger federation is itself a nation. And if all constituent units have a distinct national identity they may not only agree that the federation is indeed not a nation in its own right but also that it serves no useful purpose and should be dissolved.

⁹ This classification of Switzerland and India as uninational federations is disputed by some authors. Both countries have experienced minority nationalist movements in certain parts of their territory (the Jura in Switzerland and the Punjab and Kashmir in India). On the other hand, there has never been an attempt to establish self-government for a unified French nation within Switzerland and linguistic devolution in India seems to have successfully preempted nationalist aspirations among its many linguistic minorities.

¹⁰ "[W]e cannot use sharing the same culture as a criterion of nationhood, because it is precisely the fact that features are specific to a particular nation that makes those features count as 'culture'" (Canovan 1996: 53).

¹¹ As Margaret Canovan points out, established nationhood is also a container for potential mobilization: "[N]ationhood, once established, functions like a battery, a reservoir of power that can slumber for decades and still be available for rapid mobilization" (Canovan 1996: 73).

3. Federal origins

The uninational or multinational composition of a federation is not only relevant for asymmetric identities but also for formal asymmetries of powers. Among the twelve federations analysed by Stepan the three clearly multinational ones (Belgium, Canada and Spain) have the most asymmetrical constitutions (Stepan 2001: 328). This does not yet explain how asymmetry comes about and is maintained against a federal norm of symmetry. When considering the origin of federations we can ask three types of questions: (1) Have they emerged from an association of independent states or from devolution of a unitary state? (2) Was the present architecture of the federation created in a single historical event or has its shape emerged gradually from many extensions added to the original building? (3) Was the founding or enlargement of the federation a voluntary process backed by mutual consent or have previously independent territories and populations been coercively incorporated?

(1) Association or devolution

A federation can come about in two basic ways: through association or devolution, i.e. through an agreement of independent polities to pool their sovereignty by forming a larger community or through the decision of a central government to irrevocably transfer powers to regional units that are thereby upgraded to constituent polities. It is plausible to assume that “associative federalism” will generate a stronger commitment to symmetry than “devolutionary federalism”.¹² First, polities that have been previously independent have little reason to accept terms of a federal agreement that will include lesser powers for themselves or greater powers for particular other units. Second, a contract of federation is not an act of submission to a new government that would be free to reallocate powers between territorial subunits. Federation does not abolish rights of self-government, but merely transforms independence into political autonomy. If the federal partners had been previously equal as sovereign peoples under international law, this norm of equality of powers will be naturally carried over into their federal association.

When a federation has devolutionary origins there is no such prior status of equality. Moreover, the federal agreement is not negotiated multilaterally between independent polities, but in a bilateral mode between the central government and representatives of the future constituent units. There is therefore more leeway for bargaining that reflects unequal conditions, strengths and aspirations of these units. Devolution in Spain and in the Russian Federation illustrates this dynamic. Instead of establishing equal powers for all provinces, article VII of the Spanish constitution of 1978 *permitted* them to form autonomous communities. As a result the route to autonomy was split into a fast and a slow track. The three ‘historic nationalities’ of Catalonia, the Basque provinces and Galicia attained autonomy through a rapid and simplified process in 1979 and 1981 respectively, while the other provinces had to take a slower route (with Andalusia receiving speedier recognition in

¹² Laenerts (1990), Peeters (1994) and other authors use “integrative federalism” for what I prefer to call “associative federalism”. Stepan (1999) distinguishes “coming-together” from “holding-together” federalism. My objection against the former terminology is that it suggests that devolutionary federalism is disintegrative, whereas Stepan rightly emphasizes that what drives devolution is the attempt of holding together a multinational polity. The disadvantage of Stepan’s distinction is that it does not quite capture the shift of power towards constituent units that defines devolution. Seen from the central government’s perspective devolution is a way of holding together a state faced with centrifugal pressures; but seen from the perspective of national minorities devolution recognizes their claim to self-government.

response to political mobilization in the South) (Agranoff 1994: 67; Keating 1999: 417-18). Instead of directly allocating equal powers devolution thus gave all units more or less equal opportunities to grasp unequal powers.¹³

The initial situation in Russia after the fall of the Soviet regime was different because the Soviet Union had already been formally a federal state with different official status for republics, regions, autonomous territories and districts. Although a parliamentary committee in the Russian republic had recommended in 1990 to ignore these existing subdivisions by creating 50 non-ethnically based territorial units similar in status to the German Länder, Boris Jeltsin needed the support of regional political elites in his struggle against Michail Gorbachev and offered the ethnically-based republics “as much sovereignty as you can stomach” (Smith 2000: 348). The March 1992 Federal Treaty and the December 1993 Federal Constitution did not succeed in imposing a symmetric distribution of powers. Instead, the subsequent “war of sovereignties” resulted in bilateral negotiations between the republics and the centre with a recognition of various degrees of privileged status (ibid.: 350).

Devolution in the UK had again a different starting point. The UK represents the rare case of a ‘union state’¹⁴ that had for a long time recognized historic rights of territorially concentrated ethnonational minorities and had represented them through special agencies and ministers in the central Westminster government without, however, granting them political self-government within their regions. Devolution has added to this the essential ingredient of territorial autonomy. In the original union state there was little need for symmetry. The historic diversity between the status of the various regions is today carried over into “asymmetrical relations of England, Scotland (with its own Parliament), Wales (with its own Assembly) and Northern Ireland (where sovereignty would be shared with the Republic of Ireland) to the United Kingdom and in the continuing constitutional differences between the two parts of Ireland” (O’Neill 2001: 234). In two crucial aspects the UK is still no federal democracy. It has no territorial chamber representing constituent units and the doctrine of parliamentary sovereignty prevents a constitutional guarantee that devolution is irreversible. As long as these ingredients are missing from the federal equation historic asymmetries can persist unchallenged.

(2) Federation as event or process

A second relevant distinction with regard to origins of federations is along the time axis. Federation can come about as an event or as a process; it can be “achieved all at once or by stages” (Watts 1994: 14, referring to Pinder 1993). Federations are often formed at “constitutional moments” in the immediate aftermath of a war or revolution. At these turning points of history it is easier to overcome differential privileges of territorial units entrenched under an *ancien régime* and to conceive of a federal agreement as a contract between equal partners. If a federation emerges instead through a gradual process of devolution starting from a unitary system of government, or if it expands geographically through successive

¹³ The 1931 constitution of the short-lived Second Spanish Republic had already introduced a “dispositive principle” according to which each region had the right to establish itself and define the extent of its autonomy subject to recognition by the central parliament (Agranoff 1994: 71; Wendland 1998: 63).

¹⁴ The union state is one among four models of territorial statehood proposed by Stein Rokkan and Derek Urwin in 1983 (see Keating 2001b: 47). Daniel Elazar defines unions as “polities compounded in such a way that their constituent entities preserve their respective integrities primarily or exclusively through the common organs of the general government rather than through dual government structures” (Elazar 1987: 8).

waves of accession of new members, it is more likely that asymmetries of power will crop up in these processes.

Comparing federal systems we will, however, find that the distinction between federation as event or process is rather ideal-typic.¹⁵ In no other federation is the reference to a historical foundational moment stronger than in the USA. Yet over time the architecture of this federation has changed quite significantly. The original constitution – the now almost forgotten Articles of Confederation of 1781 – was replaced by the present federal constitution in 1787; the westward expansion created new territorial units that initially did not enjoy statehood; an overriding equality of federal citizenship was only established after the Civil War by the 14th amendment of 1868; colonial expansion outside the U.S. mainland has subsequently created new dependent territories, of which only Alaska and Hawaii have been integrated into the federation as equal states. An event of federation can never fully freeze the initial symmetry because it will always be followed by further processes of associational expansion or retraction, of devolution or recentralization with corresponding reinterpretations of the original agreement. Still, U.S. history also illustrates the relevance of collective memories (or myths) of such a foundational event as reference points in normative discourses about the equal status and powers of constituent units.

A norm of symmetry may thus refer to an imagined equal starting line that is invoked in order to restrain later tendencies towards asymmetry. Alternatively, symmetry may also be imagined as a goal for the future.¹⁶ If devolution creates initially highly asymmetric powers of territorial units their unequal status will often be challenged when these units become involved in power-sharing within a federal government. Symmetry serves in these cases as an ideal that directs a federation towards overcoming the historical legacy of special privileges granted by a central power.

(3) Voluntary association or coercive incorporation

The third difference concerning federal origins is between voluntary and coercive incorporation. Symmetry is more likely if a federation expands through a free decision of previously independent groups and territories to join. The procedure of accession to the European Union illustrates this dynamic. Many candidate states have negotiated bilateral association treaties with the Union, which grant their governments and citizens different bundles of privileges and rights. However, once they become member states they have to accept the so-called *acquis communautaire*, i.e. the near-totality of Community law in force for present member states, and they will receive the same status and powers as the others members in the club.

The situation is very different for colonies when they are not released into independence but become instead self-governing territories with the citizenship of the former colonial power. Puerto Rico, Guam or the Marianas have not become U.S. federal states; even in the context

¹⁵ Friedrich makes a general proposition that federalism should always be understood as “the process of federalizing a political community, that is to say, the process by which a number of separate political communities enter into arrangements for working out solutions, adopting joint policies, and making joint decisions on joint problems, and, conversely, also the process by which a unitary political community becomes differentiated into a federally organized whole” (Friedrich 1968: 7).

¹⁶ As mentioned above, devolution in Spain after 1978 permitted an unequal starting line that gave national minority provinces faster access to full autonomy. However, once they have achieved this status, the constitution makes no further distinctions between autonomous communities (Guibernau 1999: 42). Symmetry is thus affirmed as a goal.

of the unitary French state New Caledonia and the other *territoires et collectivités d'outre mer* enjoy various kinds of special status and autonomy.¹⁷ The most conspicuous example of asymmetry as a result of coercive incorporation is the status of indigenous peoples in western democracies. To my knowledge there is not a single example of an aboriginal minority achieving autonomy through symmetric federation, i.e. by turning its traditional territory into a self-governing province among other federal provinces with the same powers.

Daniel Elazar has suggested the term federacy for asymmetric autonomy regimes that are characteristic for former colonies and indigenous peoples: “[A] larger power and a smaller polity are linked asymmetrically in a federal relationship whereby the latter has greater autonomy than other segments of the former and, in return, has a smaller role in the governance of the larger power” (Elazar 1987: 7). Federacy arrangements avoid the difficulty of fitting special demands for self-government into the constitutional architecture of the larger polity. They can be tailored to special circumstances and may be adopted by both unitary and federal states.

Ex post recognition of a right to self-government that has previously been denied will always lead to asymmetric arrangements. *Equal* autonomy is only possible between the original partners of a federation and those who join later voluntarily under conditions already established between present members. In the relation of democratic states with their former colonies the basic alternatives are to drive the incorporation of the latter to the end-point of equal individual citizenship without political autonomy, or to restore their rights of self-government through releasing them into independence. Federacy is an, often unstable, arrangement somewhere between these two solutions.¹⁸ For indigenous peoples in the metropolitan mainland the situation is different because independence is not a feasible option and they have been more frequently exposed to attempts to deprive them of autonomy under the pretext of integrating them as equal citizens.¹⁹ Federacy is not only a default solution in the absence of better alternatives, but enables them also to challenge their historic subjection and to assert a right of self-determination under international law. “Indian peoples do not want to be treated as federal subunits, since the sort of self-government they seek involves a very different set of powers from that exercised by provinces” (Kymlicka 2001: 111). “[T]heir self-government occurs outside of, and to some extent in opposition to, the federal system” (ibid.) into which they have been coercively incorporated.

Postcolonial federacy is asymmetric by definition, while devolutionary origins and a gradual process of federation merely create a greater *potential* for asymmetry than does the formation of a federation as a single event of association. The different formal modes of federation-building will also not fully explain why a federation becomes more symmetric or more asymmetric over time. A federal state may, for example try to restore symmetry by releasing or fully integrating its postcolonial federacies, but it may also become increasingly asymmetric if several of its constituent provinces opt for a quasi-federacy status, i.e. greater autonomy at the expense of less representation in the federal government. For understanding the causes and dynamics of asymmetry in multinational federations we have to examine more closely the chemistry of the federal compound, i.e. prevailing identity constructions at the level of constituent units and of the encompassing polity, and their mutual interaction.

¹⁷ This is different for the *départements d'outre mer* (Guadeloupe, Martinique, Réunion and Guyane), which have formally the same status as *départements* and *régions* of the French mainland.

¹⁸ I will evaluate these alternatives from a normative perspective in section 7(1) below.

¹⁹ For example, in the US after World War II there was a short-lived policy of “termination” of reservation status for native American communities (Young 1993: 12).

4. Interlocking nation-building projects

All modern democratic states have been formed in the context of nation-building projects. As Ernest Gellner (1983), Benedict Anderson (1983), John Breuilly (1985) and many others have demonstrated, both processes are highly interdependent. The modern state needs for its operations standardized national cultures and helps to bring them about through the institutions of public education, citizens' armies, and bureaucratic administration. And modern democracy ties legitimacy of political rule to the idea of popular sovereignty, which is made plausible through the imagined community of the nation. Democratic politics is at the same time a struggle between political ideologies competing for popular support in which appeals to nationalism have a special mobilizing potential.

The trouble with the linkage between the processes of nation-building and state-building is, as Gellner has famously argued, that there are many more potential nations than viable states (Gellner 1983: 2). Modern politics involves thus not only conflicts between different interests and ideologies within the boundaries of national communities, but also struggles over where these boundaries ought to be drawn.

The outcome of these latter conflicts is highly contingent. There are three basic types of solutions: first, national homogenisation of a territorial population through extermination, expulsion, or coerced assimilation of minorities; second, dividing the territory between rival national groups; and, third, an uneasy coexistence of several national communities within a single state territory. The second solution generally leads back to the first, because states newly formed as a result of a nationalist conflict will try to enhance their legitimacy as nation-states through establishing the national culture of the dominant group. And in the third solution there is nearly always a threat of possible degeneration into the first or second one. Multinational democracies have adopted, for the time being, the third solution and try to stabilize it against the possibility of disintegration. This involves a normative commitment to both the territorial integrity of the state and to recognizing self-government rights of national minorities.

