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Federal arrangements and minority self-government

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Abstract

How do democratic states respond to minority claims for self-government and how should they respond? This paper suggests that successful accommodation of such demands in Western European and North American democracies has included three basic ingredients: political autonomy that establishes separate jurisdictions within which minorities enjoy substantial devolved powers of self-government; power-sharing that involves representatives of minorities in the governing of the larger state; and encompassing citizenship that turns all members of a self-governing minority into equal citizens of the wider polity. Multinational federations, i.e. federal states with autonomous constituent units in which national minorities form regional majorities, combine all three ingredients. Other constitutional arrangements for national minorities, however, emphasize only one or two of the three elements. The paper suggests a general typology of nine constitutional arrangements, which is derived from the presence or absence of each of the three elements, and discusses contextual reasons for deviations from ideal type multinational federalism.

1. National minority rights in the European Union

How do democratic states respond to minority claims for self-government and how should they respond? In recent years a number of comparative and normative analyses have addressed these questions. Most cases discussed in this literature are Western European countries. The most frequently analysed ones are the Spanish *Estado de las autonomías*, the Belgian transition from consociation with a unitary constitution to multilingual federation, and devolution in the United Kingdom. Switzerland is a more ambiguous case since it is not obvious that its language communities have developed distinct national identities characterized by a desire for self-government. What these cases have in common is that multinational and multilingual arrangements are a constitutional feature of the larger polity itself so that it may be regarded as a composite entity consisting of several autonomous and culturally distinct subunits. Outside Europe, Canada and India are the only two long-term stable democracies that can be described in this way.

Among the pre-2004 member states of the European Union there are also several countries that grant special autonomy to small and culturally distinct minorities concentrated in a peripheral part of the state territory. Strong forms of political autonomy exist in Italy for the German and Ladino speaking population of South Tyrol/Alto Adige (and a weaker autonomy status for francophone citizens in the Aosta valley), in Denmark for the Faeroe islands and Greenland, and in Finland for the Swedish

speaking Åland islands. In France, legislation that would have established autonomy for Corsica failed to win a majority in a referendum on 6 July 2003. Most of the other old EU member states grant special minority rights or political status to various ethnolinguistic groups whom they recognize as 'autochthonous' without, however, devolving substantial political powers to institutions of minority self-government.

None of the ten new member states and of the accession candidates for 2007 is currently a multinational democracy, nor does any of them recognize strong political autonomy for a national minority. Cyprus would have become a multinational democracy of the Belgium or Swiss type, had the Greek population in the South not rejected the UN plan for reunification in a referendum on 24 April 2004. Yet in several of the East Central European countries there are territorially concentrated, culturally distinct and politically organized minorities that could very well qualify for minority self-government. These new member states had been monitored for their compliance with the minority rights clause of the 1993 Copenhagen criteria for EU membership and most have passed minority rights legislation that is quite generous compared to general West European standards. However, wherever nationalist minority politicians have raised demands for territorial autonomy, they have met fierce resistance.

Reasons for this discrepancy between West and East Central European approaches to minority self-government have been analysed very well in a book edited by Kymlicka and Opalski (2001) and in several contributions to the present volume. In my paper I will not be concerned with explaining this difference. Instead, I will discuss the three basic ingredients of successful multinational federations: (1) comprehensive political autonomy for the minority nation, (2) a system of power-sharing and federal representation that integrates the minority as a distinct polity into central state government, and (3) a common democratic and multicultural citizenship for all citizens of the wider polity. I will discuss each of these elements and how they could be interpreted, modified and weighed against each other. Multinational federal arrangements can be distinguished by examining how much emphasis they put on each of these three elements. This leads me to suggest a typology of such arrangements by considering possible combinations of self-government, power-sharing and citizenship. I consider these arrangements from an explanatory and normative perspective. If a balance between the three elements can be regarded as optimal, which circumstances can explain deviations from this standard and which reasons can justify them? My intention is not merely to classify empirical cases, but to provide criteria for evaluating them in a way that takes into account contextual variation. However, I am aware that a theoretical approach of this kind can never substitute for a deeply contextual analysis of the historical dimensions of any particular conflict. The arguments I will suggest should not be used to identify and promote "best practices" in national minority accommodation that could be simply copied by other states. Instead, I think of them as principles that could be adopted for a common European minority rights regime.

2. Three elements of multinational federation

2.1. Political autonomy

Self-government is the most important demand raised by national minorities. Some authors distinguish between, on the one hand, stateless nations (Keating 1997) or nations without states (Guibernau 1999) and, on the other hand, national minorities. Whereas the former have no independent national 'homeland', the latter are seen as linked to an external kin-state where their national identity is established as a dominant one. A more precise classification could distinguish four types according to whether a national identity is state-based or without the institutional support of an independent state and whether its claim to self-government is confined within a state or straddles its borders to include territories and populations in other countries. We can then classify French nationalism as internal and state-supported, Scottish nationalism as internal and stateless, Basque nationalism as transborder and stateless and Hungarian nationalism (in its relation to Hungarian minorities in Romania and Slovakia) as transborder and state-supported.¹

These distinctions are important for analytical and comparative purposes, yet we still need to clarify how to define a national minority. In the academic literature there are two quite different interpretations of what the term 'minority' refers to: the smaller part of a nation that lies outside its state territory, or a distinct national group in a subordinate position within the state where it lives.² For my present purposes, the latter definition is the appropriate one. Political autonomy claims emerge from attempts to oppose a minority nation-building project to a dominant one within a state. Normative justifications for such rival nation-building do not depend on whether or not this group enjoys the support of an external kin-state. As I will argue below, there is also a normative trade-off between the two goals of extraterritorial inclusion in a homeland polity and self-government in the minority's territory. The stronger the political autonomy a minority enjoys within a federal arrangement, the weaker are its claims to external protection from a kin-state. I will therefore use the term national minority as a generic concept applying to non-dominant groups within a state that strive for self-government. This includes stateless nations as well as those with links to external kin-states. One implication of this definition is that a national group would cease to be a minority not only when it forms a demographic

¹ Csergo and Goldgeier (2004) have recently suggested another typology of nationalisms in Europe that aims at "comparing national groups and governments that want to weaken state sovereignties with those that do not" (p. 23). They classify therefore national minority secessionism and kin-state irredentism as traditional forms of nationalism, while identifying as substate and transsovereign nations only those groups and states that forgo political ambitions to change international borders. One should, however, remain aware that both substate and transborder nationalist movements can adopt either "sovereignist" or "post-sovereignist" ideological orientations.

