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# EIF Working Paper Series

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## Political autonomy or cultural minority rights? A conceptual critique of Renner's model

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*to be published in Ephraim Nimni (ed.) National Cultural Autonomy and Its Critics. Routledge, London, December 2004. This volume contains the first English translation of Karl Renner's "Staat und Nation" (1899) and a series of commentaries on the contemporary relevance of Renner's model.*

**Working Paper Nr: 1**

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## Abstract

*In Staat und Nation (1899) Karl Renner first presented a coherent constitutional model based on cultural autonomy for linguistic communities as a solution for the persistent nationality conflicts that plagued the late Habsburg monarchy. The paper discusses the contemporary relevance of this model from a liberal pluralist perspective. Four critical aspects are identified that make it difficult to defend and apply Renner's model in its original version: the underlying theory of cultural nationalism; the principle of personal declaration of national identity; the construction of non-territorial jurisdictions that cannot satisfy aspirations for comprehensive self-government, but may still generate a strongly segregated civil society; and the idea of a symmetrical federation of equal nationalities that ignores the asymmetric relations emerging from all histories of interlocking nation-building projects. The paper concludes by outlining alternative principles for accommodating national minority claims to autonomy.*

## 1. Three Critiques of Renner's Model

Karl Renner's and Otto Bauer's model of National Cultural Autonomy (NCA) can be evaluated from three different perspectives: a historical, a normative and a conceptual one. A historical critique can point out that their ideas were never realized in the Habsburg monarchy in the way they had imagined,<sup>1</sup> that they remained a minority position even within the Socialdemocratic Party before the First World War<sup>2</sup> and that they were largely abandoned by their authors after 1918. One may also doubt whether adopting NCA would have been sufficient to accommodate Czech nationalists who campaigned for "state rights"<sup>3</sup> and deeply resented the monarchy's refusal to grant them powers similar to those achieved by Hungary through the *Ausgleich* of 1867 that had transformed the empire into a dual monarchy. Finally, one can suspect that Renner's model was better suited for the concerns of the dominant but geographically dispersed German language groups within the monarchy than for any of the other nationalities.<sup>4</sup>

<sup>1</sup> The Moravian compromise of 1905 created non-territorial linguistic constituencies by establishing separate electoral lists for German and Czech citizens. This was, however, strongly condemned by Otto Bauer (1907: 308-310). His and Renner's proposal demanded separate national electoral registers only for electing non-territorial national councils, but proportional representation in general elections to territorial legislatures.

<sup>2</sup> Renner was not present at the 1899 Brno party congress that adopted a nationality programme, but his ideas inspired a minority resolution promoted by South Slav delegates. The majority voted, however, for replacing the historical crown lands with self-governing territories of the various nations whose borders ought to match linguistic ones as closely as possible (Brno Protocols 1899: XIV).

<sup>3</sup> Renner's essay refers several times to "state rights" that were claimed by both the Young Czech and the Young German nationalists. Czech and German Socialdemocrats agreed on rejecting this demand (see Brno Protocols 1899: 76, 79)

<sup>4</sup> The Swedish historian Fredrick Lindström detects a "strong strain from early on in Renner's writings to view the Habsburg empire

Since I am not a historian I will not discuss the merits of these critiques. As a political theorist I believe that even ideas that were unpersuasive and unsuccessful in the context where they arose may contain important and valuable insights in contemporary circumstances. What hasn't changed since Renner's days is the persistence and potential violence of conflicts between rival, and often interspersed, communities in multinational states. What has changed is the dominant normative framework within which proposed solutions to these conflicts are evaluated. Today, most political theorists support versions of liberalism that emphasize individual autonomy and well-being as ultimate values and recognize the fact of pluralism of identities and moral views in open societies. At the turn from the 19<sup>th</sup> to the 20<sup>th</sup> century, liberals were generally less enthusiastic about pluralism and more willing to support the assimilation of minorities into national majorities. Renner himself was not a liberal; his principal motives were those of a social democrat and constitutional lawyer. He wanted to preserve the unity of the working class movement as well as the territorial integrity of Austria by separating nationalities from the state and from each other. Yet he and Otto Bauer were also nationalists who believed that nations were communities of character and destiny that would thrive under socialism when workers would gain full access to the best achievements of their respective national cultures (Bauer 1907: 82-95, 104-5). In this respect they were at odds with the Marxist orthodoxy of their times represented by two other currents: the radical internationalism of Rosa Luxemburg and the purely instrumental attitude towards national self-determination adopted by Lenin and defended by Stalin in his polemic against the Austromarxists (Stalin 1913).