It is important to understand that the coexistence of several national communities within a single state is very different from the coexistence of independent states within the international system. In the latter context there is a basic formal symmetry of relations between sovereign and separate entities,²⁰ while in the former the different communities are involved in what I suggest to call interlocking nation-building projects. The interdependence of these projects is always asynchronous and asymmetric. With the possible exception of Switzerland, historic nation-building projects have started out from a particular cultural tradition and territorial heartland that formed the core of an expanding national identity. Dominant nation-building instrumentalizes the state for the goal of cultural homogenization within a given political territory. Minority nationalism is never an independent project that per chance happens to unfold in the same state territory at the same time. It is always a response that resists, but also emulates, dominant nation-building projects. Intellectual elites among the minority population use the resources of a distinct and not yet assimilated ethnocultural tradition to mobilize against the claim of the dominant group to represent the whole population within the state territory. The typical relation between national majority and

²⁰ Of course this does not exclude asymmetric relations of dominance and dependency that emerge from the interaction of states with highly unequal economic and military resources.

minority is therefore not merely unequal in terms of numbers, economic strength and political power, but asymmetric in the sense that I have explained: The majoritarian project *includes* the population and territory of the minority as an integral part of the dominant nation, whereas the minority project attempts to *separate* both nations.

Starting from this asymmetry between interlocking nation-building projects there are three paths for the subsequent development of intercommunal relations. The initial pattern of dominance can persist over time, it can be reversed, or it may in rare cases evolve towards roughly equal positions.

(1) Continuity

The persistence of an asymmetrical relation explains the different perceptions of multinational federation in Canada, Spain or the UK that I have described in the introduction. National majorities have maintained their demographically and politically dominant position in these countries ever since the formation of modern states. Although the patterns of integration of national minorities have changed from coercive assimilation to pluralistic recognition it is still the case that at the level of the wider polity the historic majority remains in a dominant position. Because the nation-building project associated with this dominant group has historically extended over the whole territory of the present state, it is quite natural for this majority to attribute nationhood to the wider polity and to regard regional borders as territorial subdivisions within a single nation rather than as boundaries between different national communities. Minorities, however, attribute nationhood to their regional polities and regard therefore the federation as composed of several nations, each of which has the same basic claim to self-government. We might therefore say that both the majority and the minority have symmetrical views of the polity, with the former seeing it as a composite of equal regions and the latter as one of equal nations. The trouble is that the two views appear to be incompatible because if do not refer to matching boundaries.

These divergent interpretations engender corresponding views of the federal contract: The majority regards the subunits as merely derivative and subordinate political communities whereas for minorities the authority of a federal government is a delegated and retractable power (Kymlicka 2001: 105). If the majority is subdivided into several territorial units while each minority is concentrated in a single one (as in Canada or Spain) the outcome of this mismatch will be that the majority wants to see strong federal government with equal powers for all provinces while minorities campaign for special powers of the nationality-based units and weak federal government. A stable multinational federation is not a likely outcome of this conflict. If the majority prevails and plainly refuses to acknowledge the multinational dimension of the federation, it will heed Tarlton's advice to strengthen central government and reduce the powers of constituent units undermining thereby the federal character of the polity. If the majority is more liberally minded it will instead imitate the minority strategy by strengthening its regional identities against the federal government weakening thereby the cohesion of the federal polity.

(2) Reversal

Patterns of dominance between national communities may change over time due to unequal demographic or economic development. A more frequent, and in its impact much more dramatic, cause of reversal is a revision of international borders. In several Central and Eastern European states we find national minorities who had been members of an erstwhile

dominant majority within a large multinational empire and find themselves now living in nation-states with a dominant majority that used to be a subordinate minority. For example, during the late Habsburg monarchy, Slovakia was included in the Hungarian half of the Empire and Slovak minority nationalism developed first in response to Budapest's coercive Magyarization policies. Today, Hungarian speakers are an ethnic minority in independent Slovakia. In our times the dissolution of the Soviet Union and Yugoslavia has produced a similar turn of the tables for Russian populations in Baltic and Central Asian states and for Serbian minorities in Croatia, Bosnia and Kosovo.

Rogers Brubaker and Will Kymlicka have contributed important insights that help to understand the difficulties of consolidating multinational democracies in these states in terms of structural constellations rather than of persistent ancient hatreds or lower levels of civilization. Brubaker (1996) outlines a triangular field of relations between national minorities, their external homelands and the nationalizing states where they live. Kymlicka (2002) points out that, compared to a pattern of historic continuity, a reversal of dominance makes a transition towards pluralistic arrangements much harder. The break-up of multinational states into national components legitimizes the formation of presumably homogeneous nation-states whose governing elites are not likely to recognize other groups in their territory as nations with whom they have to share power. If these minorities are, moreover, associated with an external state power that is regarded as the historic oppressor of the present majority, then they will be hardly trusted to respect the territorial integrity of a multinational federation. There are, however, similar constellations in consolidated Western democracies to show that this bleak outcome is not inevitable. The Swedish minority in Finland was the historically dominant elite not only as long as Finland was a part of the Swedish realm but even after the country came under Russian rule in 1809. Today the dispersed Swedish speaking population in mainland Finland enjoys generous minority rights and the compact Swedish population of the Åland islands is associated with Finland as an autonomous federacy with comprehensive powers of self-government.

(3) Equalization

The third pattern is one where an initially dominant majority has formally recognized the multinational character of the polity and regards its own national identity as attached to a part of the territory rather than the federation itself. If all constituent units are associated with particular national identities and none of these identities is projected onto the larger state this seems to be an inherently symmetric arrangement that might be able to avoid the difficulties emerging in the other two patterns.

The Czechoslovak Federal Republic and Belgium show that this impression may be wrong. In the former case, the Czech parts were not only considerably larger in terms of territory and population but also historically dominant vis-à-vis the Slovak lands. When the republic was founded after World War I it was "held to be a national state of the Czechoslovaks, a nation which comprised two branches, the Czech and the Slovak" (Henderson 1999:108). For the Slovak minority, however, the one-nation formula was majority dominance in disguise. The formal transformation of the country into a federation in 1968 was the only reform that survived the crushing of the Prague Spring. But the federation itself did not survive the democratic transition initiated by the Velvet Revolution of 1989. The Czechoslovak federation, too, looked quite different from Prague and Bratislava and this asymmetry certainly prepared the ground for partition at the end of 1992 – although it may not have made this outcome inevitable.

Belgium is even formally not a symmetric federation because it consists of three regions (Wallonia, Flanders, and Brussels) and three linguistic communities (Francophone, Flemish and German) with unequal status and powers. Flanders is purely monolingual, Wallonia is monolingual with a German linguistic minority inside its territory, while Brussels is an officially bilingual region with a Francophone majority and a Flemish minority. One could still get the impression that the Belgium federation is symmetric at its core because the two large monolingual regions are roughly similar in size and have equal powers. In fact, however, present relations between the two language communities require a balancing act between two opposite asymmetries: a Flemish dominance at the federal level and a French dominance in the Brussels region. A similar reversal of asymmetries has occurred along the time axis. Over most of its history (from 1830 to 1970) Belgium was a unitary state and the French community was clearly dominant in all positions of power. This historic relation, which turned the Flemish into a national minority, has gradually been reversed with the economic decline of the industrial French South and a parallel rise of the Flemish North, which is now the wealthier part of the country. State institutions and collective identities are, however, always shaped by the *longue durée* of history. This explains why Flemish nationalism, although no longer in a minority position, still exhibits many of the same characteristics as Scottish, Québécois or Catalan nationalism.

(4) Prospects for multinational federations

These three types of majority-minority relations lead to quite different prospects for the formation and stability of multinational federations. In the continuity pattern the dominant majority may eventually agree to devolution and the creation of autonomous provinces where the minority has a regional majority. However, majorities in this pattern strongly resist the interpretation of the minority that the polity itself should be seen as a multinational federation. They can do so by denying either the multinational character or the federal character of the polity. Where there is a federal constitution (as in Canada), majorities will insist that it is a regional federation of territorial units with equal powers. Where there is no fully federal constitution (as in Spain and the UK)²¹ devolution will be interpreted as an accommodation national minorities by giving them special powers, but not as an arrangement that affects the national identity of the majority and of the larger polity itself.

A pattern of reversal creates a stronger likelihood that the majority will impose and retain a unitary constitution that grants at best cultural minority rights but refuses any substantial devolution of political powers towards institutions of minority self-government. The government of a state that has itself emerged from the secession of a constituent unit of a multinational federation will suspect its own minorities to try the same move once they are granted territorial autonomy (Kolstø 2002).

In the – comparatively rather unique – Belgian constellation the former dominant group could only lose from sticking to a unitary view of the polity. The conflicting interests of both communities have therefore converged on creating an explicitly multinational federation. There are, however, inbuilt asymmetries in this arrangement that reflect the historically shaped identities and their incomplete territorial separation. There are reasons to assume that it is just these asymmetries that make for cohesion in a context that is otherwise quite

²¹ One can add to this list Italy with its special autonomy for South Tyrol and possibly also France, where the National Assembly approved by narrow margin a special autonomy statute for Corsica in December 2001.

unpromising for stable federation. As the Czechoslovak example demonstrates, a binational federation that is neatly separated into two territorial components is much more likely to fall apart. Such a constellation with no cross cutting cleavages “tends to polarize conflict and make all negotiations at the federal level appear to be a zero sum game” (Henderson 1999: 115, referring to Lijphart 1977: 56-7).

If we add to these three historical paths the cases of coercively incorporated colonies and indigenous groups discussed in the previous section we arrive at the conclusion that, although the dynamics and likely outcomes are different in each pattern, all these histories of interlocking nation-building tend to generate asymmetric identities within present multinational states. When these national identities are politically mobilized, they pull federal systems towards a corresponding asymmetric distribution of powers.

There is only one exception to this rule. The European Union can be interpreted as a fairly symmetric multinational federation-in-the-making. It has been formed as an association of independent nations that have previously fought and occasionally conquered each other, but have not been continuously linked in historic relations of dominance and subordination under a common government. In spite of varying degrees of ‘Euro-scepticism’ and ‘EU-phoria’ in the member states, the prevailing identity structure is quite similar – being European is regarded as a supplement rather than a substitute for national membership.²² And in spite of conflicts over representation formulas in the Council and Commission there is a firm consensus on equal powers for all the constituent member states within their own domain of domestic government and in their relation to European institutions.²³ The symmetry of this model depends not only on the associative origins of EU federalism, but also on a prehistory of European pluricentrism and rivalry between states of similar strength. It is rather difficult to imagine that the US could agree to a symmetric North American Union with Mexico and Canada with similar legislative powers as the EU. Even less can the EU serve as a model for a devolutionary transformation of heterogeneous states into multinational federations.

5. Three arguments for symmetry

All these reasons explain why asymmetry is the rule for multinational constellations under a common government, whereas it is the exception in uninational federations.²⁴ Should we also accept it as a *norm*, i.e. as a defensible deviation from a standard of equality or even as a requirement for just relations between majorities and minorities?

Modern architecture has overcome the obsession of previous periods of art with an aesthetic ideal of symmetry. Is symmetry in federal architecture perhaps also an outdated ideal for complex and dynamic societies? Constituent units of federal systems are not like individual citizens whom liberal governments must treat as equals even though they have very different abilities and interests. Liberals will be disinclined to attribute basic moral standing to either regionally-based or nationally-based collectivities. Why then should liberal federations not

²² This relation is formally codified in the rules for access to European Union citizenship, which is strictly derivative of member state nationality.

²³ Equal powers include the possibility for member states to opt out of certain EU agreements or to initiate special multilateral agreements between certain member states only. This variable geography creates temporary asymmetry at the level of European *policies*, as illustrated by European Monetary Union or the Schengen Treaty on the abolition of internal border controls, in which certain states do not participate.

²⁴ Unequal status among regionally-based units in uninational federations is mostly grounded in contingent historic privileges, which date back to times before the rise of nationalism and have been carried over into a democratic federation.

negotiate different relations and bundles of power with each of their constituent units? Wouldn't abandoning the norm of equality and taking such a pragmatic approach make it easier to satisfy the special claims of national minorities without upsetting other groups?

I will discuss three reasons why asymmetry ought to be regarded as undesirable within fully developed multinational federations. As will become clear from examining these arguments they apply more strongly to asymmetrical powers but less obviously to asymmetrical identities.

(1) Transparency

If the various constituent units of a federation all enjoy different scopes of autonomy this means that instead of a single formula for the vertical division of powers that is laid down in a federal constitution there will be as many different formulas as there are units. More importantly, if the system of power-sharing within federal institutions of government grants individual constituent units also special representation or veto powers over certain policy areas this may increase complexity to a point that is damaging for democracy.

One value that might be impaired by highly asymmetric arrangements of this kind is efficacy of federal government,²⁵ i.e. its capacity to make and implement collectively binding decisions. Efficacy depends, however, primarily on the scope of power of that government and only secondarily on symmetrical relations with constituent units. In a symmetrical confederation where each unit has the power to block any collective decision efficacy will be considerably lower compared to an asymmetric federation in which certain units enjoy special privileges within federal government or exemptions from its decisions. As many analysts of policy-making in the EU have observed, it is the mode of decision-making in the Council of Ministers, where all states have equal representation and powers, that is presently the greatest obstacle for efficacious governance in the Union.

There is another democratic value that is specifically affected by asymmetry, and this is the transparency of the democratic process. Theories of deliberative democracy have in recent years argued convincingly that democracy requires not only a fair process of aggregation of individual preferences and votes, but also an exchange of arguments among citizens and policy-makers so that their preferences will be well-informed and open to revision in the light of better reasons (Bohmann 1996, Benhabib 1996, Gutmann and Thompson 1996, Dryzek 2000). The quality of a democratic system in this respect is inversely related to its complexity. The more difficult it is for ordinary citizens to understand how the system works the lesser their chances to be well-informed about the political agenda, to participate in deliberative arenas and to hold their representatives accountable. Transparency is therefore an essential quality of democratic systems.

On the one hand, a federation is by definition more complex than a unitary state because the former has more than one level of government with autonomous decision-making powers. On the other hand, federal devolution also strengthens deliberative arenas 'closer to the citizen', where the threshold for participation will be generally lower and from where well-informed preferences and votes can be aggregated up to the federal level. Because of this trade-off federalism is not per se an impediment for democratic transparency. However, the impact of

²⁵ Alfred Stepan (2001: 331-2) suggests that democracy has to balance the values of liberty, equality and efficacy. Constitutions that focus too strongly on protecting the autonomy of particular subunits may be incompatible with the latter two values.

asymmetrical powers on this value can be quite dramatic. The complexity of a federal system multiplies with each layer of government but increases exponentially if individual units at each level enjoy different powers.