² Keating's definition of national minorities combines these two elements: "The latter are groups located territorially within a wider nationality but who do not identify with it, often because they identify with a group elsewhere, including one in another state. They have thus not constituted themselves as a distinct group claiming self-determination" (Keating 2001: 5). The conclusion in the last sentence appears to me questionable. National minorities that identify with a kin-state or a group elsewhere (e.g. the German language group in South Tyrol or the Swedish population of the Åland islands), may still claim self-determination or self-government and have in fact often done so. The distinction between stateless nations and external national minorities has no obvious implications for the group's desire, capacity or right of self-government.

majority in a state of its own, but also when it is no longer subordinate but fully recognized as a constituent people within a multinational state.

The desire for national self-government distinguishes minority nationalism from the broader phenomenon of multiculturalism. Multiculturalism is about religious, ethnic and cultural minority claims for protection against discrimination, for special exemptions, symbolic recognition, material support or special representation. National minority demands, however, aim at redrawing international or internal state borders so that the group in question can set up its own independent state, join a neighbouring kin-state, or achieve political autonomy within a distinct part of the present state territory. It is important to understand the genuinely political nature of such projects. If the goal of nationalist struggle were merely to protect a distinct language or culture, then a generous public recognition of such diversity, e.g. through official multilingualism in public institutions combined with regional education systems in the minority language, might suffice to demobilize a national identity. However, in nationalist mobilizations, cultural preservation serves more often as a means for marking the boundaries of a national territory and population, whereas political power exercised through autonomous institutions of government is the ultimate goal.

Political autonomy is often regarded as ‘internal self-determination’ and distinguished from ‘external self-determination. The latter is then regarded as a property of independent states or of peoples with a right to change international borders through decolonization, secession or unification with another state. I believe that this terminology, too, is misleading and inappropriate for a normative theory of multinational federalism. Self-determination in international law refers to the right of peoples to determine their own political status. If this right is interpreted as including a right to secede, it clashes with the equally strong right of existing states to territorial integrity. In order to reconcile the two conflicting principles, the notion of peoples has been narrowly restricted to, on the one hand, total populations of existing states and, on the other hand, colonial peoples whose challenges to international borders were accepted as legitimate in the post World War Two period (Cassese 1993).

From a normative perspective this current consensus in the international community is quite arbitrary, but it is hard to challenge as long as we define self-determination as a natural right of peoples. The only consistent alternative is a libertarian theory of self-determination, as worked out by Harry Beran (1984, 1998) and David Gauthier (1994). This perspective can do without a definition of peoples because it regards legitimate states as voluntary territorial associations of individuals and defends a unilateral right to secede for any regional majority. As Allen Buchanan (1997, 2003) has pointed out, this approach is not only incompatible with current principles of international law, but also with domestic concerns of social justice and democratic stability. I have argued elsewhere that in order to solve the conceptual conundrums of self-determination we need to reverse the normative order of rights in international law. Instead of regarding self-determination as the basic principle and self-government as a derivative aspect of “internal self-determination”, one should consider self-government

as the primary right and self-determination as a derivative and remedial right in exceptional cases where self-government rights have been persistently violated and cannot be restored by other means (Bauböck 2004a).

There is another reason why ‘internal self-determination’ is a misleading terminology for political autonomy rights. ‘Self-determination’ is a procedural notion that allocates to the community concerned the decision-making power concerning its status, whereas ‘self-government’ is a substantive notion whose emphasis is on political institutions that allow the community to collectively shape its own future. Saying that a national minority enjoys a right of internal self-determination suggests that it is entirely up to the group to choose its own political status within the polity. Yet, in contrast with external secession, which separates populations previously united within a state, political autonomy preserves the institutions of a central government, a common constitution and shared citizenship. Substate self-government requires institutionalized cooperation and ongoing consent regarding the status and the division of powers between the autonomous group and the central state government. Working out these political arrangements is therefore a matter for joint-decision making rather than for unilateral self-determination.

A remedial theory of self-determination may nevertheless justify internal self-determination in the procedural sense for colonized and indigenous peoples who have historically been excluded from equal citizenship within the polity. If such groups do not have either the capacity or the desire to establish independent states, they may exercise self-determination rights internally by opting for a special autonomy status that will often be regulated outside the general constitutional framework. The status of aboriginal first nations in North America or of territories like Puerto Rico can be described in this way. Such postcolonial constellations should be distinguished from multinational ones, where rival nation-building projects have been pursued within a common territory and have resulted in the inclusion of minorities as integral parts of a dominant conception of nationhood. In these latter constellations, minority claims for political autonomy involve a demand for transforming a mono-national conception of the larger polity into a multinational one in which the minority is recognized as a constitutive partner of a federal contract. For this very reason its self-government rights must not be seen as grounded in a right to internal self-determination that can be exercised by the minority unilaterally.

While internal self-determination may thus be too strong a claim for constituent national minorities, what international law has to offer is definitely too weak. The most advanced document in this area so far is the 1999 Lund Recommendations on the Effective Participation of National Minorities in Public Life initiated by the OSCE High Commissioner on National Minorities. These recommendations combine two prongs: “participation in governance of the State as a whole, and self-governance over certain local or internal affairs” (Foundation 1999: 6). The section on self-governance contains both non-territorial and territorial devolution and the indicative list of powers that can be devolved includes

education, culture, use of minority language, environment, local planning, natural resources, economic development, local policing functions, and housing, health, and other social services. This is a very useful, although of course non-binding, document. Yet its main concern is to promote self-government and power-sharing as potentially useful instruments for conflict prevention and resolution and not as minority rights properly speaking. It is therefore left to state governments whether or not they consider these instruments as appropriate for accommodating a minority in their territory. Some international lawyers suggest that effective participation implies also a prohibition of dismantling already established institutions of minority self-government.³ However, as Kymlicka points out in his contribution to this volume, this norm would only protect pre-existing forms of territorial self-government but not legitimate aspirations of minorities whose autonomy claims have never been recognized by a central government.

This leads me to conclude that within a normative theory of multinational democracy, political autonomy for national minorities should be stronger than the OSCE conception of self-governance and effective participation but weaker than a right to internal or external self-determination. In multinational states self-government should be regarded as a very basic and general right that can be exercised simultaneously by the total population of democratic states and by distinct national minorities nested within that population. Mutual acceptance of such nested self-government by historic national majorities and minorities is the first and most important normative ingredient of stable multinational arrangements.