A normative critique of Renner's model from a liberal pluralist perspective must disconnect it from its historical context and will ask questions that were not Renner's main concerns. How is NCA likely to affect intergroup relations, intragroup relations and group-state relations? Is it more likely than territorially-based autonomy to provide external protection for minorities against the pressure of dominant majorities, to protect internal minorities within autonomous communities and to support a common overarching citizenship for everybody in the larger polity? I have suggested elsewhere that there are *prima facie* arguments for NCA when considering each of these three relations but that, ultimately, territorial autonomy arrangements are preferable from a liberal pluralist perspective (Bauböck 2004).

In this contribution I want to examine a third type of critique that is more conceptual. The idea of non-territorial autonomy for linguistic groups had been suggested before Renner's pioneering essay<sup>5</sup> and has been implemented more or less successfully since in different periods and countries from the Estonian law of 1925 to the contemporary regime of ethnic proportionality in South Tyrol and the

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as a German mission in south-eastern Europe. In its political context his *Nationalitätenbundesstaat* most of all comes across as the modern political solution to the problem of the geographically dispersed German groups in Central Europe, as perhaps the only way to collect and house all or most of these groups in a modern, democratic polity where they despite their territorial fragmentation can fill the role of the leading national group in a large and internationally powerful polity" (Lindström 2003: 338).

<sup>5</sup> At the Brno congress the delegate Etban Kristan claimed that the idea of non-territorial national autonomy had been developed at the Prague Academy long before Renner's essay (Brno Protocols 1899: 86).

Belgian federal constitution of 1993. The singularity and great attraction of Renner's model for political theory is its comprehensiveness and apparent consistency. All later applications of the idea have resulted in hybrid and ad hoc arrangements and none of the other academics writing on cultural autonomy has developed a theory that matches Renner's sustained effort to translate a simple principle into a complex constitutional scheme.<sup>6</sup>

The flaws of Renner's approach emerge from his conception of nationality as a primordial and non-territorial linguistic community. Renner's model of comprehensive NCA rests on four pillars, each of which illustrates certain aspects of this conception: cultural nationalism, personal declaration, non-territorial jurisdictions and symmetrical relations between nationalities. My critique will discuss each of these pillars and will raise some concerns about the stability and consistency of the whole edifice. This leads me to conclude that the idea of cultural autonomy needs to be defended contextually and ought to be regarded as a supplement, but not as an alternative, to territorial self-government rights for national minorities.

## **2. Cultural Nationalism**

In a recent book, Chaim Gans defines cultural nationalism and defends it against what he calls statist nationalism. For the former "members of groups sharing a common history and societal culture have a fundamental, morally significant interest in adhering to their culture and in sustaining it for generations. This interest warrants the protection of states" (Gans 2003: 7). In contrast, statist nationalism claims that "in order for states to realize political values such as democracy, economic welfare and distributive justice, the citizenries of states must share a homogenous national culture" (ibid.). The basic difference is that that "[w]ithin statist nationalism, national culture is the means, and the values of the state are the aims. Within cultural nationalism, however, the national culture is the aim and the state is the means" (ibid.).

Renner is not fully committed to cultural nationalism in this sense. He pursues a triple agenda of cultural emancipation for nations, democratizing the state and a socialist transformation of the economy, and seems to regard each of these as nonsubstitutable goals. Yet before 1918 he clearly rejects statist nationalism. Anticipating Ernest Gellner's famous definition of nationalism as a political ideology that cultural and political borders should coincide (Gellner 1983) Renner postulates in his essay that "state and nation must coincide if the nation is to experience the least possible level of resistance to its development". Here the state is regarded as serving the nation, not the other way round. If this ideal congruence cannot be achieved, cultural nationalists are willing to settle for the second best: national autonomy within multinational states, whereas statist nationalists are more likely to fight for changing the borders of states or to abandon smaller nationalities for the sake of promoting a singular national identity within a state.

<sup>6</sup> Renner developed his model at much greater length in two later books (Renner 1902, 1918).