Highly asymmetric federations become opaque for their citizens, but not necessarily for professional politicians and lawyers. Asymmetry complicates the rules and gives professional players greater advantage over laypersons.²⁶ Lawyers will gain from increased complexity because they can build up a monopoly of interpreting the rules and politicians will gain because they become less accountable to their constituencies. Asymmetry has the additional effect of creating for policy-makers stronger incentives for bargaining than for arguing (Elster 1991). For the force of better reasons to prevail over the power of particularistic interests it is essential that all participants in a dialogue or negotiation are equally situated and have an equal chance to state their arguments. This is not possible if participants are endowed with unequal powers to influence the outcome. Asymmetric powers create, moreover, incentives for bargaining that will generate even more asymmetry. Those representatives who enjoy greater powers than others can use them to demand further increases of their powers as a concession for consenting to policies that the other representatives are vitally interested in.

Belgian politics illustrate these difficulties quite well. The combination of territorial federation with non-territorial consociation and the balancing of several asymmetries have not only made the system extremely complicated from the start but keep producing ever more complexity as a result of bargaining between the representatives of regions and communities. Richard Simeon and Daniel-Patrick Conway quote an opinion poll in the Belgian newspaper *Le Soir*, according to which “49% of voters believed that in the new federal system ‘the diverse levels of powers have become too complex’ to the extent that citizens ‘no longer know who is responsible for what’” (Simeon and Conway 2001:352).

While complexity of this kind diminishes the deliberative quality of a democratic system it may also have some positive effects on conflict resolution. “Complex and even byzantine arrangements, permanent political dialogue, cross-cutting cleavages, overlapping competencies, post-federalization coordination mechanisms, asymmetries and minority protection measures are not considered negative, but rather useful shock absorbers. Conflict can get lost in the maze, bouncing off its walls and becoming attenuated in the process” (Fitzmaurice 1999: 105). This presumed advantage of asymmetry-induced complexity is, however, a mixed blessing. While institutionalised elite cooperation across the linguistic divide has been maintained the gap has certainly not narrowed. Over time the institutions of federal government and citizenship in Belgium have been gradually weakened to the extent that “the state has been shared out between the communities, and there is almost no one left to speak for Belgium” (Keating 2001b: 52).

These objections against asymmetry are not relevant in the eyes of those who conceive of multinational democracies as confederations rather than federations. In a confederal perspective democratic accountability is enhanced by devolution but not diminished by asymmetrical relations between regional governments and the federation. “Provincial or state administrations thus provide the government that is the most responsive and accountable to the population, while the central government is responsible for policies of joint interest”

²⁶ “... over-complex systems merely bring us back to the public choice problem, that deliberative democracy is discouraged, government becomes incomprehensible, and power flows into the hands of political entrepreneurs willing and able to invest the time and resources required to work the system and operate in multiple spheres.” (Keating 2001: 29).

(Gagnon 2001: 332).²⁷ Complexity and intransparency above the level of constituent units is indeed of little concern if only the governments of these units are directly accountable to their citizens while the federal government is merely entrusted with pursuing the joint interests of the various units taken separately, but not the shared interests of federal citizens (including their protection against their provincial governments).

(2) Cohesion

A second concern about asymmetry in multinational federations is that it may turn into an acid that dissolves the glue binding the component parts together. Will Kymlicka has identified a “paradox of multinational federalism: while it provides national minorities with a workable alternative to secession, it also helps to make secession a more realistic alternative to federalism” (Kymlicka 2001: 118). Although the threat of secession cannot be fully removed from the political agenda Kymlicka observes a “surprising resilience” (p. 116) of multinational democracies such as Canada, Belgium or Spain. He concludes that “weak bonds of social unity may nonetheless be enduring bonds, and that conditional allegiances may nonetheless be powerful allegiances” (117). Yet this empirical observation does not yet resolve the paradox. For a theory of multinational federalism it is important to distinguish integrative structures and incentives from disintegrative ones and for democratic politics in these contexts it is imperative to strengthen the former.

From this perspective Tarlton’s advice, which is echoed in many contemporary statements, may be suicidal. Centralization against the resistance of national minorities is likely to push their political leaders forward on the road to secession. In order to unravel Kymlicka’s paradox we should distinguish between, on the one hand, the effects of devolution and, on the other hand, those of asymmetry. Strong devolution by definition weakens the role of federal government and reduces the political stakes the constituent units have in the common polity and in that sense makes it easier to dissolve. However, as long as devolution is fairly symmetric it will be also easier to keep conflicts between the units at a low level. Symmetric devolution gives no province a reason to envy another one for its special powers or to fear another one that might use special powers to obstruct vital interests of the former. If the level of conflict is low because no unit has a higher threat potential then no unit can gain much by threatening to withdraw from the federation and all citizens may realize that they have important stakes even in a weak federal government.

This conjecture needs to some qualifications. Once devolution proceeds to the point where a federation turns into a confederation then units would gain a unilateral right to secede and citizens would no longer be represented directly in federal government. In this constellation threatening with secession may again become a powerful weapon for dissatisfied minorities to impose their interests on majorities and citizens will have no legal and political attachment to the wider polity that restrains such moves of their representatives. The relevant comparison is thus not between a federation and a confederation, but between a symmetrically devolved federation and a highly asymmetric one with a stronger overall centralization. The prediction is that as long as we remain within a federal framework, cohesion will be weaker and conflict will be endemic when there is a stronger asymmetry of powers compared to a strong but symmetric devolution.

²⁷ Ferran Requejo argues in a similar vein that “...the suitability of political arrangements is to be judged on how well they promote the national diversity of the Spanish polity. This makes it convenient to introduce legal asymmetries or agreements of a confederal nature in those areas relating to national symbols, institutions, and powers” (Requejo 2001: 121).

Asymmetry is less corrosive for political cohesion within systems that are not fully federal. Special historic privileges of the various units can be easily recognized in a union state whose historic regions are represented in central government institutions but do not enjoy any substantial legislative autonomy.²⁸ The same goes for a consociational democracy whose societal segments enjoy cultural autonomy but no legislative powers over their members. Federacy arrangements, on the other hand, emphasize political autonomy at the expense of representation in a central government. In the case of offshore former colonies, such as Puerto Rico, the possibility that they may opt for full independence is always present but their departure would not affect the overall constitutional architecture of the state.

This is very different in multinational democracies whose national minorities are constitutive parts of the federation. It is then neither the representation of national minorities in a federal government, nor their political autonomy from that government, but the *combination* of both elements in a constitutional architecture that gives asymmetry its disintegrating force. In a federation the basic norm of symmetry is derived from the idea of a contract between equal partners. The contract defines, on the one hand, equal powers in cooperation for common goals and on the other hand, equal liberties from interference by the jointly established authorities. A persistent deviation from this norm of symmetry undermines trust and the willingness to cooperate between the partners. As I have argued in section 3, the different historical origins of federations help to explain their greater or lesser tolerance for asymmetric arrangements. For some symmetry is firmly anchored in a foundational contract, for others it is distant goal to be achieved in future constitutional reforms. Existing asymmetric arrangements will then become obstacles for federal cohesion to the extent that a constitution develops towards a fully federal architecture.

This seems to provide us with an easy way of reconciling asymmetry with cohesion if it is possible to stabilize a constitution at a point where one of three crucial elements for democratic federation are missing: political self-government for constituent units, power-sharing within federal government, and a common federal citizenship. What is striking about the development in Belgium is that it could not be stopped at a point where the country was still a consociational democracy. Political developments have pushed Spain also beyond the original intention of the makers of the 1978 constitution to grant the national minorities autonomy without involving them too much in the central government.²⁹ Several coalition governments have depended on the votes of Catalan and Basque nationalist parties. For nationalists this enhanced clout in Spanish affairs has been a mixed blessing since it has

²⁸ Michael Keating suggests that "... just as the nation-state itself, so historic rights can develop and democratise without losing their legitimating power... The state can be conceptualised as a pact, in which principles of territorial power need to be negotiated, rather than imposed unilaterally" (Keating 2001b: 47). "So far as asymmetries reflect historic rights and traditions, then to suppress them would be to violate the acquired rights of citizens in those territories. To extend them to the whole state would equally violate historic practice and would impose on the rest of the state a system that evolved for the minorities" (Keating 2001c: 123). This is quite true as long as devolution is primarily regarded as a matter of bilateral negotiations between a central government and constituent units. Historic privileges become, however, more difficult to legitimize when the polity is reconstituted as a federation with horizontal equality between constituent units. For example, the continuation of the ancient 'fueros' rights for the Spanish Basque provinces and Navarre to collect major state taxes and transfer part of this revenue to the central government has become a source of envy for Catalonia that does not enjoy similar privileges (Agranoff 1994; Keating 2001c: 125).

²⁹ Alongside the 'dispositive principle', which allowed the autonomous communities to establish themselves and define their own autonomy, this peculiar model of an 'Estado Integral' (integral state) with regional autonomy but without power-sharing at the level of central government is a legacy of the Second Republic (Keating 1999: 413, 416).

exposed the asymmetric distribution of powers to increased public criticism. There are yet too few cases of devolution in stable multinational democracies to make any generalized empirical inferences and predictions, for example, about the future of the UK. However, I believe that from a normative perspective a commitment to democratic principles of equality and inclusion pulls towards fully federal constitutions.

While asymmetry creates a slippery slope along which multinational federations may glide down towards dissolution, there is certainly no need for uniformity of powers in all respects. It will thus be important to identify specific thresholds beyond which the plane becomes so steeply inclined that the brakes may run too hot to stop the car. I think that the right to national self-determination is such a threshold that shouldn't be passed. National self-determination, in contrast with the much more circumscribed self-determination of peoples under international law, is generally understood as a right of a certain community to determine its own political status and borders (see Margalit and Raz 1990: 126). This "does not entail that the nation must exercise this right in order to establish its own state; indeed it would be a contradiction in term to say that a nation has a right to self-determination and then insist that this must take only one political form" (Keating 2001a: 24). Suppose that a national minority initially respects the countervailing right of the state to territorial integrity and claims only the right to unilaterally determine the specific powers of autonomy that it will enjoy within a federation. Within a federal framework no unit can simply decide to increase its own powers. However, if the federal government respects a right of self-determination of the constituent units it will at least have to grant them a right to initiate a corresponding change of the constitution. The right creates a corresponding duty of the federal government to enter into bilateral negotiations in good faith (Tully 2001: 7, 14, 30).

This is certainly a widespread expectation among those members of minorities who, like the great majority of Catalans, do not want to secede. As I am going to argue below, it is also not an unreasonable view as long as such demands for greater autonomy are formulated as compensation for manifest disadvantages suffered by a minority. Yet this justification is very different from self-determination. The latter amounts to a license (reinforced by obvious incentives) to seek greater powers for power's sake. Recognizing such a right to self-determination removes from the federal agenda any restraining principle of symmetry. The federation is then no longer seen as multilateral partnership between the constituent units that invest into a joint government, but rather as a series of bilateral agreements between the units and a central government. This is an entirely adequate interpretation of federacy arrangements and postcolonial territories and for this reason it makes sense to attribute to these peoples a right to self-determination even if they do not have the desire or capacity to become independent. However, it would be fatal for the cohesion of multinational democracies like Canada, Spain or Belgium if they interpret their intercommunal relations in the same terms. A right to determine the content of national autonomy in bilateral agreements implies that in these negotiations the central government is seen as representing not the multinational federation, which includes the minority, but the majority nation. And if no agreement can be found then it will be natural to think that self-determination gives the representatives of the minority a further right to threaten with secession.

(3) Equality

Even asymmetrical powers that do not immediately threaten federal cohesion may still be criticized from an egalitarian perspective. Unequal powers of constituent units translate into

unequal representation of citizens in federal government and thus can be seen to violate a commitment to equal federal citizenship.

We have to be careful in specifying this charge. Even in a highly asymmetric federation there will be equality of rights between citizens of the same constituent unit as well as core rights of federal citizenship that are equal throughout the federation. Will Kymlicka thinks that this is all that is needed. In his view, “equality for individual citizens does not require equal powers for federal units” (Kymlicka 1998a: 141). The critique that asymmetry creates two classes of citizens is “confused moral thinking” (ibid.). Yet this rebuttal ignores that federal government is also a system of power-sharing between units in which citizens are represented through the seats allocated to representatives of their constituent units.

There is no single standard of equality in federal representation against which we could measure the extent of asymmetry. In the USA and Brazil all units have an equal number of seats in the territorial chamber of the federal parliament; in Belgium and Austria the number of representatives per unit is almost exactly proportionate to population size; the composition of the German *Bundesrat* is determined by a formula that gives to smaller *Länder* a proportionally greater representation than to larger ones and yields results somewhere between the extreme solutions of equal votes per unit or per head. The principle of equal partnership between constituent units supports the former and the democratic principle of ‘one person one vote’ the latter. For Alfred Stepan “[t]he ideological discourse of territorial equality (one unit–one vote) can mask massive inequality” (Stepan 2001:335). It amounts to unequal weights for the votes of citizens in units of different size and overrepresentation of those voting in smaller ones. While this is empirically correct, Stepan’s normative preference for proportionate representation of units is less obvious. All federal constitutions have bicameral parliaments. As long as the ‘one person one vote’ standard is met in the popular chamber one cannot maintain that adopting the federal principle of equal representation per unit violates democratic equality. Both principles are in fact complementary interpretations of equality in a federal context. They correspond to the dual nature of the federal polity as a community of citizens and an association of constituent communities, which are themselves communities of their citizens. There may be pragmatic reasons for adopting a certain formula for federal representation in a territorial chamber, but the charge of asymmetric treatment is unfounded as long as the chosen formula is applied in a uniform manner throughout the federation and is supplemented by an equal weighting of individual votes in elections to a popular chamber.³⁰

Individual equality of citizenship is, however, jeopardized if the representatives of certain units have greater powers than those of others. For example, if a delegate elected in province X can veto a certain piece of federal legislation while a delegate from Y cannot, then the votes of citizens in X carry a greater weight in federal decision-making than votes from Y. Similarly, if the provincial parliament of X, but not of Y, can nullify federal legislation so that it does not apply within its jurisdiction then this entails an inequality of federal citizenship.³¹ These differential powers may be comparatively insignificant as long as they apply only to limited policy areas, but they cannot fail to be symbolically amplified in public discourse. Citizenship has an important symbolic dimension, which explains why even minor inequalities that are regarded as unjustified privileges can breed strong resentment and distrust.

³⁰ Federal representation can then be called asymmetric if a greater number of seats is allocated to individual units because they enjoy some kind of special status, e.g. recognition as a national minority province.

³¹ On the distinction between veto and nullification see Buchanan (1991: 38).

Those who maintain that asymmetric powers do not violate equal citizenship make three kinds of arguments: the first one reinterprets the federation as a confederation, the second one is about legitimate inequality of outcomes and the third about equality of opportunities.