2.2. Power-sharing

The second basic element of multinational democracy is a system of power-sharing that gives minorities a stake and voice in the government of the encompassing polity. Will Kymlicka and other political philosophers who start from liberal justifications of minority rights tend to emphasize self-government at the expense of power-sharing, whereas theorists who are mainly concerned with democratic stability in deeply divided societies reverse this emphasis. According to Arend Lijphart, the basic feature of power-sharing (also called consociational) democracy in divided societies is representation and cooperation of all significant segments in central political decision making. Lijphart does list autonomy for constituent groups as another primary characteristic of power-sharing democracy. Such groups enjoy delegated authority for internal decision-making on matters that concern only the group. But the essential integrative mechanism is joint decision-making in all matters of common concern (Lijphart 1978; 1995: 856). This emphasis is underlined by the two secondary characteristics of consociational democracy: proportional representation of constituent groups in central state institutions and minority veto in joint decisions.

³ Art. 3 of the First Protocol of the European Convention on Human Rights defines a right to free elections “under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature”. This provision has been interpreted as protecting constitutionally recognized special jurisdictions from being abolished or being stripped of their powers (Suksi 1998: 360, Lewis-Anthony 1998: 341).

Power-sharing arrangements are in fact quite different in federal democracies and in consociational democracies divided by religious affiliations or political ideologies. Only in the former do constituent units enjoy constitutional autonomy and legislative powers. Federalism, in Daniel Elazar's definition, involves a combination of self-rule and shared rule that amounts to divided sovereignty (Elazar 1987: 5, 12). Both the autonomy of constituent units and their representation in federal government must therefore be entrenched in a written constitution guarded by a supreme court and the powers of delegated as well as joint decision-making are not merely executive, but also legislative ones. By contrast, consociational arrangements in the Dutch and Austrian cases meant that the religious pillars or political camps of a divided civil society were represented in government directly through political parties and indirectly through institutionalised consultation of corporate interest organizations (trade unions, employer and farmer associations). The most important power-sharing institution in consociational democracy is a grand coalition cabinet, whereas the most important such institution in a federal constitution is a second chamber of parliament.

In a federal system there are always two dimensions of power-sharing: a horizontal one that refers primarily to the representation of constituent units in federal government,⁴ and a vertical dimension along which political powers are allocated between federal and constituent governments. This vertical division of powers can result in strictly separate policy competencies or in 'cooperative federalism' in which provincial and federal administrations have joint responsibilities in making and implementing laws. Dual federalism in the US illustrates the extreme case of a non-cooperative vertical division of powers (Friedrich 1968). In multinational democracies where boundaries between federal units represent a major cleavage in society, introducing elements of German-style cooperative federalism may help to strengthen cohesion.

Not all multinational democracies, however, are constitutional federations. While granting substantial autonomy to distinct substate political communities that have emerged from rival projects of nation-building is a defining characteristic of such polities,⁵ not all among them involve these communities fully into a federal system of power-sharing. In the UK, the main obstacles are the doctrine of parliamentary sovereignty, the absence of a regional chamber and of a written constitution. In Spain the second chamber does not primarily represent the provinces or autonomous communities and the main integrative mechanism has been the central governments' reliance on regional nationalist parties for mustering parliamentary majorities (Requejo 2001: 120). Since this mode of political integration depends on election results, this is a very fragile and non-institutionalized arrangement that can be

⁴ The horizontal dimension may also include bilateral cooperation between particular units outside the federal framework. This dimension is of particular interest in multinational democracies with several autonomous minorities such as Spain. The Catalan and Basque autonomous communities have experimented with various forms of bilateral cooperation in order to strengthen their hand vis-à-vis the Madrid government.

⁵ I use the term polity to refer to the institutional structure of a political community. Countries such as France, Romania or Turkey include substantial national minorities but have not institutionalized their political autonomy. These countries can thus be described as multinational societies, but not as multinational polities.

characterized as a deficiency on the power-sharing dimension in Spain's multinational democracy. Belgium has gradually moved from a unitary consociational democracy to a fully federal constitution. Here, the diagnosis is the opposite one. Integration through power-sharing has been weakened by allocating so many powers to constituent units that there is little left for joint decision-making in central government. The most important factor of political disintegration in Belgium is, however, not a matter of constitutional design but the legacy of consociationalism: a nearly complete division of the party system along linguistic lines, which minimizes the articulation of cross-cutting cleavages in Belgian politics and creates strong incentives for politicians to support ever more devolution (Peeters 1994, Fitzmaurice 1999).

A robust form of power-sharing is an essential corollary of self-government in multinational democracies that recognize national minorities as constitutive parts of a composite polity. It is not equally required in special autonomy arrangements for groups that have been historically excluded from the polity and enjoy a measure of internal self-determination. In multinational federations, self-government and federal representation are complementary elements that can be simultaneously strengthened or weakened. In contrast, special autonomy arrangements are characterized by a trade-off between these two elements. Daniel Elazar has coined the term 'federacy' for the latter constellation in which "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).

The importance of power-sharing for cohesion in multinational federations has been emphasized by Brendan O'Leary. He suggests a general law 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" (ibid: 291).

O'Leary draws this conclusion from a comparative analysis of multinational federations. I suggest that normative considerations lead to a similar, although not identical, conjecture: stable and fair multinational arrangements can be achieved either through recognizing self-governing minorities as partners in a foundational contract that constitutes the polity as a multinational democracy, or through a special contract that establishes autonomy for a minority outside the general constitutional framework. In the former case, but not in the latter, even a demographically dominant *Staatsvolk* must agree to extensive power-sharing with national minorities in central government. Exclusive majority control over central government institutions undermines the minority's identification with the larger polity. Although comprehensive political autonomy is normatively sufficient to defeat a national minority's claim to external self-determination, it is not sufficient for the stability of a multinational

federation in which the minority claims constitutive status.

The institutional choice between federacy arrangements and multinational federation will be largely determined by demographic, geographic and historical circumstances. If national minorities are numerically small, concentrated in peripheral or off-shore territories, and have neither been accepted, nor seen themselves, as co-founders of the larger state, a highly asymmetric federacy arrangement may be stable because it is acceptable to both sides. This seems to be generally true for the Faeroe and Åland islands or for South Tyrol/Alto Adige. For the autonomous Flemish, Catalan, Basque, Galician, Scottish and Welsh regions, however, providing them with stakes in the central government through federal power-sharing arrangements may be the key to long-term stability of multinational democracy in Belgium, Spain and Britain.

2.3 Democratic citizenship

As I have pointed out above, self-government is not merely a right of national minorities but also a feature of every encompassing democratic polity. Citizenship at the level of the larger state should therefore not merely be regarded as a formal status of nationality that establishes a legal relation between individuals and states, but also as a bundle of individual rights and obligations and a democratic system of direct representation and accountability in which every citizen counts equally.