Cultural nationalism is therefore, *prima facie*, more attractive for liberal pluralists. However, Renner's version shows several problematic features. His view of nations may be characterized as groupist, perennialist and pedagogist. The first of these attributes refers to a conception of ethnic and national groups as "externally sharply bounded, internally homogenous blocs" (Brubaker 1998: 234). This assumption masks "the fluidity and ambiguity that arise from mixed marriages, from bilingualism, from migration,... from intergenerational assimilation, and from sheer indifference to the claims of ethno-cultural nationality" (ibid: 256). From Renner's and even more so from Bauer's writings it is obvious that they thought of nations as stable and mutually exclusive communities of character. Groupism is a danger in contemporary varieties of cultural nationalism, too. Once one assigns strong moral value to the intergenerational continuity of particular national cultures, it follows almost inevitably that fluid and overlapping boundaries between nations will be regarded as an irregularity that undermines the value of national membership.

Perennialism and pedagogism are more specific features of the Austromarxist approach to nationhood that have been generally overcome in today's academic debates. For contemporary theorists, the age of nationalism starts with the economic and political revolutions that brought about capitalism and the modern state. Some scholars emphasize that there are continuities between pre-modern ethnic groups and modern nations (Smith 1986), but very few would endorse Renner's characterization of the distinct legal systems and languages of nomadic tribes within the Carolingian Empire as *national* ones that serve to demonstrate that nationhood has no necessary territorial basis. Liberal cultural nationalists today accept that the specific value of national communities is not grounded in their claims to imaginary ancient origins, but is derived from individual needs for protection and cultural resources in the context of modern mobile societies.

While for the Austromarxists a substantive identity of nations is preserved even across the big watersheds of human history, they recognize profound changes of internal relations within nations. This is made explicit in Bauer's theory of three stages of national development. In tribal communism the nation is still united as a community of descent and culture, while in feudal and capitalist class societies the national culture is monopolized by the ruling class. Under socialism the nation will finally be reunited as an educational community (*Erziehungsgemeinschaft*) that gives the working classes full access to the highest achievements of their nation's culture (Bauer 1907: 104, 118). Renner expresses the same view when he writes about the lower classes "knocking at the gates of temple of culture" and the ruling groups "barring the doors of the temple to the lower classes". A pedagogical agenda of teaching the working class the values of German high culture was a characteristic aspect of Austrian socialism well into the 1930s. The rather ironic contrast with Gellner's theory of nationalism is that for the latter it is industrial capitalism that requires educating the working classes in a standardized national culture and it is the modern state that provides the institutions and resources for this program of national education.

My own view is that even the most liberal versions of contemporary cultural nationalism are flawed.

Normatively, the argument that individuals need secure membership in encompassing groups (Margalit and Raz 1990) fails to explain why national cultures deserve stronger state protection than ethnic or religious ones (Buchanan 1998, Benhabib 2002: 66). And descriptively, the cultural nationalist hypothesis underestimates that nationalist movements want political power primarily for its own sake and not merely in order to protect a particular culture. I suggest that there is a third alternative to statist and culturalist nationalism that might be called a political conception. This approach would describe nations as historically constituted and culturally bounded communities striving for self-government, but not necessarily for independent states. The history and the culture of nations should be regarded as contingent aspects that are partly constructed in order to legitimate the claim for self-government. From a democratic perspective self-government must be regarded as a core value, and this can lead to endorsing nationalist struggles of liberation from domination by other groups. For the same reason, liberalism must support the integrity of multinational democracies and reject any attempt to monopolize self-government powers in heterogeneous societies for a particular cultural group.

### **3. Personal declaration**

The second pillar of Renner's model is what he calls the personal principle. This is the idea that individual membership in a national community should not be determined by either state authorities or those of the national groups themselves but through a free personal declaration. This is, once again, *prima facie* a very attractive idea. National autonomy seems thus derived from individual autonomy and national community seems to be constituted as a voluntary association.