The confederal view of multinational democracy implies the strongest rejection of equal citizenship as a relevant standard at the federal level. Alain Gagnon interprets a federation only as “a community of communities” (Gagnon 2001: 335). “[V]arious conceptions of citizenship coexist within multinational federal democratic regimes and they ought to be supported ... as long as they are subject to the liberal requirement for the general equality of citizens *within* individual member states.” (329, emphasis added). For François Rocher, Christian Rouillard and André Lecour “[t]he essence of federalism builds on the principle of union and independence. It readily accepts, and even stresses, differential treatments and their logical consequence, an asymmetrical distribution of powers” (Rocher et al. 2001: 195). The problem with regarding multinational federations as confederations is not only that this weakens federal cohesion, but also that it would make them less democratic. The broader the scope of decision-making powers of political authorities the greater is the need for making them directly accountable to the individuals for whom they can make binding decisions. If a multinational confederation is an independent state there are inevitably a great number of institutions that must be established and important decisions that must be taken at the federal level. If federal government is not directly accountable to individual citizens but only to the governments of constituent units this will make them much less democratic. This kind of democratic deficit of confederal solutions has arisen even within the European Union, which is not an independent state but has assumed continuously growing legislative powers. The deficit would be considerably greater if Canada, Spain or Belgium became confederations without a common and equal federal citizenship.

The second argument for asymmetry is reasonable but somewhat beside the point. Autonomy for constituent units means that they are free to use their legislative powers to develop bundles of rights and obligations for their own citizens that differ to some extent from those adopted by other provinces. Therefore “dissimilarity in jurisdiction as well as laws is appropriate for individual member states of a federation” (Gagnon 2001: 329). This is, however, an argument about unequal outcomes as a result of differential uses of equal powers. It cannot justify an allocation of unequal powers, let alone a right of constituent units to determine themselves their powers. There is an important difference between the two kinds of inequality: Equal powers of autonomous provinces allow for limited regional inequalities between rights derived from provincial citizenship, whereas unequal powers of constituent units will directly translate into inequalities of federal citizenship. Suppose, for example, that the federal constitution gives provincial legislatures the right to develop different schemes for publicly subsidized housing. This can produce substantive inequalities of social citizenship between provinces with a strong public housing program and those that promote unregulated markets. But this inequality is not derived from an asymmetry in powers. If a federal constitution gives, however, a certain province the right to collect its own taxes in order to finance public housing while it denies other provinces the same power, this would be an obvious case of asymmetry and a *prima facie* violation of equal federal citizenship.

The third argument is the most relevant one and I will explore it further in the following section. “[T]he concept of equality can be broadened from a restrictive interpretation of equal treatment to the more subtle ones of equality of opportunity, or the global equality between nations” (Gagnon 2001: 329). The various units of a federation may face specific

circumstances and equality of opportunity (or of overall outcomes) may require different rather than identical treatment. A national minority whose language is under threat from the impact of immigration and mass media originating in other provinces may claim stronger powers to ensure the dominance of its language in public education or government services. An indigenous minority whose traditional economy and ways of life are endangered by non-native settlement in their territories may restrict immigration and the purchase of land by other citizens of the federation. Those who defend asymmetry with this kind of justification must, however, realize that they have thereby given away the case for self-determination. As with affirmative action, asymmetric powers that are meant to compensate for unequal opportunities or to achieve a certain substantive equality of outcomes amount to unequal treatment of citizens and require therefore some special justification and external scrutiny.

6. Justifying asymmetry in multinational contexts

The objections against asymmetry that I have discussed are derived from general concerns about democratic deliberation, federal cohesion and equal citizenship. These are relevant norms also for multinational federations. The critique can therefore not simply be dismissed by characterizing multinational democracies as a different type of polity. However, we have not yet considered sufficiently whether a context of plural nationality might justify or even require some deviation from symmetry. In this section I will consider positive arguments for asymmetry that can be associated with libertarian, liberal-egalitarian and communitarian perspectives in political theory.

(1) Freedom of choice

Libertarians emphasize freedom of choice for individuals. They regard legitimate political authority as derived from individual consent and political community as nothing but a voluntary association of voluntary associations (Kukathas 1997: 94; see also Nozick 1974: 297-325). The voluntary nature of the political association implies that members may not only choose to exit individually through emigration but also collectively through secession (Gauthier 1995). If a territorial association of citizens does not wish to secede but wants instead to redefine its autonomous powers within the larger polity its rights of self-determination will be primarily constrained by negative externalities its desired powers might have for other citizens and their associations. From a libertarian perspective there is no good reason to require that all territorial divisions within a state should have symmetrical powers. If the citizens of one subunit want a greater extent of devolved powers for their own territorial association than the citizens of a neighbouring unit it would be unjust to deny the former this collective choice merely for the sake of symmetry.

This libertarian reasoning is, of course, at odds with the values of federal cohesion and equal citizenship that I have emphasized in the previous section. It also fails to address the specific context of multinationality. For libertarians it does not matter whether a voluntary territorial association is based on ethnic, religious, linguistic, ideological or other identities. However, in real political life the emphasis on freedom of choice for constituent units to opt for different levels of autonomy seems to be a specific feature of multinational federations.

In the context of the debate on Canadian federalism David Milne has suggested a principle of ‘Concurrence with Provincial Paramountcy’ that “respects the equality of provinces in a formal sense but makes asymmetry inescapable by providing each province with rights to opt out of national standards or programmes” (Milne 1991: 303, quoted in Burgess 2001: 270). In

Canada the so-called ‘notwithstanding clause’ of the federal constitution of 1981 (section 33) already gives provincial legislatures the possibility to adopt for a limited period of 5 years laws in conflict with certain rights listed in the Charter of Rights and Freedoms. This clause has been invoked by Quebec to protect its language laws.³² A second relevant provision can be found in the amending formula for the Canadian constitution that creates a very high hurdle for change (two thirds of the provinces representing no less than 50% of the population) but allows a provincial legislature to opt out of an amendment that takes away any of its powers. In the transition towards democratic federalism in Spain and Russia constituent units were not merely given a chance to opt out of already well-established federal legislation, but also to ‘opt in’ for different initial levels of autonomy. The important difference between the two cases is that in the Spanish case this asymmetrical allocation of powers was provided for, and constrained by, the constitution of 1978, whereas in Russia it was the result of bilateral negotiations between the Jeltsin government and the autonomous republics, which amounted in many cases to an arrogation of powers by the latter in violation of the federal constitution (Stepan 2001: 327).

I have argued that, contrary to libertarian views, in a democratic federation different levels of autonomy should not be regarded as unilateral options. While they may be justified as temporary arrangements in order to “hold together” (Stepan 2001) a federation during democratic transition and consolidation they will almost certainly, and often rightly, be challenged when a democracy moves towards a fully federal constitution. There is another argument for free choice that seems to be better compatible with a standard of equal status of federal units. In this modified version, opting for greater autonomy than other units is not cost-free but comes at the price of lesser representation and powers within the federal government. The idea is that constituent units can choose between differently composed bundles of powers as long as every bundle has roughly the same weight. Those who want greater autonomy will have reduced powers in federal government and vice versa. This is the kind of trade-off involved in federacy arrangements. We may then reformulate the idea as a proposal that all constituent units should be allowed to choose a federacy status. Above I have argued that postcolonial federacies should generally be free to opt for constituent unit status, without being forced to do so. The question is now whether federal provinces should have a similar right to make the inverse move and opt for greater autonomy as long as they are willing to renounce some of their powers in federal government.

If we conceive of this idea as a general option for provinces to change their own status within the federation it is really a non-starter. A first objection is that it would be difficult to say what kind of trade-off could achieve an overall equality between bundles of powers (Kymlicka 2001: 109). If a province wants to be exempted from most federal taxation how many representatives in federal parliament would it have to give up in exchange for this privilege? There is an obvious problem of incommensurability of powers exercised autonomously within the province (which are usually defined in terms of policy scope) and within the system of federal representation of constituent units (defined in terms of seats and voting rights). Existing federacy arrangements do not provide any answer to this question because they have not been designed with an idea of overall equality in mind. Although it may be true that, for the time being, the federacy trade-off for Puerto Rico’s is *optimal* in the sense that there is no majority for changing it either towards greater independence or full U.S. statehood, it would not make sense to describe it as *equal* to that of present fifty states.

³² Quebec was the only province to vote against the adoption of the Charter.

Secondly, the proposal cannot overcome any of the three objections I have raised in section 5. Enhanced autonomy in exchange for reduced powers in federal government will increase complexity and intransparency at both levels of government, the implied rights of self-determination in a federacy relation will undermine cohesion, and the presumed equality of overall powers of provinces would allow for highly unequal individual citizenship across provinces.

Thirdly, it is unlikely that the Quebecois, the Basques or the Catalans would find federacy status an attractive option. Reducing the powers a province enjoys in federal government institutions creates a unilateral dependency for which greater autonomy cannot compensate. The federacy will remain exposed to the effects of political decisions taken at federal level without being able to exert much influence. Moreover, moving towards federacy implies a symbolic downgrading of status from an equal partner to an internal outsider whose special concerns are not regarded as central to the core identity of the larger polity. National minorities that currently enjoy a position as majorities within a constituent unit are therefore unlikely to accept the federacy trade-off. They will rather opt for a confederal solution, which retains formal symmetry between two or more semi-independent states.

For all these reasons, federacy is no overall solution to the problem of asymmetry. There is, however, a specific argument from fairness for accepting a limited trade-off between autonomy and federal powers. In Britain this has been called the ‘West-Lothian question’.³³ “Should MPs from Scotland in Westminster be permitted to vote on legislation that will not apply to Scotland?” (Simeon and Conway 2001: 359). The pragmatic solution to this problem was a parliamentary rule adopted in 1978 that “if an English bill were passed with the support of Scottish MPs, then there would have to be an additional vote from which they would abstain (ibid.).³⁴ Similar questions have been raised in Canadian and Spanish debates (Tully 2001: 19; Fossas 2001: 73-4).³⁵ The underlying principle is that in a cooperative scheme nobody should participate in a collective decision from which she exempts herself. A federal interpretation of this principle would suggest that the representatives of a constituent unit should not vote on any piece of federal legislation that does not apply to their own province because of special devolved powers or nullification rights. “In short, insofar as the jurisdiction of the federal government over a national minority is reduced, compared to other regionally-based units, this seems to entail that the minority group should have reduced influence (at least on certain issues) at the federal level” (Kymlicka 2001: 108).

It is important to emphasize the limited scope of this argument. It applies to specific issues of federal legislation on which representatives of national minorities should not vote, but it cannot justify general minority underrepresentation in terms of seats or voting rights in federal institutions.³⁶ Kymlicka’s statement that “[a]n asymmetry in powers entails an asymmetry in representation” (ibid.) should be qualified in this way. An asymmetry in

³³ The question was raised in the 1970 by Tam Dalyell, a MP from West Lothian and opponent of devolution (Keating 2001c: 130).

³⁴ After devolution in 1998 the Conservative Party adopted a somewhat stronger formula that “would allow MPs from devolved nations to vote on UK matters but not on those affecting only the non-devolved parts of the state” (Keating 2001c: 131).

³⁵ The problem is more difficult to handle in Britain because of only partial devolution. If there were a separate legislature for England, then Scottish and Welsh MPs in Westminster would no longer be involved in deciding regional laws for England.

³⁶ Enhanced autonomy may, however, justify a reduction of minority overrepresentation. In Britain, devolution in 1998 was coupled with provisions to bring the proportion of Scottish MPs down to the English level (Keating 2001c: 120).

autonomous powers of constituent units merely entails a corresponding inverse asymmetry in the *exercise* of the *same* powers within federal government.³⁷

Moreover, the legitimacy of this kind of trade-off is no longer derived from a free choice between different bundles of powers, but depends on a prior justification for enhanced autonomy of national minority units in these areas of legislation. Only if there are independent reasons for granting national minorities special status and powers will there be a derivative reason for constraining their powers within federal government.

(2) Minority disadvantage

Liberal egalitarian theories emphasize equality of resources and opportunities and the need for democratic government to treat all citizens with equal respect and concern. For John Rawls an unequal distribution of primary goods, which in his list include rights and liberties, powers and opportunities, income and wealth, and the social bases of self-respect, is justified only if inequalities benefit the worst-off group (Rawls 1971). Will Kymlicka has added cultural resources to the list of primary goods because "... it's only through having a rich and secure cultural structure that people can become aware, in a vivid way, of the options available to them..." (Kymlicka 1989: 165).

I have argued in section 4 that interlocking nation-building projects within the same territory are always asynchronous and asymmetric. A dominant project that successfully establishes a particular language, historical narrative and often also a religion as the official national culture of a state creates severe disadvantages for members of other groups living in the state's territory whose cultural traditions set them apart from the hegemonic ones. Instead of serving as a source of self-respect their cultural practices and identities are devalued in the public sphere and often block their social mobility. If they have to choose between assimilation and marginalization the options available to them are obviously quite constrained compared to those enjoyed by members of the hegemonic group.

Liberal states will respect the right of members of persons belonging to ethnic, religious or linguistic minorities "not [to] be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language" (International Convention on Civil and Political Rights, Article 27). However, even under conditions where these cultural liberties are respected, minorities will be comparatively disadvantaged as long as state institutions provide a majority culture as a *public* good for the general population, whereas cultural traditions of minorities are maintained as *communal* goods by private associations in civil society. Minorities are forced to contribute to the reproduction of the hegemonic culture through general taxation and have to pool additional private resources to create their own cultural institutions (Kymlicka 1989: 187).

³⁷ Bicameral parliaments offer a flexible framework for resolving this problem with minimal restrictions on equal representation. One possible solution is that only in the federal chamber representatives from a minority province will be barred from voting on federal legislation that does not apply to the province. In the popular chamber there need not be any restriction of this sort, because in this chamber even the delegates elected in the minority province do not represent their provincial government but their voters as citizens of the federation. If Britain, Spain and Canada had territorial federal chambers with stronger powers the scope of the 'West-Lothian question' could be considerably reduced.