It is this element that distinguishes federal from confederal arrangements. Confederation is often defined as a federation with a weak central government. However, as the Belgium case demonstrates, this may be a derivative rather than a defining characteristic. From a democratic perspective the most important difference is between confederal institutions in which only the governments of constitutive units are represented and federal governments in which citizens are directly represented alongside the constitutive units. Democratic federation of the latter type was the revolutionary invention of the 1787 US Constitution, whereas the Articles of Confederation adopted in 1777, as well as earlier political theories such as Johannes Althusius' *Politica* of 1603 (Althusius 1995) had envisaged multilevel systems in which governments at an encompassing level were exclusively composed of representatives of lower level governments. A democratic federation can therefore be defined as a triple system of representation in which governments of constituent units represent their respective citizens, and federal government represents the citizens as well as the constituent units of the federal polity.

The importance of democratic citizenship for stable multinational democracies can be seen when considering its relation with self-government, with power-sharing and with external kin states.

2.3.1. Citizenship and minority self-government

Democratic representation in a federal polity amounts to vertical dual citizenship because individuals

are both members of a constituent polity and of the encompassing one. Not all federal constitutions recognize this by establishing a formal status of provincial citizenship. Yet if we define substantive citizenship as a status of full and equal membership in a self-governing polity, then every robust substate autonomy in a democratic state generates nested dual citizenship. This view raises, but leaves unanswered, a problem that has plagued most multinational federations: Which of the two citizenships takes priority? This question can be split into three quite different ones: (1) which membership is primary and which is derivative in the acquisition of citizenship status?, (2) which membership takes priority in conflicts between citizenship rights and duties attached to the different levels?, and (3) which citizenship expresses the stronger identity? My tentative answers are that (1) generally federal acquisition should dominate provincial one, (2) a federal constitution should regulate conflicts over rights and duties without giving general priority to one level, and (3) federal citizenship must be compatible with opposite rankings between nested identities among national majorities and minorities.

Nested citizenship implies the simple rule that all citizens of a constituent unit must also be citizens of the federation and all citizens of the federation must be citizens of one (and generally also of only one) constituent unit. This rule makes it logically impossible that all polities at various levels in a nested democracy could exercise self-determination rights in matters of citizenship, as sovereign states do when they claim a right to determine under their own laws who will be their citizens.⁶ One of the two levels must yield this prerogative. With regard to acquisition of formal citizenship through birth, residence or naturalization there seem to be only two contemporary exceptions to the rule that it is the encompassing level that takes priority. These are Switzerland and the European Union.⁷ In both cases, citizenship is acquired at a lower level – in Switzerland in the municipality under cantonal law, in the EU in a member state – and federal citizenship is derived from this decision. The difference between the two cases is that Switzerland has a federal law on nationality that lays down the basic rules within which the cantons can adopt their own policies whereas the EU has no competency to interfere with, or to harmonize, its member state's nationality laws.

The EU is a supranational polity that is neither adequately described as a confederation nor as a federal state. The derivation of Union citizenship from member state citizenship is, in my view, a specificity of supranational democracy that would be problematic for multinational federal states but is adequate for the EU. This does, however, not justify full sovereignty of member states with regard to citizenship policies. Even if it is derivative of member state nationality, Union citizenship is a bundle of uniform individual rights valid throughout the Union. Prudential as well as normative reasons suggest a need for harmonizing the rules of acquisition and loss. On the one hand, member states must be interested in preventing each other from turning persons into Union citizens that they would not have admitted to

⁶ This principle of international law is spelled out in Article 1 of The Hague Convention on Certain Questions Relating to the Conflict of Nationality Laws (1930).

⁷ This is, however, a relatively recent development. In the interwar German and Austrian republics federal citizenship was still formally derived from provincial citizenship.

their own citizenship. On the other hand, standards of equal treatment and non-discrimination should not only apply to the Union's present citizens but also to its future ones. Gross differences in access to EU citizenship for immigrants in different countries undermine the idea and significance of a common European citizenship. Since the Tampere European Council of October 1999 the Commission has made cautious moves towards putting naturalization policies on the European agenda (Bauböck 2004c).

Examining more closely citizenship policies in other federal democracies we find that, in contrast with North America, European federal provinces often enjoy delegated powers and administrative discretion in the implementation of federal nationality laws and use these in a way that produces substantially different naturalization rates in different parts of the country.⁸ Such powers could also be used by provincial governments controlled by national minorities for preferential naturalization of immigrants who share an ethnic identity or speak the language of a national minority. If one accepts normative arguments that long term immigrants have a moral right to full citizenship (Walzer 1983, Carens 1989, Bauböck 1994), then such selective naturalization would be more problematic than immigration policies that allow national minority governments to introduce their cultural preferences.⁹

With regard to the second question, which level takes priority in defining citizenship rights and obligations, I suggest a more open-ended answer. In all federal systems constituent units have final decision-making powers in some policy matters. This implies that constituent level citizenship has supremacy with regard to rights and obligations in fully devolved policy areas. Nevertheless, in any multilevel system there are potential conflicts between citizenship at different levels. What is needed in order to resolve these conflicts and to ensure coherence in the general system of rights and obligations is a federal bill of rights that must be respected by all levels of government and a supreme court that interprets these common rights as well as the vertical division of powers. The court's task is not to ensure the supremacy of federal legislation over provincial one, but to prevent the intrusion of each level of government into the domain of the other level.

Constraints on diversity in order to ensure the coherence of citizenship throughout the federal polity are least plausible with regard to its identity dimension. In multinational polities there is an unavoidable asymmetry of national identities. Historically dominant groups tend to associate their national identity with the larger polity and generally include the minority as a subgroup within that state-nation. The minority is not seen as a separate nation but as a culturally distinct part of the larger population, and a province where it forms a majority is regarded as a part of the state territory with no claim to special status and powers. The opposite view is to regard the minority as unassimilable and therefore excluded from the dominant nation. This attitude, which has historically prevailed towards

⁸ For Austria and Germany see Waldrauch and Cinar (2001), Hagedorn (2001).

⁹ In Canada, the Quebec provincial government promotes Francophone immigration by allocating additional points for French language skills but does not control naturalizations in the province.

indigenous peoples, enslaved populations, Jews or Roma is normatively indefensible. In contrast, a national majority identity that includes the minority as an integral part of its imagined political community is not only defensible but may also be essential for maintaining stable multinational democracies.