There is, however, an important difference between voluntary association in civil society and the use Renner makes of personal autonomy in order to determine membership in national groups. In the former case, membership generally does not exclude belonging simultaneously to another association of the same kind. Even if the associations themselves insist on mutually exclusive membership (as do all monotheistic religions), in liberal states enforcement of this principle is not delegated to political authorities and equal protection must be given to those who refuse to affiliate themselves with any such association. In Renner's model, however, every citizen must choose one national affiliation and one only. National corporations are thus constituted by the state that recognises a limited number of distinct groups rather than by free individual choice. Individuals are only free to declare and change their national affiliations, but they can neither associate freely to establish new national corporations nor disassociate themselves from all recognized national communities. This compulsory declaration of allegiance is not only a severe constraint on individual self-determination but will also significantly reduce the size of those ethnonational minorities whose members are generally bilingual and exposed to strong assimilation pressure.<sup>7</sup>

<sup>7</sup> In Austria, Carinthian Slovenes campaigned against a 1976 special census on ethnolinguistic minorities because they felt that their members were under political pressure to deny their origins and were afraid that the results would be used to undermine their territorially defined rights to bilingual education and topographical signs.

Renner's proposal departs significantly not only from the model of free association in civil society, but also from individual self-determination in the political sphere as interpreted by contemporary theorists of consociational democracy. Arend Lijphart (1995) suggests that in deeply divided societies the constituent segments should be self-determined through individual declaration rather than pre-determined by the state. For example, in a proportional representation system citizens will individually determine whether to vote for an ethnic or religious party and their choices will collectively determine the relative strength of such parties in the legislature and in coalition governments. Similarly, support for an autonomous cultural council can be measured by voluntary individual declarations. Renner defends proportional representation in elections to territorial legislatures, too. But his constitutional scheme for national councils requires pre-determination of the list of national affiliations that can be chosen. This follows from the idea that such councils should not merely represent minorities. Instead, the whole population would be subdivided into national segments each of which elects its own autonomous council. A second difference between Renner's model and consociational theory is that the latter searches for incentives for cooperation between political elites in central government institutions across segments, while the former is designed to achieve the opposite goal of separating nations from each other by giving each its own institutions of government.

Negative impacts of personal declaration can be studied in South Tyrol-Alto Adige. In this province a regime of ethnic proportionality in the allocation of public services and positions in public administrations based on linguistic census results has deepened the segregation between ethnic groups and may be violating recent European Union antidiscrimination directives. The Belgian federal constitution provides a counter-example. Here the boundaries of linguistic communities do not depend on counting their members, but are fixed forever on a territorial basis. The Brussels region is officially bilingual, which reassures the shrinking Flemish community in the city that immigration of Francophone populations will not jeopardize their rights

#### **4. Non-territorial jurisdiction**

Renner's third core idea is that "there is no necessary connection between the consciousness of nationality and a particular territory". National communities should be established as self-governing public law corporations whose jurisdiction includes all citizens who declare their membership, independently of where they reside within the state.

While statist nationalism is necessarily territorial, non-territoriality is not a defining feature of cultural nationalism. Most contemporary liberal cultural nationalists (e.g. Charles Taylor, Will Kymlicka, Joseph Raz, Avishai Margalit and Chaim Gans) advocate territorial self-government for national communities as the most effective means to preserve or develop a national culture. Renner does not deny this, but raises two objections: First, since nations are basically spiritual and cultural communities, territorial jurisdiction is not essential for their development. And, second, since

territorial sovereignty is an essential property of the state, a constant struggle between nations over territorial boundaries would undermine the integrity of states.<sup>8</sup>

In order to explain how nations could be autonomous without a territorial basis, Renner uses the analogy with publicly organized religion. Nation and state should be separated in a similar manner as church and state. Renner is aware that this analogy cannot be carried too far. In the final part of his essay he discusses how the interests of state and nation overlap and assigns to the autonomous national councils administrative tasks that involve delegated state powers. The crucial aspect of the analogy is that both nationalities and religious denominations are regarded as spiritual communities that do not need territorial jurisdiction in order to reproduce themselves.

This idea is much more plausible for an ethnic conception of nationhood than for a civic or linguistic one. If national identity is primarily a matter of descent, mother tongue and shared character traits then national survival may be threatened by intermarriage, but not necessarily by geographic dispersal. If nationhood is, however, based on a desire for political self-determination and requires secondary socialization in a shared historical narrative and a standardized language then territorial jurisdiction will in most cases be indispensable to sustain it over time.

Of course, the main power that nations would acquire under Renner's proposal is to establish their own schools, theatres and museums, where their particular languages, arts and histories are transmitted to their members. This will, however, often not suffice to satisfy national aspirations for two reasons. Firstly, research on language survival in modern industrial societies has concluded that "it is normal ... for each language to establish its domination and then to seek exclusivity in a given territory" (Laponce 1987:4). Isolated pockets of minority languages are unlikely to survive even where their numbers would allow them to establish their own schools if their idiom is no useful resource in the larger environment. Religious survival in a liberal society depends merely on the internal cohesion of a community of believers. For linguistic survival, however, the freedom to use a minority language must be complemented with the right to be understood in this language by political authorities, employers and providers of services.