Multinational federalism provides a response to this argument about minority disadvantage for territorially concentrated groups that have pursued their own nation-building project. Political autonomy of a constituent unit in which the minority forms a majority of the population will enable the group to establish its culture as a public good in the same way as the national majority does in the other territories of the federation and under the same condition of cultural liberties for internal minorities. If political autonomy includes powers to establish a minority history and culture by means such as a distinct flag or the use of a national minority language as the medium of instruction in public schools and as an official language for all government business, then this is all that seems to be required to compensate the minority for its cultural disadvantage. It may still be the case that even robust forms of territorial autonomy cannot maintain some elements of a minority culture against the pressure of assimilation. The Welsh language seems to be stable under present arrangements but it will remain a minority language within Wales; if the Scottish parliament tried to re-introduce Scottish Gaelic as the official language of the province this effort would almost certainly fail. Even the independent Irish Republic could not revive Gaelic as a national language. A liberal state is committed to equal concern and respect for citizens, not to guaranteeing the survival of any particular cultural tradition against the choices of the group's members. Establishing minority languages and traditions as a public culture allows minority citizens to affirm their cultural traditions as a valuable resource for their individual opportunities and choices. But such establishment becomes oppressive when the content of a tradition is protected against the impact of change from inside and when the option of individual exit is denied.

The argument from cultural minority disadvantage provides us with a strong justification for political autonomy but seems to require only a very limited extension of special powers. A symmetric devolution that gives all provinces rights to their own flag and to the use of regional languages in public education and provincial government would be a sufficient response. This is all the Quebecois and Catalan governments need, and can expect to get, in order to fight against linguistic assimilation. Further claims such as the right to collect federal taxes or a veto against constitutional changes that do not affect cultural policies, let alone a right to unilateral secession cannot be plausibly argued on grounds of cultural disadvantage.

Yet this answer will only do if we regard political autonomy merely as an instrument for maintaining a national culture, as most liberal nationalist theorists do. It seems to me that at the core of nationalism is a demand for self-government rather than for cultural protection. The former is not merely a tool for achieving the latter, but has independent, and maybe even ultimate, value for those who regard themselves as being ruled by another nation. As the case of Scottish nationalism illustrates, not all movements of this kind focus on preserving a minority language. And where they do, as in Flanders, Catalonia and Quebec, the preservation of the linguistic boundary seems to be often a means for marking the political stakes in self-government rather than the other way round. If the nationalist concern were really the *survival* of a minority language, it would not matter much in which particular territory and among which populations the language survives. If the core issue is, however, to preserve a claim to self-government as a 'distinct society', then it will be crucial that the linguistic boundary coincides roughly with that of the autonomous territory. Fighting for linguistic hegemony within that territory is therefore instrumental for self-government, and especially so in the Quebec or Catalan cases where other cultural differences between the majority and minority populations have been greatly eroded.

This hypothesis about the primacy of political autonomy forces us to reconsider the minority disadvantage argument. A minority may feel *politically* disadvantaged if its nation-building

project is confined to provincial autonomy whereas the historically dominant majority determines the future of an independent state. Nationalists derive from this kind of comparison a justification for self-determination that includes a right to unilateral secession. Liberals should reject this reasoning. For them the relevant comparison is ultimately between individual citizens. Belonging to a self-governing polity in which one is regarded as a full member and enjoys equal status with co-citizens is certainly of no less value for individual autonomy and well-being than belonging to a cultural community with whose language and tradition one is familiar since birth. The question is then whether members of national minorities suffer a particular disadvantage from being incorporated into the majority's historic nation-building project. Why should minority citizens have reason for complaint if they are treated as equal citizens of the federation and if their province has the same powers as all other constituent units?

The answer must be that the history of interlocking nation-building projects is relevant for drawing the internal boundaries of self-government and for the division of powers in a multinational federation. If the borders of federal provinces were redrawn so that a national minority loses its regional majority, this violates their rights to self-government. Similarly, a centralization that shifts powers from all constituent units to the federal government must not be decided against the vote of a national minority. Independently of how they affect the minority's opportunities of cultural reproduction, such moves would signal an unequal concern of the federal government for citizens identifying with majority and minority nation-building projects respectively. Equal respect for minority citizens requires therefore that federal governments must respect institutional arrangements that enable the minority to maintain a substantive form of self-government. In this sense the status of a national minority in a multinational federation is different from that of constituent units that represent merely a regional subdivision of a historically dominant majority.

This special status is not yet a justification for asymmetric powers. A minority can claim secure powers and borders for itself but it cannot claim that its powers must always be greater than those of other constituent units. If a federal constitution gives symmetric powers to all units that satisfy the legitimate aspirations of the minority then it is hard to see why the latter would still be disadvantaged. A legitimate demand for asymmetric powers will then only arise in a context where the existing division of powers is not sufficiently devolved or is about to be recentralized.

I will discuss practical implications of this conclusion in the section 8. For our present purpose it is important to point out that the shift from a culturalist to a political interpretation of minority disadvantage means that we should not merely be concerned with autonomy but also with power-sharing in federal government. A national minority does not need to be represented in federal government in order to establish its own culture within an autonomous province. However, a minority's aspiration for self-government is necessarily constrained by being subjected to political decisions of an independent state government in which it is not represented. There are two alternative responses to this disadvantage. National self-determination permits removing the constraint by upgrading autonomy into full sovereignty, whereas multinational federalism removes the deficit of representation by involving the minority in governing the federation. If a national minority is both sufficiently autonomous and participates fully in federal government then its members have no reason to complain that their aspiration for self-government is not treated with equal concern as that of the historically dominant majority.

The question is, once again, whether symmetric arrangements can satisfy legitimate minority aspirations. *Prima facie* it seems easier to do so with regard to regional autonomy than with respect to power-sharing in federal government. Should the claims of Quebecois to represent one of two founding nations be honoured by giving Quebec half of all seats in the Senate and the Supreme Court and half of all ministerial posts in the federal government? This solution would deprive all other provinces of constituent status and would replace the former symmetry between provinces with a new symmetry between national communities. Instead of demanding such a far-reaching transformation national minorities have generally accepted that all provinces will have constituent status with regard to their representation in federal legislation, but have asked for some special powers in institutions that may crucially affect the minority's capacity for self-government. Such asymmetric powers include, for example, co-representation of the national minority in foreign relations or a sufficient number of seats in institutions of executive and judicial branches of federal government to block decisions affecting vital minority interests.

There are other ways for a multinational federation to highlight the special position of a national minority compared to other constituent units (Keating 2001c: 104-7). The minority flag can be integrated into the federal flag (as in the case of the British Union Jack that is composed of the English Scottish and Irish flags) or it can be flown alongside a federal flag on all federal government buildings. Much more importantly, a national minority language can be recognized as an official language for all operations of federal government (as the French language is in Canada). An even stronger form of linguistic recognition is to make teaching the minority language mandatory in public schools throughout the federation. Federal bilingualism of this kind has obvious advantages for minority citizens. It removes linguistic barriers for communication with, and for careers in, federal institutions³⁸ and makes it easier for them to work or settle in other parts of the federation outside their native province. While federal bilingualism responds in these ways to the cultural disadvantage argument, it does not necessarily contribute to the survival of a linguistic minority. Widespread learning of a minority idiom as a second or third language need not increase the number of speakers for whom this is their mother-tongue. What is required to achieve this latter goal is the power to establish a minority language within an autonomous territory.³⁹ As I have argued above, such linguistic establishment will in turn serve to promote the goal of political autonomy. Quebecois therefore rightly saw Pierre Trudeau's vision of a bilingual Canada from coast to coast as a move that would undermine their claims to self-government.

While federal bilingualism can be politically played off against linguistic autonomy in this way, the two forms of minority language accommodation are not inherently opposed to each other. What the minority disadvantage argument requires is supplementing rather than substituting the latter with the former. Once a minority has achieved a sufficient degree of autonomy, promoting its language as a second official one throughout the federation will not merely be beneficial for the individual opportunities of minority citizens, but carries also a strong symbolic message of recognizing the multinational character of the polity.⁴⁰

³⁸ If bilingualism is also made an individual requirement for federal civil servants this will generally privilege applicants from linguistic minorities who are much more likely to be bilingual than persons belonging to historically dominant majorities.

³⁹ "The consequences of territorial unilingualism may seem absurd and petty if taken out of their political and sociological context, if one forgets that the object of unilingualism is to prevent the overlapping of languages, which is always to the advantage of the dominant language" (Laponce 1987: 174-5).

⁴⁰ If the minority does not enjoy political autonomy, the message is a quite different one: the federation is then conceived as a single bilingual nation.

Accepting symbolic asymmetry may therefore be compatible with retaining a fairly symmetric division of powers. Kymlicka is right to point out that “Quebec nationalists want asymmetry, not just to gain this or that additional power, but also for its own sake, as a symbolic recognition that Quebec alone is a nationality-based unit within Canada” (Kymlicka 2001: 106). But accepting Quebec’s claim to be a ‘distinct society’ need not imply granting all sorts of additional powers that are unrelated to the specific disadvantages suffered by the Quebecois because of their minority position within Canada.

There are three general conclusions that emerge from considering the minority disadvantage argument. First, concern for equality of citizenship in a context of historically dominant and subordinate nation-building projects justifies *combining* minority autonomy with full representation and special recognition in federal government. In contrast with the freedom of choice argument examined above, we have now a reason why minorities should not have to choose between enhanced powers of self-government and full participation in federal power-sharing. The objection that minorities cannot cast votes on federal legislation from which they have already exempted their own jurisdiction remains relevant, but its impact need not be damaging as long as it can be limited to specific policy areas.⁴¹

Second, combining autonomy with power-sharing in federal government for the sake of compensating national minorities for their political disadvantage is also conducive to federal cohesion. If the minority has a strong stake in the federal government, its politicians are more likely to refrain from threatening with secession and its citizens are more likely to see themselves as recognized members of a multinational polity.⁴²

Third, and again in contrast with the idea that minorities can freely choose a certain mix of autonomous and federal powers, the minority disadvantage argument does not require or justify extensive asymmetry in these respects. On the one hand, the demand for minority autonomy need not result in asymmetric powers as long as devolution is sufficiently strong for all constituent units and, on the other hand, special recognition for minority symbols or languages at the federal level does not require asymmetric powers exercised by representatives of the minority in federal institutions. Moreover, the minority disadvantage argument makes only sense within a framework of common federal citizenship. It would be strange to regard the lesser powers of an Austrian *Bundesland* compared to a German one as a disadvantage that requires compensation. The argument from equal respect for all citizens, which minorities may invoke when they claim special powers, refers therefore to the same standard of equality within the wider polity that also supports symmetry, as I have argued in section 5(3).

Overall, the minority disadvantage argument points in a quite different direction and seems much more attractive than the idea that minorities should be free to choose between greater autonomy and federal representation. While the argument does not support an extensive

⁴¹ In section 8 below I will consider how to respond to demands for extending this trade-off to ever-broader policy areas.

⁴² While representation of minorities in federal legislation needs to be constitutionally mandated, it is often the outcomes of elections and relationship of forces between political parties that determine how strongly a national minority will be integrated into federal politics. From 1993 to 2000 the ruling party in Catalonia (CiU) was a coalition partner in the Madrid government first for the Socialist PSOE and then for the conservative PP. During this time the CiU fought hard and successfully for stronger autonomy but abandoned any secessionist rhetoric. In the March 2000 elections the PP won an absolute majority and soon called for stronger centralization, in response to which secessionist ideologies have gained some ground in Catalonia (Guibernau 2002).

asymmetry of powers, we still have to ask whether a strong asymmetry of identity and corresponding policies of recognition should be promoted, constrained or accepted as inevitable in a multinational democracy.

(3) Deep diversity

Communitarian theories emphasize that individual identities are shaped by belonging to communities and that the most important communities (such as those of kinship, religion, primary language and ethnicity) are those that we have not chosen but have been born into. Communitarians also challenge the liberal doctrine that state institutions should be neutral and ought to refrain from promoting any particular collective identities. In a well-known essay on multiculturalism and the politics of recognition, Charles Taylor (1994) has argued that equal respect for human dignity is not enough because individuals need also to be recognized as members of particular cultural communities. Protecting the integrity of cultures is, in his view, a core task for public policy that has to be balanced against, and reconciled with, the value of individual autonomy. Taylor refers to Quebec's struggle for '*survivance*' as an illustration and argues that "[m]ultinational societies can break up, in large part because of a lack of (perceived) recognition of the equal worth of one group by another" (Taylor 1994: 64).

The communitarian approach seems to provide a straightforward justification asymmetric powers. If "states ought to be organized to protect community", it seems obvious that "Quebec being the primary provider of culture for Quebecers [...] deserves more power than a political unit which is simply a subdivision of a larger cultural unit" (Gagnon 2001: 321). Liberal theorists have been, however, deeply uncomfortable with the idea that governments should guarantee the integrity or survival of particular cultural communities. And Gagnon does not address the question whether multinational states should not also be organized to protect political community at the federal level. Doing so will lead to emphasizing equality of federal citizenship and roughly symmetrical powers of constituent units. This illustrates the general problem that communitarian principles cannot tell us which community ought to be given priority in cases where individual memberships overlap or collective goals conflict with each other (see Kymlicka 1990: 231-2).

The communitarian argument is more convincing, and better compatible with liberalism, when it is seen as a demand for mutual recognition and reconciliation of asymmetric identities. For the sake of equal respect as well as political cohesion it will be important that citizens of a multinational democracy see their particular nation-building projects acknowledged by the other communities and by the larger state. "A just constitution must begin with the full mutual recognition of the different cultures of its citizens" (Tully 1995: 8; see also Tully 2001: 11). In his political essays Taylor addresses the complication that asymmetric identities create for such mutual recognition. He sees two kinds and levels of cultural diversity in the Canadian federation. At a first level all citizens belong to Canada in the same way and respect each other with all their differences of ethnic origin and cultural belonging. However, this kind of diversity cannot accommodate Quebecers and aboriginals who relate to Canada in a different way, as distinct societies and self-governing communities within the federation. At this second level, being Canadian is mediated through group membership in partly self-governing communities. In order to build a country for all its citizens, there must be a mutual acceptance of both ways of being a Canadian citizen (Taylor 1993: 182-4). The Canadian federation is in this respect different from, on the one hand, the US model, where the relation of citizens to the federation is unmediated for everyone, and, on

the other hand, from the European Union model, where it is mediated for everyone (ibid.: 198-201). “Deep diversity” is not merely a useful description of the asymmetric identity that is characteristic for all multinational federations but also a normative argument that such states should embrace this asymmetry instead of attempting to overcome it.