Politically mobilized national minorities, however, consider themselves a polity apart and often rank their minority identity above their association with the larger state. These asymmetric identity constellations raise a problem for David Miller's idea that stable multinational democracies are held together through a shared sense of nested nationality (Miller 2000, chapter 8). Miller expects minorities to accept that the larger polity is not merely a multinational state but a nation in its own right and that they fully share 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. This solution for identity conflicts is, however, obviously biased in favour of national majorities and cannot offer an equilibrium solution in contexts of rival nation-building projects. It seems more appropriate and realistic to expect that national identities will not merely remain asymmetric but in a certain sense irreconcilable even in stable, peaceful and prosperous multinational democracies. Instead of pushing national minorities to see themselves as parts of a nation whose historical dominance has turned them into minorities, federal citizenship should be regarded as a supplementary and thin identity that is shared across persistently rival national identities and can thus be disconnected from its historic association with a dominant project of nation-building.

2.3.2. Citizenship and power-sharing arrangements

The relation between a common citizenship and power-sharing in multinational democracies is equally complex and fraught with conflict. In such polities, citizenship at the federal level is necessarily differentiated rather than homogenous and this may generate tensions with the basic principle of equal respect and concern for all citizens. There is, for example, the question of official languages. If citizens have the right to communicate with public authorities in any of several official languages, this supports a corresponding requirement of individual multilingualism for civil servants in public administrations. Often this condition means greater job opportunities and representation for historically subordinate groups that had to learn the dominant language in addition to their mother tongue. Such side-effects may be justified as a compensation for other minority disadvantages.¹⁰

A more controversial question concerns equality of representation in a federal chamber. If each federal province has an equal number of seats (as in the US Senate), then this implies greater representation and weight in joint decisions for citizens in the less populous provinces. For some critics of American

¹⁰ In South Tyrol, a bilingualism requirement for civil servants has helped to overturn the historic dominance of native Italian speakers in the province's administration.

federalism this amounts to a violation of the ‘one person one vote’ principle (Stepan 2001; chapter 15; Dahl 2001: 17-18, 46-54). I believe that this critique is overstated and not consistent with the idea that democratic federation requires a balance between the three legs of triple representation sketched above. When Stepan describes disproportional representation of units in a federal chamber as a ‘demos-constraining’ feature of federal systems he considers only the federal people as a demos. If we regard instead a federation as consisting of multiple and nested demoi, then strictly proportional representation of all federal provinces could be similarly described as constraining the demoi of the smaller units by diminishing their weight as partners in the federal agreement. Avoiding unequal representation of citizens in a federal chamber can still count as an argument in favour of proportional representation of units according to population size.¹¹ Federal power-sharing in multinational polities may, however, require some overrepresentation of national minority units to counterbalance the greater size, and often also greater number, of provinces that represent historic majorities.

An more serious concern about equality of citizenship arises in the case of federacies that are not overrepresented, but underrepresented in federal government. The best known examples are the non-incorporated territories of the US, among them the Marianas islands and Puerto Rico, whose inhabitants are US citizens but cannot vote in presidential elections and have merely non-voting representatives in Congress. This contrasts with the situation of the French DOM/TOM (*départments et territoires d'outre mer*) whose citizens enjoy full voting rights in French parliamentary and presidential elections.

My general point here is that in multinational democracies the idea that the encompassing federal demos should prevail in determining the formula for federal representation ought to be rejected because it privileges a dominant majority’s conception of national identity. Instead, the proper allocation of seats must be worked out by balancing a vertical structure of nested demoi with a horizontal one of constitutive nationalities.

2.3.3. Citizenship relations with external kin states

National minorities with external kin states may also try to establish links of citizenship with these countries. In Europe, this concern has been particularly strong in Hungary that sees itself as a protector of about three million ethnic Hungarians living in neighbouring countries. In 2001 Hungary adopted the so-called Status Law that introduced a Hungarian certificate for members of these minorities that allows them to claim specific benefits in Hungary. At the point of writing a referendum initiative has been launched by the World Federation of Hungarians abroad that requests a Hungarian law to enable these ‘certified Hungarians’ in neighbouring countries to claim Hungarian citizenship in addition to a

¹¹ In Belgium and Austria, provincial representation in the federal chamber is proportional to population. The German formula balances both concerns. Each province gets between three and six seats depending on its population size, which means that voters in smaller provinces will still be overrepresented in decisions taken by the federal chamber.

Romanian, Slovakian or Serbian one.¹² Much less attention has been paid to a similar move by Germany, which distributed German passports to ethnic Germans in the Silesia region of Poland in the early 1990s (Münz and Ohliger 1998: 166-7).

Dual citizenship that links a minority to an external kin state ought to be assessed differently in different contexts. For migrants who have multiple social ties in source countries and host states it is entirely compatible with a democratic stakeholder principle and with legitimate interests of states that entertain friendly relations with each other (Bauböck 2003, Faist 2001, Hailbronner and Martin 2003). Dual citizenship may also be acceptable for historic ethnic minorities who define themselves as a diaspora oriented towards an external homeland and do not aim for self-government in the state where they live. Finally, access to the citizenship of an external kin state may in some cases be a useful instrument for protecting a national minority from oppression by offering its members an escape route of emigration.

However, transnational multiple citizenship of this kind should not be combined with nested dual citizenship in a federal arrangement that grants national minorities comprehensive self-government. An international law perspective is not sufficient for arguing this objection, since dual nationality itself does not provide the kin state government with a formal legal title to engage in remote control of the external minority's autonomous institutions. Yet in a broader sense citizenship is not merely a formal relation between individuals and states, but signifies membership in self-governing political communities. A minority's claim to autonomy is compatible with the self-government of a larger multinational polity in which it forms a constitutive community and participates in federal power-sharing. It is not compatible with being simultaneously involved in a nation's self-government across international borders. Dual citizenship for autonomous national minorities would indirectly acknowledge this latter claim and would undermine thereby the integrity of nested self-government in the multinational polity.¹³

These are grounds for rejecting dual nationality for autonomous minorities even in contexts where their host states have no reason to fear that kin states will use it as an instrument for revisionist and irredentist policies.¹⁴ Hungarians in Romania or Slovakia and other minorities in similar constellations would therefore have to choose between either regarding themselves as diaspora citizens affiliated to a larger ethnic nation or claiming territorial autonomy and a transformation of the country where they have lived for many generations into multinational democracies.

¹² Since Romania and Serbia are not members of the EU, this law would also create a large number of EU citizens residing permanently outside the EU territory.

¹³ In an interesting article Janos Kis (2001) has argued that political communities living on two sides of an international border should have a right to form joint institutions of self-government. For Kis supranational integration in Europe may provide an umbrella that permits realizing such schemes without raising irritations of the kind caused by the Hungarian Status Law. My objections would, however, also apply within a supranational federation.