Secondly, not all national identities are primarily demarcated by language differences (e.g. Austrian, Swiss, Scottish, Irish, Serbian, Croatian or Bosnian ones) and all truly nationalist movements demand more than merely linguistic protection. They want to control local or regional governments, police forces, courts, economic and social welfare policies. These claims will not always be justified, but they may sometimes well be. If ethnonational groups feel oppressed and harassed by the state institutions, or are not sufficiently protected by them against social discrimination, then having schools that operate in their languages will not respond to their plight. Moreover, even in the absence of pervasive discrimination, the geographic concentration of distinct historic communities itself creates

<sup>8</sup> Similar considerations lead Yael Tamir to restrict national self-determination to a right of each nation to a distinct public cultural sphere (Tamir 1993: 70).



legitimate democratic expectations that representatives of the regional majority will control regional political institutions.

Because Renner is not unaware of this, his model of NCA departs in significant ways from the purely non-territorial autonomy granted to religious confessions. It is in fact a mixed approach with a quite strong territorial component. The state territory is to be subdivided into administrative units (Kreise) in such a way that the number of roughly monolingual units is maximized. For each national council the totality of its mononational units forms de facto an exclusive territorial jurisdiction, within which it must share powers with provincial and state authorities but not with other nationalities.

What is abandoned Renner's model of federation is not territoriality per se, but the requirement of geographic contiguity of constitutive units. The non-territorial element in Renner's proposal is reduced to essentially two supplementary aspects: a small number of mixed Kreise<sup>9</sup> and minority rights for dispersed members of national communities outside those Kreise where they are officially established.

In contrast with his theoretical premises, Renner's practical model does not establish non-territorial jurisdiction but focuses instead on extraterritorial protection. The jurisdiction of national councils is territorially-based within their own regions but reaches out to members outside.<sup>10</sup> This is similar to how modern states conceive of their own jurisdiction: it extends over all those who live in their territory (including foreign nationals) but in some aspects covers also the state's nationals living abroad who have a claim to diplomatic protection, a right to return and may enjoy even an absentee franchise. Renner explicitly uses this analogy when he complains that "[t]he Englishman has the diplomatic protection of his fatherland... Yet he is a foreigner. However, the German-Austrian in Prague is without rights, for he is on 'Czech soil'." But might relying on external protection for national minorities then not result in turning them from co-citizens into quasi-foreigners whose rights are precarious and resented exactly because they are protected by a government located outside the nation's territory?

Renner bypasses this objection by assuming that reciprocal threat potentials will lead to a mutual accommodation of internal minorities: "...each [nationality] at the same time in a particular region a majority and in another region a minority, which in the interest of national unity it cannot abandon; each incapable of oppressing foreign minorities because the other nationality as a totality will respond with the repression of the former's own minority, and thus prepared in advance to accept compromise with other nations..." While this solution may have had a certain plausibility for Czech-German relations in the late Habsburg empire, it can obviously not be generalized. Settlement patterns and migration flows between national minorities are rarely reciprocal. Minorities send their members more often into metropolitan areas where a national majority prevails than the other way round. And what about dispersed groups like the Roma and Jews who do not form a majority in any territorial unit fit

<sup>9</sup> According to Renner's own estimate 90% of the Kreise could be made nationally homogeneous (Lindström 2002:256).

<sup>10</sup> Uri Ra'an (1991) derives from this a hybrid model of a binational federation, in which each group enjoys territorial autonomy where it forms the majority and extraterritorial protection by the group's authorities where it is the minority.

for self-administration? Ironically, Renner's model offers least protection to those minorities that are most clearly non-territorial.<sup>11</sup>

From a liberal perspective, external protection of national minorities is a mere second-best solution once other means have failed. Even reciprocal threat potentials can only sustain a fragile *modus vivendi* that each side has reasons to upset as soon as its relative position improves. The first-best solution is always to internalize the protection of minorities by changing the dominant majority's conception of political community in such a way that minorities can be included without being assimilated. This solution is, however, incompatible with Renner's conception of nationhood.