Taylor’s discussion highlights the difficulty rather than resolving it. It helps to understand why asymmetric identities are a problem quite independently of asymmetric divisions of power. The relation between the US and Puerto Rico, for example, is clearly more asymmetric in terms of powers than that between Canada and Quebec. In the case of the Caribbean island the problem is that federacy status keeps on the agenda the options of federal integration or independent statehood and political parties in Puerto Rico and in the US strongly disagree about the desirability of these alternatives. Yet they do not disagree about the nature of the present arrangement: they all accept that Puerto Rico’s affiliation to the federation is different from that of the fifty states. In the case of Quebec vs. RoC there is a profound disagreement about how to interpret the present arrangement: as a federation of equal provinces or of two founding nations. The question is then what mutual recognition would really mean: agreeing to disagree or searching for some agreement that could, in Taylor’s words, “reconcile the solitudes”?⁴³

Agreeing to disagree may be a modest achievement of sorts. In Canada it has involved giving up on grand constitutional reform, which failed when the Meech Lake and Charlottetown Accords were rejected in 1990 and 1992, and seeking instead pragmatic piecemeal solutions for federal disputes as they arise. While this is all that may be possible if an agreement has failed to materialize, it is certainly not a guideline for constitution-building or resolving ongoing constitutional disputes in other countries. The challenge for a theory of multinational democracy remains therefore to find some basis for agreement that would support a mutual recognition of asymmetric identities while constraining the demand for asymmetric powers. In the final sections of this chapter I will first discuss alternative solutions to this problem and will then outline a procedural argument why the formula that I regard as the most attractive one might also be sufficiently stable.

7. Strategies for strengthening symmetry

Political reform may either attempt to restore symmetry by completely redesigning the federal units and their relation to the wider polity, or it may aim more modestly at counterbalancing an existing asymmetry by strengthening symmetric elements of the federal architecture. I will argue that no solution of the former kind is defensible.

(1) Redesigning federations

The strategy of redesigning tries to overcome asymmetry by changing the status or borders of units so that all units will eventually be similarly related to the larger federation. For federacies this means that they must be integrated into the general architecture of the polity; for multinational federations this requires adjusting internal borders so that there will be either no more nationally-based constituent units or only such units.

⁴³ “Reconciling the Solitudes” is the title of a collection of Taylor’s essays on Canadian federalism (Taylor 1993).

'Integrating' federacies: I have argued in section 6(1) that allowing national minority provinces to 'opt out' by turning themselves into federacies could fatally undermine cohesion. On the other hand, postcolonial federacies that have the relevant capacities should be permitted to 'opt in' and join a federation as an equal partner. This unilateral option can be derived from the stronger claim of coercively incorporated populations to self-determination, which implies that they have the exclusive right to choose between the options of integration and independence.⁴⁴ What a policy of restoring symmetry by design would require is something very different: a unilateral power of the federal government to abolish federacy status against the will of the population concerned, which would be a straightforward violation of self-determination. Even such a coercive integration of federacies would, however, not necessarily resolve the problem of symmetry. If Puerto Rico became the 51st state of the US it would still be a state quite different from all others. Being the only territory with a non-Anglophone native majority the island's formal incorporation into the federal system would break with an established pattern in US history of ensuring the uninational character of the federation. While 'upgrading' federacies into regular constituent units would allow dismantling some of the asymmetries of power and representation, an aggressive assimilation policy would be needed to undo the asymmetric cultural and political identities that characterize all multinational federations.

'Denationalizing' minorities: For offshore islands only coercive assimilation can remove this deeper obstacle for symmetry, but for mainland constituent units a similar result can be achieved by shifting their borders so that all national minorities are turned into regional minorities within the province where they live. This can be done by merging a minority province with a larger neighbouring one inhabited by the majority population or by dividing it among several other provinces. Such ethnonational gerrymandering has been quite common in processes of federal expansion or transformation. During the period of its geographic expansion the US federation did not admit any territory as a state that had a non-English speaking majority population. "In some cases, this was achieved by drawing boundaries so that Indian tribes and Hispanic groups were outnumbered (Florida)" (Kymlicka 1995: 29). In 1840 England merged the colonies of Upper and Lower Canada, which gave the Anglophones of Ontario a majority over the Francophone population based in Quebec. This move followed the report by Lord Durham of 1839 that recommended assimilating the French population in Canada. In 1948 the Italian government subverted an agreement with Austria on autonomy for the mostly German speaking province of South Tyrol by granting autonomy instead to the encompassing region of Trentino, which has a comfortable Italian majority. Once a multinational federation has been established changing the borders of any province against the will of its population must be seen as a serious breach of the federal contract. This injunction applies even more strongly to national minorities whose regional majority is the precondition for realizing their national project of self-government. A federation by definition involves a division of powers between a central government and constituent units so that both levels can make final decisions in specified areas (Riker 1975: 101). If the central government can unilaterally dissolve or change the borders of a

⁴⁴ This is my interpretation. International law recognizes a somewhat more ambiguously formulated responsibility of colonial powers to "to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions..." (UN Charter, Art. 73(b)). A (former) colonial power can only be held accountable under this obligation as long as the territory it administers is classified as non-selfgoverning. Puerto Rico is no longer considered a non-self-governing territory since the adoption of a new constitution in 1952, which made the island an autonomous part of the U.S.

constituent unit, the government of this unit remains dependent and enjoys merely delegated powers rather than autonomous ones.⁴⁵

'Nationalizing' all constituent units: Symmetry might also be achieved by the opposite move of merging all constituent units whose population identifies with the same national community. The current Belgian and Russian federations and the former Yugoslav, Czechoslovak and Soviet ones illustrate this type. In Canada or Spain this would create a 'Russian' pattern of a single province representing the dominant linguistic majority that takes up more than half of the total territory and population. The problem with this proposal is not merely that it could not be imposed on national majority populations, who may have developed significant regional identities, without violating the autonomy of constituent units. There are a number of additional difficulties that make it unattractive even if majorities could be convinced to accept this change of their status. For example, it would hardly resolve the issues of asymmetric federal representation. If the single majority province gets the same number of federal representatives as the minority province(s) this would drastically reduce the weight of individual votes in the merged territories compared to the status quo ante. If the new province gets a number proportional to its population the situation of the national minority will have worsened as it now can no longer hope to strike alliances with individual national majority provinces but has to face a unified block representing a single provincial government.

Authors who have argued for restructuring federations along lines of nationality have therefore generally proposed to supplement the regional structure with a national one instead of replacing the former with the latter. Karl Renner's plan for transforming the late Habsburg Empire into a multinational federation envisaged the creation of non-territorial national communities who would enjoy autonomy in educational and cultural policies, whereas regional units would remain in charge of general territorial administration (Renner 1902, 1918).⁴⁶ Alan Cairns has suggested restructuring the Canadian federation in terms of three competing equalities – of citizens, of provinces, and of two rival national communities (Cairns 1991). Belgium is already organized as a dual federation of regions and linguistic communities. As I have argued in section 5(1), such complex arrangements make the political system considerably less transparent.

Restoring symmetry by creating nationally-based units also for dominant majorities would not merely involve a merger of regionally-based units but also a shrinking of national identities projected unto the larger federation. The idea is that present majorities can only accept that the larger state is a federation of different nationalities if they develop distinct national identities of the same kind as the national minorities. Anglophone Canadians, Castilian speakers in Spain and the native population of England in the UK would then have to think of themselves as distinct nations living in a part of the Canadian, Spanish and British

⁴⁵ The Indian constitution allows for an easy creation of new states if there is an agreement between a local population and the central government. This provision has been used extensively to redesign the Indian federation so that subdivisions follow linguistic lines rather than the arbitrary borders of former colonial territories and princely statelets. In this case, redesigning the federation has become a strategy for accommodating rather than suppressing linguistic diversity and has effectively preempted an escalation of linguistic nationalist demands for secession (Hanf 1991: 76-8; Stepan 2001: 345). Nevertheless, the problem with this strategy is that each new state can only be created by shrinking the territory of already existing ones. While a consolidated federation may need some procedures for internal boundary changes (such as those specified in Article 29 of the German Basic Law), the central government should have little power to impose such changes from above.

⁴⁶ See Bauböck (2001) for a critique of cultural autonomy solutions for national minorities.

state territory and aspiring to national autonomy within these federations. This would require a radical revision of their historical narratives of nation-building, which they are unlikely to accept. And if it comes about the impact of such a shrinking of identities could be disastrous for federal cohesion. The Czechoslovak experience illustrates a development, in which the dominant majority gradually redefined its national identity as Czech rather than Czechoslovak, with the consequence that it did no longer regard the threat of secession by Slovakia as affecting the integrity of its own nation-building project and was therefore neither ready to make substantive concessions to the minority nor willing to mobilize against the divorce arranged by political elites on both sides.

While I have argued that asymmetric *powers* generally undermine federal unity, we have now found that asymmetric *identities* may sometimes even strengthen cohesion. A federation is much more likely to break apart if the cleavages between national identities match those between its territorial units. In order to keep multinational federations alive it will be important to promote overlapping and overarching identities. Mixed regions (such as Brussels) and national majorities that retain a strong identification with the larger polity (as in Canada, Spain and Britain) can be essential for federal stability.

(2) Promoting nested national identities

On the other hand, strongly asymmetric identities perpetuate the conflict over the division of powers. So it seems natural to regard the former as the root cause of troubles that ought to be addressed. Instead of changing the legal status or manipulating the borders of constituent units we would then look for some formula that reconciles majority and minority perspectives by constructing an identity for the larger polity that both can embrace.

David Miller (2000: 125-41) suggests that “nested nationality” is the right formula. Multinational democracies can be stable if the larger polity is a nation and national minorities are seen as nations within that nation. Miller regards this constellation more as an explanation for the relative stability of Belgium, Britain, Spain, Canada and Switzerland rather than as a prescription for how to construct shared identities in other multinational societies. Nested nationality is the fortunate outcome of contingent circumstances, among which he lists mutual economic advantages, cultural overlap and interwoven histories that induce minority nations to identify with the encompassing nation (ibid.: 132). Nested nationalities cannot emerge where rival nations are engaged in an antagonistic conflict. If no settlement can be achieved in such conflicts it may be best to let national minorities secede or to redraw borders so that they will be united with a neighbouring state (ibid.: 129).⁴⁷

In Miller’s version, nested nationality does not fully overcome the asymmetry of identities. In contrast with Phillip Resnick (1994) who wants Anglophone Canadians to regard themselves as a distinct nation,⁴⁸ Miller does not think that the majority must shrink its identity in this way. Instead, the dominant group “should recognize the separateness of the nested nationalities, and give practical expression to this recognition in the shape of asymmetrical political arrangements... while continuing to affirm its national identity at the level of the

⁴⁷ Miller’s theory leads also to great skepticism about European integration (Miller 1998). Overarching national identities are an essential requirement for the stability of multinational polities but cannot be constructed at will in order to promote a project of political integration. Although European nations are no longer engaged in an antagonistic struggle over territory and populations, there is clearly no basis for the emergence of a shared European *national* identity.

⁴⁸ See Keating (2001b: 54, note 16) for a critique of Resnick’s approach.

state as a whole” (ibid.: 138). The minority, on the other hand, is asked to accept that the larger polity is not merely a multinational state but a nation in its own right and that it fully shares in this larger national identity. The political implication is that it would be wrong for Scots, Quebecois, Catalans or Flemish to secede because this move would misinterpret their historic identities that make them an integral part of a nested nation. I have argued in section 2(2) that national identities are characterized by an exclusionary boundary structure that does not allow for the formation of stable nested memberships. It is now time to make good on this claim by examining Miller’s proposal.

If both Catalonia and Spain are nations this leaves open the question which of the two levels of a nested identity ought to take priority in case of conflict. Within Miller’s approach it must be the encompassing nation because a different answer would give the minority a right to national self-determination and ultimately to secession. In the constellation of asymmetric identities, which Miller accepts as permanent and legitimate, only minorities have a dual identity while majorities retain a singular identification with the larger polity. There is thus only one stable solution and it requires the minority to accept subordinate status and to give primacy to its affiliation with the encompassing polity. This prioritizing of the larger nation is spelled out in Article 2 of the Spanish Constitution of 1978, which makes a terminological distinction between nation and nationality: “The Constitution is based on the indissoluble unity of the Spanish Nation, the common and indivisible country of all Spaniards; it recognizes and guarantees the right to autonomy of the nationalities and regions of which it is composed and solidarity amongst them all”.

On this point Will Kymlicka’s view seems to be the opposite of Miller’s. Kymlicka thinks that Anglophone Canadians should accept that Quebecois will give their primary loyalty to Quebec. Unilateral secession would be regrettable, but Kymlicka does not dispute the minority’s right to make such a decision. Kymlicka and Miller share basic premises of liberal nationalism. But while Miller expects the minority to accept the majority’s description of the larger polity as a cohesive nation, Kymlicka believes that the majority should come round to the minority’s view that the larger polity is a much looser multinational federation: “The only sort of unity we can achieve is one which allows national minorities to give equal standing, or even primacy, to their national identity, and to give conditional allegiance to Canada.” (Kymlicka 2001: 116).

As long as we remain within a liberal nationalist framework this dispute cannot be resolved by seeking an equilibrium between the rival claims. At the very heart of nationalism as a political ideology are the twin demands for self-determination and for primary loyalty. While liberal nationalists can consistently defend equal rights of self-determination for separate nations, it is impossible to see a nation that is included in another one as enjoying *equal* powers of self-determination as the latter. And while liberal nationalists may defend that in case of conflict between nations everybody owes a primary loyalty to his or her own nation, this rule obviously provides no orientation in a conflict between nested nations.

Such theoretical objections may still be refuted by modifying the definition of nations and nationalism. The ultimate test whether nested nationality can be a stable arrangement must be an empirical one. There are three relevant constellations to consider: first, cases where Miller’s conditions for nested nationality have been present but have not led to the formation or preservation of a shared national identity; second, cases where there is a stable and symmetric identity at the level of the larger polity but where ethnolinguistic communities have not developed their own nation-building projects; and, third, cases where the presence

of minority nationalism has meant that there is no consensus on the uninational or multinational character of the larger polity.

Consider first the relation between Austria and Germany. There is a very long interwoven history and an extensive cultural overlap. With regard to economic reasons, in 1918 the Austrian political elite was united across the ideological spectrum in the belief that unification with Germany was not merely advantageous but that a separate Austrian state would be unviable. At this point in time Austria was not even regarded as a nation nested within a larger one but merely as an artificial state whose historic destiny was to be dissolved in the German nation. Nonetheless, after 1945 Austria's independence was accepted by an ever-growing majority of the population and a corresponding sense of nationhood has developed since then. This case shows not only that the ultimate success of an overarching nation-building project may depend on contingent historic developments (which Miller would hardly deny) but also that under exceptional conditions national identities can change rapidly and profoundly and may indeed be successfully constructed even within the lifespan of a single generation. The Austrian/German case is one where an imagined common national identity has not resulted in a united state. Czechoslovakia illustrates how a united country can break apart although all three of Miller's conditions for nested nationality were apparently present and relations between both communities could hardly be described as antagonistic until 1990.

