

# **Thinking twice about the national constituency**

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Part II : Towards a more efficient and legitimate working of Belgium's federal democracy ?

Before we start to brainstorm about improving or rethinking the federal institutions, there is a preliminary question which has to be answered : is it worthwhile to maintain the Belgian federal system ? What is the added value of maintaining the Belgian entity as a separate sovereign state ? The various contributors to the Re-Bel e-book take different positions with regard to this preliminary and more fundamental issue. Kris Deschouwer and Philippe Van Parijs adopt a neutral and fairly detached stance (as does the Pavia-group) : as long as the Belgian federation is maintained, and assuming that this will be the case in the foreseeable future, we need to make the system as democratic and efficient as possible. The other contributors to the e-book show less inhibition in declaring their love for Belgium : Donald Horowitz and particularly Brendan O’Leary consider Belgium as a model for the world – especially O’Leary sketches a very lyric and even idyllic picture of Belgium : we learn from his contribution that Belgium seceded from the Netherlands without any violence and that the post-war royal question was decided upon in a peaceful way, by means of a democratic referendum. There may exist legitimate arguments in favour of maintaining a federal Belgium, but the argument that foreign scientists and observers consider Belgium as a model-state and would be disappointed if it disappeared from the map is certainly not one of them.

In my view, the issue at hand should be reframed as follows : taking into account that the two language communities in Belgium have become two distinct societies with separate communication flows, separate media, separate ‘most famous Belgians’, a separate political opinion, separate party systems, and even, in a sense, separate federal government-coalitions etc... how should we reorganise our institutions in such a way that they adequately reflect this confederal reality ? The most straightforward way to do so is by transforming Belgium into a full-fledged confederation composed of two sovereign states, corresponding to the two language communities. Each of these states would have its own directly elected parliament and its own government. The two governments together would constitute a confederal executive, with limited competences, controlled by the joint state parliaments which would form a confederal parliamentary assembly. In short, I believe that the institutions should be adapted to the reality, and not the other way round, as Deschouwer and Van Parijs propose.

For the bilingual territory of Brussels (consisting of the capital city and eighteen adjacent communalities), a form of Flemish-Francophone co-governance is the most straightforward solution. During the past decades, it has become increasingly obvious that the Brussels 'region' lacks the political and economic instruments to cope with its vast societal problems. Somewhat surprisingly, this is now also recognised by one of the 'founding fathers' of the Brussels region, Vic Anciaux, who considers the creation of a separate Brussels region as a mistake and favours the confederal co-governance formula (*Knack* 13/1/2010). Such a system of co-governance would certainly not imply that Brussels is governed by "external powers", since Brussels forms an integral part of both the Flemish and the Francophone Community (with a guaranteed representation on the legislative as well as the executive level). Even so, it goes without saying that the inhabitants and politicians of Brussels will be extremely reluctant - put mildly - to accept such a solution, as they have, quite understandably, become addicted to the excessive and untenable degree of autonomy given to them in 1989 and 2001. That is why the Flemish politicians will most probably be obliged to use the financial needs of the Brussels 'region' as a political lever to become more involved in Brussels policy making and to get more grip on the regional policies which transcend the region and have a direct impact on the rest of Flanders.

This being said, in what follows I will attempt to put myself in the position of a more Belgian-minded academic and look at the Deschouwer/Van Parijs-proposal through Belgian glasses. To what extent would the reform which they propose strengthen the Belgian federation and make it more efficient and democratic ?

To start with, there is the more theoretical counterargument that the use of the quota is a consociational device which is at odds with the integrative logic of the proposal, as I argued in the e-book. However, I take stock with the argument of the authors that institutional purity should not be the aim (and I fully acknowledge that the confederal proposal outlined above would also stand little chance in an institutional beauty contest). But even so, the quota matter raises some interesting theoretical as well as political issues, related to the nature of representation. There is need for a quota rule because the Francophones apparently do not want to be represented by moderate Flemings who have pledged to take the interests of the Francophones into account. Or at least they do not want that this trans-ethnic representation is at the expense of a 'genuine' representation by members of their own ethnic group. An important political consequence is that the Francophone votes for moderate Flemish candidates comes at the expense of other Flemish parties, presumably the more radical ones.

In their e-book reply Deschouwer and Van Parijs suggest that the election of the fifteen nationwide MP's will probably function as a quasi Prime Minister-election, comparable to the present region-wide elections of 25 senators in Flanders and 15 senators in Francophone Belgium. This would be all the more so because the introduction of a national constituency for the Chamber election should normally involve the abolishment of the direct election of 40 senators. For one thing, such a quasi

PM-election is very tricky in a parliamentary system, as there is no guarantee whatsoever that the ‘winner’ of this election (i.e. the candidate with most preference votes) will actually become PM. This depends on the outcome of the coalition bargaining game, which is particularly unpredictable in a complex and divided country as Belgium.