¹⁴ The Austrian role as an external protector of the South Tyrolean autonomy agreement did not involve an offer of dual citizenship for the German speaking population. Promoting dual citizenship could have easily upset the autonomy solution by signaling that South Tyroleans still consider themselves as belonging to the Austrian polity.

3. A typology of federal arrangements

My discussion of the three basic ingredients of successful multinational federations has already shown that not all of them are equally developed in the arrangements that we find in western democracies. This suggests a more systematic attempt to explore the possible permutations and to ask then whether a typology that has been constructed deductively might also match the variety of arrangements discussed in comparative analyses. The advantage of such a typology should be that it provides a better starting point for the task outlined in the introduction: How to balance a normative critique of arrangements that fail to fully incorporate all three elements of multinational federation with contextual reasons that explain, and may also justify, deviations from an ideal type?

In the following table I generate different types by allocating positive and negative signs to each of the three elements and listing then all possible combinations. This is, of course, a very crude way of reducing complexity. A negative sign should not be interpreted as the complete absence, but as a weakness or deficiency of the element concerned. Since the discussion above has already shown that all three dimensions are highly interdependent, assigning a negative value to one will in many cases also impact on another dimension that retains a positive sign.

Table one: A typology of federal arrangements

	political autonomy	power-sharing arrangements	encompassing democratic citizenship
(1) democratic federation	+	+	+
(2) confederation	+	+	-
(3a) integral state (all territories)	+	-	+
(3b) federacy (special territories)	+	-	+
(4a) union state (territorial)	-	+	+
(4b) consociational democracy (non-territorial)	-	+	+
(5) associated statehood	+	-	-
(6) autocratic federation	-	+	-
(7) unitary democracy	-	-	+
(8) unitary autocracy	-	-	-

3.1. Democratic federation and confederation

I have already suggested above that the basic difference between democratic federation and

confederation is on the dimension of citizenship. Both types are defined by the autonomy of their constituent parts and both need power-sharing institutions that make decisions for the encompassing polity. It is more than likely that autonomy will be somewhat weaker in federal states and that the modes of power-sharing are more intergovernmental in confederations. These are, however, differences of degrees rather than substance and they can be seen as side-effects of the fundamental difference on the citizenship dimension.

In a recent discussion of citizenship and identity, Charles Westin has suggested a useful distinction between primary organizations in which the human individual is the basic membership unit and secondary organizations which are organizations of organizations (Westin 2003). Westin describes states as the largest and most powerful primary organizations and cites the UN as an example for a secondary political organization. Confederations are clearly secondary organizations in this sense. Yet federal democratic states should then be characterized as dual organizations that combine the primary with the secondary type.

One might think that there is another and more fundamental difference between the two types that explains the variation in their citizenship arrangements. Federal states are also independent states and as such members of the international state system, whereas their constituent units are not. Confederations, however, may be formed between independent states that retain their status as sovereign members of the international community. This definition would, however, not match a number of historical cases. The USA before 1787 and Switzerland before 1848 can be characterized as confederations that were also independent states and the European Union today may in certain respects be described as a supranational federation with a common citizenship whose member states retain their international sovereignty.

For the concerns of our conference, the more interesting question is whether confederation might be a preferable alternative to democratic multinational federation. Minority nationalist movements in Quebec, Scotland and the Basque country have at various times advocated secession that would not result in full separation but in some form of confederation, which would preserve a number of common institutions, for example, a common currency. From the vantage point of the remedial secession theory that I have endorsed in section 2.1, this should not be regarded as a matter the minority can decide unilaterally unless its claims to autonomy have been persistently and seriously violated. Starting from a situation of already accomplished separation confederation may be pareto-optimal (i.e. improving the situation for some parts without worsening it for any). This seems to me an attractive perspective for the states of former Czechoslovakia or Yugoslavia and for future relations between Israel and a Palestinian state. However, starting from a situation of democratic federation, a move towards confederation will realize aspirations of minority nationalists at the expense of the

majority's sense of national identity and project of national unity. It should therefore be regarded as an alternative of last resort in situations where unity in a multinational federation has either become intolerably oppressive for the minority or impossible to maintain in an escalation of hostilities.

3.2. Integral state and federacy

The third type is characterized by an absence or fundamental weakness of the power-sharing dimension, whereas political autonomy is robust and all individual members are also integrated in the larger polity as equal citizens. I have subdivided this type into two cases that are conceptually quite different. Political autonomy of this kind can be either a general feature of the constitution or a special arrangement for a peripheral part of the state. The latter is the 'federacy' constellation already described above in section 2.2 in which the autonomous polity is not collectively represented in joint decision-making in central government institutions. In the Puerto Rico case, this lack of a power-sharing dimension even weakens the common citizenship through diminished voting rights.

From a normative perspective federacy arrangements may be the most adequate ones for postcolonial constellations in which the autonomous units enjoy a right of internal self-determination. The United States cannot and need not be constitutionally reinvented as a multinational federation in order to accommodate Puerto Rico and the indigenous first nations. The more tricky normative conundrum associated with federacy is what in the context of Britain has been called the West-Lothian question.¹⁵ If a part of a state enjoys stronger autonomy than the rest, should its representatives then not waive their rights to participate in joint decisions from which their constituency will be exempted. According to Kymlicka, "[a]n asymmetry in powers entails an asymmetry in representation" (Kymlicka 2001: 108). This is a valid question, but one should not overstate its implications. Representatives of special autonomies in a central parliament may be deprived of votes on devolved policy matters, but they need not and should not be deprived of representation altogether.

The other subtype is most closely represented by a tradition of constitutional thought in Spain and – to a lesser extent – also by the current Spanish constitution. The term "integral state" has therefore been derived from the Spanish *Estado Integral* (Keating 1999b: 413). This arrangement is characterized by subdividing the whole state territory and population into autonomous communities with their own systems of regional self-government, but counterbalances this autonomy with a strong central government that is supposed to pursue the interests of the larger polity in a manner untainted by the particularistic interests of the constituent units. Analysing the origins and dynamics of multinational democracy leads to some skepticism towards this idea. Where the state history, territory and language have been shaped by the nation-building project of a dominant group, national minorities cannot be

¹⁵ The issue was raised in the late 1970s by Tam Dalyell, a MP from West Lothian and opponent of devolution (Keating 2001c: 130). The question was: "Should MPs from Scotland in Westminster be permitted to vote on legislation that will not apply to Scotland?" (Simeon and Conway 2001: 359).

expected to trust a central government's impartiality between the concerns of the country's different nationalities unless they are represented in that government. Nationalist minority politicians that promote secession may, however, see an integral state arrangement as good for their own goals. Regional autonomy provides them with their own power base, and the absence of power-sharing minimizes the integration of minority elites into the larger polity and allows them to blame a central government for all problems in their constituency.