The second constellation is exemplified by Switzerland. Although Miller describes it as a multinational state, there is little evidence that any of the four native language groups regards itself as a distinct nation nested within the Swiss one. Switzerland is a country with strong regional and linguistic identities and ethnolinguistic conflicts have certainly played a role in Swiss history, most recently in the separation of the Francophone canton Jura from German-speaking Bern in 1979. However, even the Jurassian nationalists have not claimed to represent a French nation within Switzerland; they have not called for united self-government for the whole Swiss-Romande, nor for secession from Switzerland in order to join France. Overall, the members of the different language groups tend to think of their Swiss identity in rather similar ways. But this is merely because, and as long as, they do not conceive of their linguistic communities as distinct nations nested within the Swiss one.

The third and most important cases for Miller's theory are countries such as Canada, Spain, Britain and Belgium. Here we are faced with two different descriptions of these states as multinational democracies or as nested nations and it seems difficult to find an empirical criterion to test which one is more adequate. Keating (2001c, chapter 3) analyses survey data according to which in Scotland a persistent majority identifies as only Scottish or more Scottish than British, whereas in Belgium and Catalonia the largest group of respondents identify equally with the state and with the substate region or nation. Yet such opinion polls suffer from two weaknesses. First, they cannot show that respondents in this latter category regard their Belgian or Spanish identity as a national one *of the same kind* as their Flemish or Catalan identity or that they identify with Belgium and Spain *in the same way* as Castilians and Walloons do. Second, such surveys are mere snapshots at certain points in time and do not show how stable and deeply rooted the minority's identification with the larger polity is.⁴⁹

⁴⁹ Longitudinal surveys can of course measure changing or stable attitudes over time, but they cannot predict the relative strength of conflicting loyalties and commitments when a crisis forces citizens to choose sides.

As a test it may be useful to consider hypothetically how the Spanish identity of Catalans would be affected if the Spanish government decided to abolish Catalan autonomy. Miller's view of nationality allows for individual changes when immigrants acquire the nationality of their host society and possibly also for collective changes in response to cataclysmic events such as Austria's annexation by Nazi Germany. But it certainly cannot allow that a whole community's sense of national belonging depends on decisions of the national government. Government actions may explain why national identity is sometimes foregrounded in active mobilization or remains a background assumption that is merely taken for granted but not much articulated in public discourse. Yet members of a nation do not normally *abandon* their affiliation merely because they strongly disagree with the political course of their nation's government. This is, however, exactly what we are likely to see happen if the Spanish government would reverse devolution and abolish Catalan autonomy. It would then turn out that the Spanish identities of these minorities were not at all unconditional ones, as those of the dominant Castilian majority clearly are, but had merely expressed their political support for a constitutional arrangement that allowed them to be self-governing nations within a larger polity. The same mental experiment will yield similar results for Scots, Quebecois and Flemish.⁵⁰

If the overarching part of a minority's nested identity can so quickly evaporate it seems inconsistent with Miller's approach to describe it as a national identity in the first place, i.e. a sense of belonging to a community that is deeply rooted in history and attached to a particular territorial homeland (Miller 1995: 23-5).⁵¹ One could object that, as the breakup of Czechoslovakia shows, the identification of historically dominant groups with the larger polity is sometimes not very deeply rooted either. But this does not support Miller's case. If even the majority's national identity does not always commit it to preserve the unity of the larger state and can be redefined to fit into a smaller polity, then it is even less plausible why minorities should regard their affiliation to the state as a national identity of the sort that Miller wants to promote.

The theory of nested nationality is meant to reconcile Miller's general theory that social justice and democratic stability require a shared national identity with the fact that some multinational democracies have been remarkably stable and certainly not more socially unjust than many uninational ones. Miller fails, however, to demonstrate that the identity that is shared by the various communities in multinational societies is itself a *national* one. This leaves us with two questions: If there is such a shared identity, how else can it be described and can it be strong enough to overcome the inegalitarian and disintegrative dynamics of asymmetry?

(3) Federal citizenship as a shared identity

In contrast with Miller and Kymlicka, I do not think that unity requires that either the majority's or the minority's view of the encompassing polity as a nation or a multinational

⁵⁰ Miller does regard a majority decision to abolish minority autonomy as illegitimate: "[A] unilateral English vote to annul Scottish devolution ought to be given no more weight than a unilateral Scottish vote for independence" (Miller 2001: 140). Yet it is empirically not true that the prevailing sense of national identity in multinational democracies has ruled out either move. Given Miller's defence of a national right to self-determination it is also hard to understand how the British nation can be asked to renounce forever its right to revise its own internal subdivisions and how the Scottish nation can be asked to renounce forever its right to determine its own international status.

⁵¹ "The historical national community is a community of obligation"... "a community that, because it stretches back and forward across the generations, is not one that the present generation can renounce" (Miller 1995: 24).

state prevails and is accepted by the other side. Instead both should accept a common description of the federation as a self-governing multilevel polity in whose integrity and future all groups have a stake. While asymmetric national identities can be neither shared nor overcome, they can be supplemented by a dual identity of all members of the polity as citizens of the federation and of its constituent units. Citizenship of the federation is a truly shared identity with equal status and a core of equal rights for all. Citizenship of constituent units is not strictly shared across units, but membership is open and acquired by all who settle in the territory of unit. If the constituent units have roughly symmetric powers then a citizenship-based identity will also be symmetric. Federal citizenship is in this model differentiated but neither segmented nor unequal.

In a multinational society a citizenship-based identity of this kind will be rather thin compared with much thicker national identities. And there are limits to what may be done to strengthen the former. A civic republican agenda of educating citizens to identify more strongly with the overarching polity would be rightly rejected by national minorities as a programme for realizing the national aspirations of the majority in ideological disguise. Citizenship cannot provide an *overriding* identity that trumps national ones, but merely an *overarching* identity that stretches across all the various communities and an *overlapping* identity that can be endorsed from otherwise divergent thicker conceptions of nationhood.

This sounds much like Rawls' idea of an overlapping consensus, in which different comprehensive moral doctrines converge on principles of justice (Rawls 1993). There is, however, one additional requirement for a citizenship-based shared identity in a multinational federation. In order to achieve the desired stability it is not enough that the members of the various communities respect each other as individual citizens independently of their communal affiliations or even that they mutually recognize their divergent and asymmetric national interpretations of the polity as a legitimate form of pluralism in civil society. They must also accept that these contrasting views will become *public identities* that are deeply entrenched in the institutions of the polity. Without having to agree on a shared interpretation citizens must agree that constituent units can interpret their collective identities differently (as regions or nations) and can use their powers of self-government to promote their particular conceptions. Similarly, power-sharing at the federal level requires that different interpretations of the federation (as a nation or a multinational state) will be permanently present in the institutions of government. In this way, an overlapping identity of federal citizenship in multinational democracies is different from a Rawlsian conception of public reason that excludes appeals to controversial moral and religious conceptions.

In order to provide for stability in an asymmetric federation, James Tully's mutual recognition of diverse cultural communities in a constitutional negotiation and Charles Taylor's acceptance of deep diversity need to be institutionally grounded in a shared conception of citizenship of this kind. Instead of constructing an ideal conception that would meet these difficult requirements I think it more useful to discuss how a reasonably stable consensus on shared and equal citizenship could be maintained under real-world conditions of permanent conflict over national identities and aspirations. This is what I will attempt to do in the final section of this paper.

8. A fair baseline for the division of powers

(1) Strong devolution

Let me restate the three main conditions for a sufficiently integrated multinational federation that have emerged from this discussion. First, national minority constituent units enjoy self-government within secure borders that give them a regional majority, but (unless they are federacies) are not granted national self-determination that would include unilateral rights to determine their own federal powers or their own territorial status. Second, constituent units can use their political autonomy to define themselves as distinct polities within the federation and to promote particular public identities through regional policies on matters of official languages, public education, public symbols such as flags and holidays, etc. All constituent units ought to mutually recognize such expressions of distinct identities as legitimate. The public identity of the federation should reflect the composite character of the polity by giving official status to minority languages and symbols. Third, those units fully integrated into a federal architecture (i.e. those which are not federacies) ought to have roughly symmetric powers and representation in federal government, apart from asymmetries justified by minority disadvantages, so that all members of constituent units can regard each other as sharing a common citizenship in the federal polity.⁵²

In order to reconcile these requirements with each other there must be a relatively strong devolution of powers towards the governments of constituent units. Devolution must be strong in the negative sense of protecting constituent states against intervention by the central government (first condition) and in the positive sense of empowering them to develop their own public identities (second condition). Many democratic federations fail to meet these requirements. The Indian constitution makes it, for example, easy for the central legislature to unite, partition, or rename states and to dissolve a provincial legislature and to put the province under direct rule of the center (Hewitt 1999: 44; Stepan 2001: 348). In regional federations such as Austria, Australia, Brazil, Germany and the USA the level of constitutional protection for provincial autonomy is much higher but they do not empower their constituent units to define themselves as distinct nations within the federation. Multinational democratic federations that meet both conditions must be more strongly devolved. Empirical observations broadly confirm this imperative; there seems to be a long-term tendency towards strengthening central government in regional federations and an opposite trend towards decentralization in multinational democracies (Kymlicka 1998b: 128-9). Cases confirming this latter trend include not only constitutional federations such as Canada and Belgium, but also Spain, the UK and Italy.

The third condition of rough symmetry further strengthens devolution. This is nicely captured by the Spanish formula ‘café para todos’. Instead of serving ‘coffee’ only to the nationally-based units who had ordered it, the designers of the constitution decided to offer autonomy for all regions and communities (although the nationally-based ones were served more quickly). A different solution would have produced federacy-like special relations between autonomous nationalities and a much more centralized state. Generally speaking, once the first and second conditions have been accepted, the price for maintaining symmetry and

⁵² The Calgary declaration signed by all provincial premiers except that of Quebec in 1997 endorsed the second and third principle conjointly. “It sought to accommodate Quebec by recognizing ‘the unique character of Quebec society’, but ... insisted that powers given to one province must be available to all” (Keating 2001c: 113). If this declaration still could not overcome the constitutional impasse it was probably not so much because it offered too little, but because it offered it too late.

equality of federal citizenship is to let the special demands of national minorities determine the overall level of devolution for all units.

So all three conditions seem to pull in the same direction without any counter-norm that could preserve the cohesion of the larger polity against ever-growing decentralization. Yet, while I will argue below that there is a quite real danger of such dynamics, this does not follow straightforwardly from the three conditions as such. The first norm defines merely an area of negative protection and denies at the same time constituent units a general power to unilaterally increase their own powers. The second norm requires positive devolution in policy areas that directly concern the reproduction of public identities, but leaves open the division of powers in other matters such as social welfare provisions or industrial development policies. Finally, the emphasis on symmetry in the third condition is derived from the value of equality of federal citizenship. If the larger federation is a self-governing polity that protects the rights of all its individual members, then it must be more than a loose confederation. Its government needs substantive powers over a wide range of issues and must be directly accountable to citizens of the federation rather than merely to the governments of constituent units.

(2) Deviations from the baseline

Let us assume that a division of powers has been found that satisfies all three requirements. It would be politically naïve to think that this is the end of the story. Although such a division will normally be entrenched in a federal constitution, it will inevitably be contested in democratic politics in societies shaped by rival projects of nation-building.⁵³ There are just too many incentives for political players to challenge a given division of powers to assume that it could be removed from the political agenda. We should therefore realistically regard it as an ideal baseline that can help to orient federal discourses and consider in a second step dynamics of multinational conflicts that push away from this line. The third step will then be to discuss whether it might still be possible to contain deviations within an acceptable margin and preserve a rough symmetry of powers.

For a normative theory it will be especially important to distinguish between illegitimate and legitimate deviations. The former involve moves by one side in a conflict that plainly violate one or several of the three conditions. For example, a federal government violates the first condition if it merges a national minority unit with a neighbouring one in which the minority is outnumbered and the second condition if it fully centralizes educational policies and curricula. Similarly, a national minority violates the first and third condition if it claims a general right to opt out of any federal legislation that it objects to. It is of great importance for the comparative study of multinational federalism to understand under which conditions political actors are likely to make such illegitimate moves and how they can be prevented or

⁵³ We can also regard the baseline itself as the result of negotiations that follow a political initiative by the national minority to increase its autonomy. Although I have denied that the minority has a right to determine its powers unilaterally, it does have a right to challenge a given division of powers that does not sufficiently respect its autonomy. The federal government would have a corresponding duty to enter into good faith negotiations. The outcome of these negotiations would generally not be determined by the minority alone, who wants asymmetric powers, but by an attempt to find a roughly symmetric solution compatible with federal citizenship. Moreover, once a fair baseline has been implemented, minority demands for even stronger powers for the sake of distinguishing itself from the other constituent units (such a right to secession) would no longer be justified in the same way that the initial initiative was. Instead of entering negotiations the federal government could then refer the demand to the constitutional court for deciding the matter (as the Canadian government did with regard to the possibility of a secession of Quebec).

corrected. From a normative perspective legitimate deviations pose the greater challenge. If we find that the equilibrium of the baseline can be upset by a series of moves none of which violates the general conditions, then this could lead to a quite pessimistic conclusion: A stable solution that is available in ideal theory may not be achievable in real world conflicts even if all sides respect democratic and federal principles.

Kymlicka makes the following argument for asymmetric powers: “It seems perverse to insist that all subunits have the same powers, if it means that English-speaking Canadians have to accept a more decentralized federation than they want, while French-Canadians have to accept a more centralized federation than they want.” (Kymlicka 2001: 105). Consider the following moves that could be made by representative of the majority and the minority in order to realize these divergent preferences. Initially the majority proposes to recentralize some of the policy areas that have been devolved to provincial governments when the baseline was worked out. They argue that majority citizens want to enjoy more equality across provincial borders because they see themselves as belonging to a single nation. As they regard the larger polity as their national community their preferred way for increasing equality is through a more centralized state that affirms national unity and solidarity through common standards in matters of education and welfare. In response to this the representatives of the minority insist that the majority cannot legitimately impose such a recentralization on an autonomous minority. The minority has two different ways to resist: either its representatives have the power to veto federal legislation, or the autonomous government of the minority province has the power to nullify federal legislation so that it will not apply within its territory.