The quasi PM-election dynamic will act as an extra incentive for the parties to form interethnic, bilingual lists, in addition to other such incentives in the proposal. But this also implies that the parties will face a tough decision as to who will head the bilingual list and act as figurehead and PM-candidate in the campaign. Putting together such a bilingual list will be an extremely difficult balancing act for the parties, all the more so because I suspect that Deschouwer and Van Parijs will also want to retain the present regulations concerning gender quota : too bad for Didier Reynders if Alexander De Croo or (who knows) Guy Verhofstadt would head the bilingual list of the liberals. Thus, while on the one hand the electoral system and the dynamic towards a quasi PM-election would almost force the parties to form bilingual lists, it would at the same time introduce a divisive element in these newly formed interethnic alliances. We also have to bear in mind, incidentally, that it were precisely such conflicts concerning the formation of bilingual lists in the constituency of BHV which have exacerbated the tensions between the language groups of the still unitary parties in the sixties.

In my contribution to the e-book I suggest that the direct election of the head of state in a national constituency might be a more straightforward and also easier way to create an electoral incentive for moderation. It would be easier because such a device would not interfere with the mainly consociational architecture of the Belgian institutions (such as the formal distinction between the Dutch and Francophone language groups in Chamber) or with the parliamentary logic of the system. This would be on condition that the elected president has largely ceremonial powers and acts as a ‘figurehead’ (to use the term coined by Duverger in his seminal article about semi-presidential systems) such as the - directly elected - president in Austria and Ireland. As a compensation for this lack of political power, the head of state should be surrounded by all the regal pomp and circumstance needed to give symbolical lustre to the office. While this direct election would be quite harmless and irrelevant from a purely political and systemic point of view, it could still act as a powerful incentive for moderation, as the office of head of state would be a coveted prize for politicians.

As Deschouwer and Van Parijs correctly argue in the e-book lead article, the most crucial issue which is at the very heart of the community conflict in Belgium is the linguistic issue. That is why it is so important to assess the possible consequences of a national constituency on the language conflict in the broad sense. In a way, Flemish-minded and Belgian-minded citizens are on common ground in attempting to contain the language conflict. This is certainly in the interest of the ‘flamingants’, for whom the priority number one is still to preserve the unilingual Dutch public space in Flanders. But it is also in the interest of the pro-Belgian camp, since the language conflict has always been the most divisive and disruptive issue in Belgium. We can expect that the national constituency will exacerbate

the language conflict in the whole of Flanders, in much the same way as the existence of the bilingual constituency BHV has intensified the conflict around Brussels.

It is a myth that Flanders is a homogeneously Dutch-speaking region. The number of Francophone Flemings was recently estimated at about 367.000 In *La Libre Belgique* (7/10/2009). Most Flemings are quite relaxed about this, because their French-speaking co-citizens (apart from some trouble zones close to the language border and around Brussels) generally respect the fact that Dutch is the only official language in Flanders. But this would change if the presence of a Francophone minority in Flanders would get politicised, i.e. would become the object of a political conflict. This could happen if the Francophone politicians would actively start to seek the votes from these citizens, urging them to claim political rights as a minority. And that is precisely what introducing a national constituency would do : it would create an incentive structure for the Francophone parties and politicians to seek the votes of the Francophone citizens in Flanders, to wage campaigns in French and to demand political rights for the Francophones in Flanders. Some might consider this a good and legitimate political cause. But there can be little doubt that it would not accommodate the community conflict, quite to the contrary. Also, an election in a national constituency would function as a quasi language census : the total number of votes for Francophone lists or candidates per canton would be perceived as indicator of the number of French-speaking citizens, just as this is presently the case in BHV.

In their e-book reply Van Parijs and Deschouwer briefly deal with this issue. They argue that the national constituency cannot be compared to BHV because of the quota rule, which fixes the allocation of seats between the two language groups. This would imply that freezing the F/N-distribution of the 22 seats in BHV would 'solve' the problem. I very much doubt, however, that obtaining a few extra seats for their language group in the Chamber is the main incentive for the Francophone politicians to actively seek and recruit votes in the periphery of Brussels. This appears to be mainly related to the dynamics of intra-Francophone competition, between parties and candidates. A national constituency would export this competitive dynamic to the rest of Flanders.

Summarising, even from a more pro-Belgian perspective there are some reasons to be cautious with a national constituency and to think (at least) twice about such a drastic electoral reform.