3.3. Union state and consociational democracy

The fourth type is in a sense the opposite of the third one. It combines power-sharing in a central government with a common citizenship but lacks a strong form of political autonomy for substate communities. I have once again subdivided this type into two. Here the distinction is between territorial and non-territorial arrangements. The former applies most plausibly to Britain before devolution in 1998. The term union state has been coined by Rokkan and Urwin (1983). Michael Keating describes it as a state that "has one center of authority, but recognizes historic rights and infrastructures in various places" (Keating 2001b: 47; see also Keating 1999a; 2001a: 36-7,). These definitions place more emphasis on historic rights than on the trade-off between autonomy and representation. Daniel Elazar's definition of 'unions' fits better the type I am trying to identify. Unions are "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).

One may question whether the power-sharing dimension was sufficiently developed in Britain, since the mere presence of Welsh and Scottish secretaries of state in the cabinet may be seen as less important than the historic rights of Scotland to its own church, education and legal system. In this sense, the union state may be, even more so than the integral state, an ideal type without closely matching empirical cases. Pre-devolution Britain could then be better described as a unitary democracy composed of territories with distinct historical rights.

The lack of empirical correlate for the category I have constructed indicates that it may be difficult to create a stable arrangement of this kind on the basis of territorial subdivisions. Genuine power-sharing requires more than appointing high-level executives that will be in charge of administering a territory. Once such territorial representation is organized "from below" rather than from the center, demands for regional autonomy will become irresistible (as they have eventually become in the UK).

The other subtype is, however, a very frequent one. I use 'consociational democracy' here in a somewhat narrower sense than Lijphart who includes territorial multinational federation as one instance in a broader theory of power-sharing democracy. For reasons spelled out above, I prefer to distinguish these two concepts and I suggest that the *differentia specifica* is to be found on the

autonomy dimension. In those political arrangements that have provided the original empirical cases for consociational theory (Belgium before the St. Michael's Accord of 1992, the Netherlands, Austria and Switzerland) the autonomy of segments was by and large a non-territorial one that manifested itself in a civil society segmented into different religious or ideological camps or linguistic groups without a clearly demarcated territory as their political base. In all these countries, consociationalism has turned out to be a transitory stage. In the Netherlands, Austria and most recently in Switzerland, depillarization in civil society has eroded power-sharing arrangements in central government. In Switzerland, and to a lesser degree in Austria, consociational features have been combined with territorial federalism that was, however, not tailored to accommodate autonomy claims by distinct nationalities. In Belgium, languages, territories and movements for political autonomy largely coincide, and this has caused a full transformation from consociationalism towards multinational federation.

The Austromarxist theory of national cultural autonomy (NCA) may be regarded as a specific variant of consociationalism and inspiration for Lijphart's theory (Nimni 1999; 2004). There is, however, a crucial difference between these two approaches. Karl Renner's and Otto Bauer's most important goal was to separate nation from state. National communities ought to enjoy maximum autonomy to organize themselves as cultural communities on a non-territorial basis, whereas the state would remain structured along territorial lines and would stand above the concerns of nationalities in a manner similar to the integral state model. The weakest element in the cultural autonomy model is the power-sharing dimension that involves autonomous nationalities in the government of the central state, whereas this is the strongest dimension in the consociational approach (Bauböck 2004b). The original theory of NCA could therefore have been included as a nonterritorial variation of the integral state type. I have not done this, partly because I think that the model is in some respects incoherent, but also because it has never been applied to all nationalities within a multinational democracy. NCA for small ethnic minorities in some countries of Central and Eastern Europe is a far cry from the Austromarxist constitutional blueprint for the late Habsburg monarchy. Elements of NCA can arguably be found in the South Tyrolean agreement and in the status of Brussels within the Belgian federation, but these are supplementary non-territorial elements in what are basically territorial arrangements.

3.4. Associated states, autocratic federations, and unitary states

Since my main interest in this paper is in discussing variations of multinational democracy I will not analyse at length the remaining four types that emerge from combinations in which only one or none of the three basic ingredients are present.

Elazar describes associated statehood as similar to federacies with respect to the strong asymmetry of federal representation and power-sharing, but different in that they can be dissolved unilaterally by either of the parties (Elazar 1987: 7). However, Puerto Rico arguably could also decide in yet another

referendum to form an independent state. In my view, the difference is better described as one on the citizenship dimension. Associated states, such as Liechtenstein or Monaco have their own citizenship, passports, and emblems of independent statehood and their citizens are not simultaneously represented in the neighbouring state with whom they are associated. Associated statehood is in these regards similar to confederation and might serve as an alternative model for post-secession scenarios, except that nationalist governments of newly established independent states are not likely to agree to an asymmetrical relation with the state from which they have just separated.

European examples of autocratic federations were the former Soviet Union, Czechoslovakia and Yugoslavia. These have been characterized as pseudo federations since a system of autocratic rule by a centralized political party is inherently incapable of guaranteeing strong autonomy for the constituent parts of a federation (Elazar 1987: 192). Nevertheless, since these states have broken apart exactly along their internal federal borders, the federal aspects of these political systems had not been a complete fake. In all three cases, the ruling elite had consciously recruited members from constituent nationalities who were meant to represent these in the central power apparatus and who exercised regional power on behalf of these nationalities. In a certain sense, this form of autocratic federalism can therefore be described as a system of power-sharing between different nationalities that was quite different from the promotion of common nationhood in the unitary socialist states. The other dimension that I have marked with a negative sign is democratic citizenship. Although there was of course a common and internationally recognized legal status of citizenship in these three federations, this did not serve to represent autonomous and equal individuals in the institutions of central government. The presence of this last element, but the absence of the other two elements of multinational federation characterizes unitary democracy. Autocratic unitary states that lack a democratic citizenship are then the extreme opposite of multinational democracy where each of its three basic ingredients is absent.

4. Towards a European minority rights regime?

The main benefits of European integration for national minorities have so far been of the spillover type. The EU has provided an external environment that has facilitated recognition and accommodation of minority claims in member states even without admitting these claims explicitly onto the European political agenda. The pooling of state sovereignty has undermined claims of dominant national traditions to exclusive cultural hegemony, and free movement within the Union has allowed minorities to connect more easily with ethnic kin populations across borders (Keating 2001, chapter 5). Some minorities, such as the Catalans and Basques, are clearly not satisfied with this and strive for direct representation within Union institutions. So far, neither the principle of subsidiarity nor the rather weak Committee of the Regions have done much to extend multilevel democracy in the Union to substate levels (*ibid.*). The great variety of federal or unitary constitutions and the different kinds of minority claims would also make very problematic any general formula for regional

representation in the government of the Union.