## 5. Symmetrical relations between nationalities

The most ambitious part of Renner's proposal is that the Austrian half of the empire should be transformed into a federation of nationalities, each of which would enjoy the same powers and relate in the same way to central state institutions. The state would thus be subdivided twice into territorial provinces and national communities and both types of entities would be constitutive units of the larger federation.

This constitutional design has a number of apparent attractions. First, it would overcome the distinction between majorities and minorities. The logic of federal constitutionalism demands that constituent units enjoy equal status (and sometimes also equal representation in a federal chamber) independently of their size. This can be supported by liberal democratic norms of equal citizenship that could be violated if particular federal units have greater powers than others. Additional support comes from historic nationalities that often campaign for recognition as co-founders of a multinational federation rather than as minorities within a nation-state. Finally, Renner's claim that nation and state can be separated is more plausible when interpreted as referring to a symmetrical treatment of all nationalities by a neutral state rather than to a strict separation of powers between territorial and non-territorial governments.

Second, by granting constitutive status to geographically dispersed national communities whose autonomy is reduced to cultural policies, Renner's proposal avoids the main danger of territorial federalism in multinational societies – the likelihood of secession or partition that transforms internal federal borders into international ones. Czechoslovakia, Yugoslavia and the Soviet Union had all been constructed as territorial multinational federations with formally equal status for federal republics that were defined as the homelands of titular nationalities.

Yet there are also important objections to be considered. Within all multinational democratic federations, representatives of national minorities demand not merely equal recognition but also

<sup>11</sup> Otto Bauer (1907: 318-331) explicitly rejected national cultural autonomy for Jews and argued that it is their destiny to be assimilated.

special powers for their own federal units. They justify this by referring to historic disadvantages and discrimination suffered by the minority as a result of majority nation-building efforts. An even stronger, but in my view problematic, claim is that nations should have equal rights of self-determination. Since the majority nation dominates an independent state, the minority must be able to determine itself the scope of autonomy of its constituent unit.<sup>12</sup>

Recognizing the dominant position of a national majority may also be relevant from a perspective that emphasizes the need for stability and territorial integrity of multinational democracies. Brendan O’Leary has suggested that “a stable democratic majoritarian federation, federal or multinational, must have a *Staatsvolk*, a national or ethnic people, who are demographically and electorally dominant ... and who will be the co-founders of the federation “ (O’Leary 2001: 284-5). “[W]here there is no *Staatsvolk*, or where the *Staatsvolk*’s position is precarious, a stable federation requires (at least some) consociational rather than majoritarian institutions if it is to survive, though of course its survival is by no means guaranteed” (ibid: 291). Renner may have implicitly relied on the de facto dominance of a German *Staatsvolk* within an Austrian multinational federation. However, establishing an autonomous German nationality and giving it the same status as the other linguistic communities would have neither done justice to minority claims for special federal protection and resources for their weaker languages, nor would it have strengthened the dominant group’s identification with the larger polity. Renner’s model fails also to meet the requirements of O’Leary’s supplementary hypothesis. As I have argued above, Renner’s emphasis on separating nation and state is at odds with consociational democracy that promotes representation of the segments and cooperation across them in central government institutions.

How should one then conceive of relations between constitutive units within a multinational democratic federation? I think that it is necessary to combine requirements of federal symmetry with recognizing the asymmetry in historic relations between majorities and minorities. With the possible exception of Switzerland, the borders and public cultures of nearly all multinational states have been profoundly shaped by nation-building projects on behalf of one particular historically dominant group.<sup>13</sup> This asymmetry creates disadvantages for national minorities and justifies not only claims for special recognition and support from federal government that would be undermined by national cultural autonomy. It also means that the majority’s national identity refers much less than the minority’s to a separate community or territory within the state. Instead, it is associated with the integrity of the larger polity and includes the minority as belonging to the nation. We can describe this as a nested structure of national identities emerging from interlocking nation-building projects of dominant groups and minorities within a common state territory and population.

<sup>12</sup> Arguments for asymmetry in multinational democracies are discussed in several contributions in Gagnon and Tully (2001).

<sup>13</sup> Renner’s proposal was more plausible in the Habsburg context than it is in contemporary multinational democracies, because the boundaries of the empire had not been determined by a nation-building project. An Austrian identity was then linked to the dynasty rather than to a German linguistic nationality. Austria was in this respect more similar to the late Ottoman empire than to the German and Russian ones. It is no coincidence that the closest historic precedent to Renner’s cultural autonomy for linguistic nationalities was the Ottoman millet system for religious communities.