Although the first requirement for a fair baseline excludes general self-determination the minority needs veto or nullification powers against illegitimate moves by the majority that upset a fair federal arrangement. So the minority’s use of one or the other power appears to be a legitimate move. But the federal majority may also claim that the minority has no right to prevent majority provinces from voluntarily pooling some of their autonomous powers. Nullification leaves the majority free to recentralize the federation as long as the minority gets special exemptions. Similarly, a minority veto against federal legislation should leave majority provinces with the option to use their autonomy for implementing a common policy at least within that part of the federal territory that they control. The provinces governed by majority representatives may, for example, conclude a multilateral agreement amongst themselves to introduce a common school curriculum or common standards for public welfare benefits.

The two scenarios lead to quite different outcomes. Only federal centralization plus minority nullification creates an asymmetric distribution of powers, whereas minority veto plus majority regional coordination need not upset the initial baseline. It would, however, be unwise to conclude from this that federal constitutions should give provinces veto powers rather than nullification rights. Because veto powers are the strongest weapons in the arsenal of federal protection for minorities, they should be handed out sparingly so that they cannot be used to block legitimate majority decisions that do not affect the core federal agreement. So if one thinks that a majority’s desire for greater centralization is not per se illegitimate it seems more appropriate to give the minority exemptions rather than a power to prevent any such legislation from being adopted. This leads me to the preliminary conclusion that the constituent units of a national majority may legitimately shift some of their powers towards the federal government as long as they allow minority units to opt out of the recentralized federal legislation.

One might object that this is still an illegitimate move because it violates the third condition of equal federal citizenship. But our assumption was that the rights covered by federal citizenship have been settled when determining a baseline with strongly devolved powers. Why should we not regard the baseline as a *minimum* level of equal federal protection that can be enhanced by a voluntary pooling of powers of provinces at the expense of comprehensive self-government at the constituent unit level? As a result, some federal citizens will be ‘more equal than others’, but this outcome seems legitimate if it has not come about through worsening the position of these others. Indeed, minority citizens seem hardly in a position to complain that they are treated unequally. They continue to enjoy basic rights of equal federal citizenship. Moreover, it is after all their special demand for autonomy that has fixed the baseline at a level of strong devolution. So asymmetric centralization of this kind satisfies the desires of both majorities and minorities and leaves no group worse off.

Such asymmetry also need not undermine federal equality and cohesion as long as it remains limited to specific policy areas that are important for affirming the distinct national identities of majorities and minorities. There is, however, a dangerous feedback mechanism that might escalate asymmetry up to the point of disintegration. As explained in section 6 (1) above, the minority cannot have it both ways. It cannot cast its votes in a federal decision while using its autonomy to exempt its own territory from this decision. I have argued that it is unjustified (and in violation of the third condition for a fair federal division of powers) for the majority to turn this incompatibility into a pretext for depriving minority units of equal representation in federal government. However, one can easily imagine how a too frequent use of nullification powers by the minority will provoke this kind of reaction. Federal and provincial governments may then confront minority leaders with a choice between enhanced autonomy and equal representation. Nationalist politicians will almost certainly prefer the former to the latter. Instead of fighting for greater influence on the federal government they are likely to demand even more powers to opt out of federal legislation.

This vicious circle shows how the red line that I have tried to draw between asymmetric identities and asymmetric powers can be erased through the dynamics of nationalist politics. Each side wants to strengthen the powers of that government that it regards as representing its own version of national community. Initially legitimate moves by the majority towards greater centralization may provoke problematic demands by the minority for greater veto or nullification powers, to which the majority is likely to respond by reducing minority influence in federal government. This process would transform the status of the national minority from a constituent unit that is fully integrated into the federal architecture into a federacy, in which it is related to the larger polity through a special bilateral agreement. As I have argued in section 6(1) federacy is, however, an unstable and unattractive solution for national minorities that had previously enjoyed constituent status. Nationalist leaders will therefore press for an even looser confederation (or ‘sovereignty-association’ in the Parti Québécois’ vocabulary) that provides them with the emblems of independent statehood.

(3) Preserving rough symmetry

This dangerous development can only to a certain extent be controlled by translating the requirement of rough symmetry into constitutional provisions. If the constitution regulates, as it should, that all constituent units have the same right to representation in federal institutions, then there can be no trading of stronger autonomy of national minority units against smaller numbers or weaker voting rights of federal MPs from that province. However, federal power-

sharing involves many forms of cooperation that cannot, or should not, be constitutionally mandated, for example the willingness to form government coalitions or informal rules of reserving seats for minority representatives in federal courts. Moreover, if both groups regard asymmetric centralization with minority exemptions as in their best interest then it will be difficult to uphold constitutional constraints against an overwhelming popular consensus that demands their abolition.

Reasonable optimism about federal cohesion must be grounded in the idea that there are countervailing interests among both groups that can be strengthened by good constitutional design. I believe that the scenario I have sketched above elaborating Kymlicka's idea is indeed overly pessimistic because it ignores some important prudential reasons both sides have in rough symmetry of the federal division of powers.

For the representatives of the national majority there are two such reasons. The first is that they must know that excessive recentralization of federal government will endanger the cohesion of the larger polity. As I have pointed out in section 7(1) above, asymmetric identities strengthen cohesion in this respect because the majority's identification with the encompassing polity should make it more willing to accommodate a minority that they regard as an integral part of their imagined nation. This first reason is still only indirectly related to the self-interests of majority representative. The force of this argument will depend strongly on a full participation of minority members in deliberations about constitutional arrangements where the consequences of each move can be anticipated in a debate among equal partners. Majority representatives will be insensitive to the minority's grievances and may miscalculate its strategic threat potential if the minority's voice is not heard because it is not sufficiently represented in federal politics or because the public sphere is highly segregated along national lines.⁵⁴

The second reason for the majority to exercise self-restraint is that strong devolution creates secondary interests among political representatives against recentralizing government powers. Devolution creates new positions and powers for political elites and bureaucracies at the constituent unit level that they will defend for self-interested reasons against attempts to strengthen the federal government. The most promising line of defence is to imitate to a certain extent the strategy of national minorities and to buttress the political autonomy of constituent units by emphasizing regional identities and conflicts of interests with the federal government. Such conflicts are, of course, a regular ingredient of normal democratic politics in all uninational federal democracies, too. The difference with multinational federations is that a baseline that is defined by the much stronger aspirations of national minorities for autonomy creates also a broader scope for regionalist strategies among the national majority. The emergence of strong regionalist interests and parties may significantly change the dynamic of multinational federalism by transforming a bipolar conflict into a triangular one. While majority representatives in federal government are more likely to be sensitive to the first reason and therefore more willing to accommodate minority demands, regionalist politicians are more hostile to minority demands for special powers but more likely to seek symmetry at a level of strong devolution.⁵⁵

⁵⁴ The Belgian 'alarm bell' system is a useful device to avoid such misperceptions. It allows minorities (both the Walloon minority in the Belgian federation and the Flemish minority in Brussels) to stop any decision that it regards as unacceptable if the motion is signed by three fourths of its representatives (Peeters 1994: 204; Fitzmaurice 1999: 100).

⁵⁵ In Canada this triangular conflict has, on the one hand, prevented a constitutional settlement, but, on the other hand, has also subverted Pierre Trudeau's vision of a much more integrated Canadian bilingual nation. The

Taken together these two reasons may be sufficient to prevent the majority from upsetting a fair baseline of strong devolution and roughly symmetric powers, but they do not apply to the national minority. Which interests could restrain minority leaders from pushing for more and more autonomy? If Kymlicka is right that national minorities want asymmetry for its own sake, as a recognition of their distinct status compared to the other constituent units, then no degree of symmetric devolution can satisfy these claims. One might hope that minority representatives in the federal government will also develop a vested interest in the unity of the polity because they would lose their positions when the country breaks apart. However, for democratic representatives this kind of personal interest is a rather weak motive for political action unless it is backed by a corresponding orientation of the electorate for whose votes they have to compete. For nationalist leaders there is normally a clear ranking of strategic goals with full independence as the optimum, stronger autonomy within a federation as a second-best and stronger representation in a federal government as a third preference. This ranking is based on a perfectly rational view of their own interests. The stronger the self-government of the national polity is that they want to represent, the more power they will be able to accumulate through a democratic mandate. Moderate nationalists are political realists who have become convinced that the first option is not available and that the second can be usefully combined with the third, but this rarely changes their general preference order.

One can still be moderately optimistic that it is possible to defend the baseline if these vested interests of minority nationalists do not match those of the constituency whom they claim to represent. This hope is grounded in the expectation that, once a national minority enjoys strong autonomy and power-sharing within a democratic federation, most of its members will develop identities attached to the larger polity. We should not expect to find unconditional national identities at this level, but rather conditional ones of citizenship. The federation-wide *scope* of these identities depends on collective arrangements that enable the minority to govern itself and to participate in the government of the federation. The *strength* of these identities depends on the value of individual rights of federal citizenship that are equal and shared by all throughout the federation.

If most minority members develop such citizenship-based identities this can have three kinds of effects on the orientation of their political representatives: a moderating impact on nationalist parties that have a strong monopoly in representing the minority; a splitting of minority votes between nationalist and non-nationalist parties; and an increasing isolation (and possible radicalization) of extreme nationalist groups. These are typical patterns in minority politics in Scotland, Quebec, Catalonia, Flanders or South Tyrol. They indicate that most citizens in these regions do have dual and nested identities, but also that their attachment to the larger polity is often volatile. Their political orientation depends not only on their national minority identities, but also on the central governments' recognition of their distinct public identities and accommodation of their demands for autonomy. If I am right about this, minority citizens do not have a fundamental interest in increasing the political

regionalist Reform Party, which is now called the Canadian Alliance party and mainly based in the Western provinces, has proposed "that each province be recognized as equal in status to the Quebec nation, each taking from the federal government whatever powers Quebec takes (and so decentralizing the federation)" (Tully 2001: 19). In Spain, too, the initial offer of autonomy for all regions and provinces has spurred the politicization of regional identities and interests and helped to check recentralization attempts by the Madrid government during the early 1980s (Agranoff 1994: 70; Keating 1999: 416-8; Requejo 2001: 120; Moreno 2001: 213-4). In the case of Czechoslovakia it is a moot question whether history might have taken a different turn had there been a stronger regional autonomy for a Moravian province within the Czech part of the federation.

powers of their constituent unit at the expense of their integration into the federation. When they think that they are getting a fair deal, they are likely to hold their political representatives accountable for brinkmanship that threatens the integrity of the larger polity.

To sum up, the hope that deviations from a fair baseline of strong and roughly symmetric devolution can be contained within tolerable margins is based on a conjuncture of three types of interests: an interest of national majorities and their federal representatives to maintain the integrity of the larger polity, which they regard as their nation; an interest of regional political elites in decentralization; and an interest of national minorities in federal citizenship, which interest is conditional upon their recognition as members of a distinct political community within the federation.

9. Conclusions

There are good reasons on both sides of the asymmetry debate. Critics are right to point out that a highly asymmetric federal division of powers impedes democratic deliberation and participation, undermines federal cohesion and violates a sense of shared and equal federal citizenship. However, these arguments need to take into account the specific context of multinational democracies with a history of interlocking nation-building projects. In such countries national identities can be neither fully shared nor neutralized. The best explanation for the relative stability of multinational federal democracies is not that national minorities have eventually developed a second and overriding national identity that commits them to respect the integrity of the larger polity, but that majorities and minorities have developed common interests and identities as citizens of a multilevel polity, in which all constituent units enjoy autonomy and in which all citizens are directly represented in federal government. In order to sustain a common sense of citizenship, the powers of constituent units must be fairly symmetric; in order to make it compatible with the aspirations of minorities for self-government, these powers must be strongly devolved and must allow for a public affirmation of their distinct national identities. The challenge for constitutional politics in multinational federations is thus to combine the recognition of asymmetric national identities with a commitment to maintain a fairly symmetric federal division of powers.

I believe that this argument for sustainable multinational democracy applies not only to long-established liberal democracies, but also to countries whose recent past has been less peaceful than that of Canada, Belgium, Spain or mainland Britain. In contrast with David Miller (2000: 128-9), I think that a history of antagonistic struggle among rival national communities for control over the same territory or population is no reason to abandon multinational democracy. Once multinational states have been partitioned and their successor states have been recognized there is generally no going back to the previous borders. Yet in many cases the leftovers of multinational states contain themselves significant minorities with aspirations for political autonomy. It is a fatal mistake to accept the claims of such newly independent regimes that they govern now perfectly uninational polities. Democratic consolidation may depend crucially on gaining the loyalty of frightened and antagonized minorities by granting them self-government in exchange for their commitment to common citizenship, which includes equal federal protection for everybody living in the autonomous jurisdiction of the minority. If the new national minorities are parts of former dominant majorities this reversal will make the task of building trust between the communities more difficult, but certainly not less urgent. Federal arrangements offer a much better chance to achieve this goal than attempts to turn ethnic nation-states into civic state-nations.

In western democracies there is a widely shared liberal belief that nationalism in parts of Central Eastern Europe can only be overcome if people forget their histories of nation-building struggles and interethnic violence and learn to regard themselves as equal individual citizens of a single nation that is coterminous with the territory and population of the state. In this view, national minorities ought to be granted cultural rights but not territorial autonomy, because the latter would inevitably jeopardize the state's territorial integrity. However, this response will not do where the conflict is not about linguistic rights but about the boundaries of political community. In these cases a solution that regards the newly formed state as a unitary nation, which cannot be subdivided by creating internally autonomous subcommunities, means simply that one historic nation-building project is fully realized at the expense of the aspiration of other communities for self-government. If devolution has been the right answer to this perceived injustice in western European countries, then promoting a different solution for the Eastern half of the continent seems a double standard that is rooted in ethnic prejudice about the less civilized nature of these societies and cultures (Kymlicka 2002).

Liberal nationalism in political theory has the important merit of taking national aspirations for self-government seriously and of showing under which conditions they may be compatible with liberal democracy. However, most of these theories remain caught in nationalist ideology. They regard nations as communities with a shared history, language and attachment to a territory, which seek self-government in order to secure the survival of their culture, and they accept the claim that such communities have a right to self-determination that gives them the ultimate power to determine their own status and boundaries. If we conceive instead of nations as the contingent product of historic struggles to define the boundaries of political community, then we will regard cultural homogenization as an important instrument for staking political claims rather than as an ultimate goal that justifies self-determination. From this position, which could be characterized as post-nationalist rather than post-national (O'Neill 2001: 234, quoting Geoghegan 1994), multinational democracy can only be stabilized if there is a proper balance between the two components of this concept. What these countries need is a shared sense of democratic citizenship in a nested polity whose internal division of powers satisfies national aspirations for self-government while rejecting claims to national self-determination.

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