What is, however, both possible and important is that the Union takes a principled stance on the accommodation of national minority claims not only outside its borders but also inside. In contrast with the weak powers of international institutions such as the UN, the Council of Europe, or the OSCE, a EU minority rights regime would be less dependent on state consensus and therefore less vulnerable to government refusal of recognizing minority rights, or sometimes even the very existence of minorities. European law has supremacy over national law and direct effect within the member states, and the European Court of Justice has played a pivotal role in reinterpreting provisions for market integration as rights of European citizens. The potential benefits of a supranational minority rights regime are thus considerable, not only for minorities within the member states, but also for developing new standards in international law. While there is little reason to expect that such a regime will become part of European law in the short term, the kind of normative arguments I have suggested above could be used to demonstrate the desirability and feasibility of such a regime. In the European context one may also be reasonably optimistic that such normative considerations may in the longer run converge with prudential interests to resolve nationality conflicts that threaten to undermine the political stability of certain member states and often also affect relations with neighbouring countries.

Comparing the different responses to national minority claims for self-government leads me to conclude that in polities shaped by rival projects of nation-building multinational federal democracy is normatively preferable to alternative arrangements. This arrangement is characterized by a balance between the three pillars of minority political autonomy, power-sharing in central government institutions and a democratic citizenship that provides all members of the polity with equal rights and a basis for a shared political identity. Since multinational democracies of this kind entrench national identities through drawing borders of constituent units, through devolution of political powers to these units' governments, and through federal representation of these units in central government, there is no prospect that such polities will eventually overcome their national cleavages and turn into mononational democracies. Those who would like to disconnect citizenship from national identities are likely to criticize multinational federal arrangements for this reason. However, mononational democracies do not provide necessarily a better environment for achieving this goal, since their institutions are just as much involved in fostering national identities for their citizens as are minority polities within a multinational federation.

The specific danger in multinational democracies is not so much excessive nationalism, but their greater potential for 'state failure' through territorial disintegration. Will Kymlicka has called this 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). The paradox is real, but putting greater emphasis on power-sharing and common citizenship might explain the surprising stability of democratic multinational federations in Canada,

India and Western Europe.

There are, however, particular circumstances that explain why the three pillars are not equally strong in all institutional arrangements for accommodating minority self-government. Consociational arrangements are characterized by the absence of legislative autonomy for the segments of a power-sharing democracy; federacy is marked by a lack of representation of autonomous units in power-sharing institutions of countrywide government; and weakening the common citizenship transforms a multinational federation into a confederation. Contextual arguments can justify such solutions that deviate from the democratic federation model. Consociational democracy is an important, although generally transitory, solution for reuniting a polity deeply divided along non-territorial cleavages. Federacy is generally an adequate solution for postcolonial constellations in which a national or indigenous minority is not regarded, nor regards itself, as constitutive within a larger polity from which it has been historically excluded. And confederation may be a lesser evil in situations where territorial separation can no longer be avoided or has already been implemented.

How could these very general findings become politically relevant for the European Union? Addressing conflicts over minority self-government in its member states may eventually become unavoidable for the institutions of the Union. The need for shared principles in this area is even greater after 1 May 2004. First, all potential candidate states for the next rounds of EU enlargement, i.e. Romania, Bulgaria, Croatia and Turkey, have substantial national minorities and the Copenhagen criterion of minority protection is likely to play an important role during negotiations. Second, the new member states that have joined in 2004 will no longer accept double standards that Western states have imposed on candidates for accession without enforcing them among the EU-15 or incorporating them in the draft Constitutional Treaty. Third, the kind of minority rights that have been promoted by the EU, the Council of Europe and the OSCE are very important but also insufficient since they do not address claims for comprehensive political autonomy by territorially concentrated stateless nations and national minorities that have not been recognized by central governments. Fourth, apart from the Cyprus conflict there are at the time of writing several other unresolved ones in old and new member states, including the failure to implement the Good Friday Agreement in Northern Ireland, the recent initiative for a referendum on sovereignty in the Basque provinces of Spain, the unresolved status of Corsica, and autonomy demands among Hungarian minorities in Slovakia and Romania. Moreover, nobody can be sure that apparently stable settlements in some other conflicts will not again be upset by nationalist mobilizations among regional minorities or dominant majorities. Fifth, in Central and Eastern Europe many minorities have external kin states that will act to protect their minorities abroad if the international community fails to do so. Such external minority protection by kin-states is, however, a major source of international conflict in the area. A European minority rights regime would not only provide minorities with alternative sources of external support but would also protect more effectively minorities without kin state such as the Roma.

I am not optimistic that the example of successful federal arrangements in West European multinational democracies might suffice to generate a broader endorsement for a basic right of minority self-government, which can and must be modified in specific circumstances. But I do think that there are good normative reasons for endorsing such a principle and that reasonable fears that this would endanger the security of multinational states that are not yet fully consolidated democracies can be allayed by combining this principle with an equally strong endorsement for power-sharing arrangements and for building a shared democratic citizenship.

A final argument for endorsing principles of multinational democracy within the member states is that the Union itself can be interpreted as an arrangement of this kind. I have suggested above that by introducing a common citizenship the Union has taken a step beyond confederation. At the same time, the rule that this citizenship is derived from member state nationality and complements the latter without replacing it indicates a strongly multinational conception of the European polity. Another illustration of this feature is the EU's language regime. Turning all official languages of member states into official languages of the Union requires a costly regime of translation and interpreter services. If the EU were an international organization there would be little difficulty in adopting a small number of official and working languages (as the Council of Europe or the OSCE do). And if it were a federal state, it would have to develop a language regime that might resemble the Indian one with one or two federal languages combined with the establishment of different official languages in the member states and some protection for regional minority languages (Laitin 2001). The fact that even adding nine new languages through the recent EU enlargement has not triggered moves towards a consolidated federal language regime demonstrates that the Union is a supranational and multinational federation, but neither an international organization nor a federal state.

Paradoxically, however, the multinational features of the Union may be the greatest obstacle for developing common European principles of multinational democracy. As long as the Union is only committed to respecting the national identities of its Member States,¹⁶ but not those of national minorities, there is little hope that it will insist on applying multinational principles that underpin European integration also to the states of which it is composed.

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¹⁶ The principle that "[t]he Union shall respect the national identities of its Member States" was first inserted into the Treaty on European Union by the Amsterdam Treaty of 1997.

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