In such a multinational constellation liberal constitutional statecraft must satisfy divergent imperatives. First, the constitution ought to recognize minority self-government rights by drawing an internal political boundary and devolving political powers to government institutions that will be controlled by the minority. Second, it should equally recognize the majority's identification with the larger polity that provides the glue for the territorial integrity of the federation. And, finally, it must promote power-sharing and symbolic recognition for all nationalities within federal institutions. I think that the Canadian model of territorial federation, in spite of its many tribulations, offers better chances to balance these concerns than does Renner's *Nationalitätenbundesstaat*. Quebec enjoys strong powers of autonomy and some recognition as a distinct society. The Anglophone population is not established as a distinct nationality but regards instead Canada as a single nation subdivided into ten provinces. Federal institutions are, however, bilingual and recognize in this way the Francophone community as a founding people and partner to the federal contract.

## **6. An alternative approach**

In contemporary debates about multiculturalism the basic problem is often stated as the need to find a consensus on common values and modes of coexistence between different cultural or religious identities, ways of life, beliefs and practices. Renner's essay reminds us that the nature of the problem to be solved in multinational democracies is of a different calibre. The other multicultural challenges are about the common public culture, the recognition of minorities and the limits of toleration within a single political community. Conflicts about nationality, however, involve rival projects for defining the internal and external boundaries of the polity itself. Such conflicts can be resolved by the victory of one project over the other. If dominant projects win, minorities will be assimilated and will lose their capacity for self-government. If subordinate projects win, they will secede and form a new dominant majority in their own nation-state. Renner wants to avoid both outcomes by transforming the polity into a composite and federated one, within which the members of all nationalities can recognize each other as equal citizens. In this respect, his approach is a pluralist one and still relevant for contemporary multinational democracies.

Renner's cultural nationalism prevents him, however, from fully realizing that nationality conflicts are not merely about linguistic survival and the integration of lower classes into a national high culture, but inevitably involve struggles over territory and comprehensive powers of self-government. Renner's comprehensive model fails to live up to this challenge. It should therefore be broken apart into different components that can be rearranged in various ways.

Let me conclude by sketching the bare bones of one such rearrangement that appears to me preferable to Renner's approach. The basic foundation is provided by the value of equal liberties and citizenship in self-governing political communities. This principle can support three answers to different kinds of multicultural challenges.

First, universal cultural liberties for all individuals to use their languages and practice their religion and to form voluntary associations in order to promote and develop their particular culture. These liberties may not be constrained for the sake of nation-building, but only for the sake of protecting basic human rights and equal citizenship when they are violated by particular practices.

Second, cultural minority rights that respond to specific disadvantages that members of these minorities suffer in a society whose public culture has been shaped by dominant religious traditions, languages and historical narratives. Such minority rights include protection from discrimination, exemptions from otherwise justified laws that burden specific groups (such as animal protection laws that outlaw ritual methods of slaughtering), public recognition and financial support for distinct minority cultures (e.g. by subsidizing minority language education), and inclusion in a dominant public culture (e.g. through multilingual public services). Unlike cultural liberties, these minority rights may depend on numbers, geographic concentration or historic settlement of potential beneficiaries. Yet even when they are provided on a regional basis these rights will remain non-territorial ones in Renner's sense. They refer to minorities as cultural communities rather than as distinct polities with a claim to territorial jurisdiction.

Third, territorial self-government rights that recognize the contested nature of the larger polity's history and boundaries and accommodate rival nation-building projects through federal arrangements. These combine autonomy for constitutive units with power-sharing in central government institutions and a common citizenship. Territorial autonomy for minorities and the territorial integrity of the larger multinational polity can then be seen as mutually supporting each other. As long as the minority enjoys autonomy in its own territory and is integrated into the encompassing polity through power-sharing and equal citizenship, it has no legitimate claim to secession. To this, defenders of NCA will reply that territorial autonomy gives minorities the capacity to break up the state even if they have no legitimate claim to do so.<sup>14</sup> This may well be. However, one lesson we can learn from the history of the Austro-Hungarian empire is that giving national minorities too little too late is even more likely to destabilize a multinational state.

<sup>14</sup> Will Kymlicka describes this as the "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).

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