



ELECTORAL ENGINEERING FOR A STALLED FEDERATION

A country-wide electoral district
for Belgium's federal Parliament

Lead piece by
Kris Deschouwer & Philippe Van Parijs

Comments by
Laurent de Briey
Donald Horowitz
Bart Maddens
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The Re-Bel initiative aims to rethink in depth, in an open, rigorous, non-partisan way, what the institutions of the Belgian federal state - or of whatever else this part of the world needs to become - can and must look like in the longer term, taking full account of the evolving European context.

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Foreword

Is Belgium's federal democracy stalled? Both inside and outside the country, many people thought so as it struggled to form a government in the aftermath of the federal election of June 2007. Many people still believe so today. Can a reform of Belgium's electoral system fix the problem, or at least alleviate it significantly? A group of academics from all Belgian universities known as the Pavia Group believes it can. On the 14th of February 2007, it made public a detailed proposal for the introduction of a federal electoral district in which part of the seats of the federal Parliament would be allocated. It enjoyed generous press coverage on both the Flemish and the Francophone side but met with widespread scepticism.

However, the long stalemate that followed the June 2007 election provided spectacular evidence for the existence of the problem the Pavia Group had emphasized and boosted the interest in the solution it proposed. Thus, the interim Prime Minister Guy Verhofstadt (Open VLD) included a version of the Pavia proposal in his report to the King of 7 January 2008, and the current Prime Minister Herman Van Rompuy (CD&V) expressed his support for the introduction of a federal electoral district in an interview published on 26 January 2008 with the daily *De Morgen*.

The local repercussions of the financial crisis, combined with the anticipation of the regional elections, pushed the public debate on state reform onto the backburner. Sooner or later, this debate will move centre stage again. It is to be hoped that it will be guided by intelligent long-term thinking that takes due account of all types of arguments and reaps the benefit of relevant experience and discussions abroad.

The ambition of the present e-book is to contribute to such long-term thinking. It opens with a didactic presentation, with a foreign audience in mind, of the Pavia Group's proposal for a federal electoral district, the context in which it is being made and the considerations that motivate it. This lead piece is followed by four critical comments: by two of the most articulate Belgian critics of the proposal, Laurent de Briey (University of Namur) and Bart Maddens (University of Leuven), and by two of the most distinguished contributors to the international discussion on electoral systems for divided societies, Donald Horowitz (Duke University) and Brendan O'Leary (University of Pennsylvania). In the reply that closes the volume, we defend our proposal by restating its objectives and by comparing its merits and drawbacks to those of the interesting alternatives put forward by our critics.

Kris Deschouwer and Philippe Van Parijs
Co-ordinators of the *Pavia Group*
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Lead Piece

Kris Deschouwer & Philippe Van Parijs

A country-wide electoral district for Belgium's federal Parliament^{*}

Kris Deschouwer (VUB) & Philippe Van Parijs (UCLouvain)

On June 10 2007 a new Belgian federal parliament was elected. The next day the usual procedures for the formation of a new federal government were started. But it would be 176 days later before a new federal government was formed, just before the New Year of 2008, after several failures even to find an agenda or a procedure for fruitful negotiations. It was however only a caretaker cabinet, led by the head of the outgoing government, Guy Verhofstadt, leader of the Flemish liberal party *Open VLD*. In March 2008 Yves Leterme, the leader of the Flemish Christian-democratic party CD&V, the largest party in Parliament after the June 2007 election, became the Prime Minister of a new, but again short-lived federal coalition government. In July 2008, as a result of no progress being made on some key demands made by his party, Leterme offered the resignation of his government to the king. The offer was turned down, but the manoeuvre was used to transfer the negotiation of these demands to an *ad hoc* "dialogue between communities", i.e. Belgium's Dutch-speakers and French-speakers. The Leterme government plodded on a few more months but could not survive the clumsy handling of some local manifestations of the global financial crisis. In December 2008, Yves Leterme was forced to resign, and his party comrade Herman Van Rompuy had to take over.

This story shows that the formation of a new government and its continued functioning turned out to be an exceptionally laborious enterprise. It faced the usual challenge of bridging the different views and ideologies of the parties that have to govern together in a coalition. But the gridlock resulted from a clash between the conflicting demands of two sets of parties, each corresponding to one of Belgium's two main language groups. The Dutch-speaking political parties had promised their electorate that a government could only be formed on the condition that further devolution would be secured. On the other hand, the French-speaking political parties had promised their own electorate that they would not accept these new demands. Both tried as long as possible to stick to these electoral pledges, resulting in neither of them giving in.

This kind of governmental crisis is not a new phenomenon in Belgium. To the contrary: long and painful negotiations between the two language groups have become a normal feature of the system. The gradual transformation of the unitary Belgium into a federal state was a long and sometimes painful process. For example, between 1977 and 1981 there were no less than seven cabinets, all falling apart because they were not able to find an acceptable compromise about the institutional hardware of a new Belgium. When in 1993 the first article of the Constitution was changed to define Belgium as a federal state, political stability seemed to have been restored. Between 1991 and 2007 all four federal governments went to the very end of their term, without being torn apart by the tensions between Francophones and Flemings. Yet the spectacular return of political gridlock in the aftermath of the June 2007 election suggests that there is still something wrong with Belgium's institutional capacity to deal with its linguistic and territorial divisions.

^{*} A somewhat more developed version of this lead piece will be published in printed form in *Power-Sharing in Deeply Divided Places* (Brendan O'Leary and Joanne McEvoy eds., University of Pennsylvania Press, in progress). The authors are most grateful to Brendan O'Leary for careful and insightful editing and to the Andrew Mellon Foundation for support rendered through the Sawyer Seminar for Power-Sharing in Deeply Divided Places.

In this chapter, we argue that the design of the electoral system is one of the major problems, since it offers insufficient incentives to display the spirit of accommodation that is needed for a divided society to be smoothly governed. Part one offers a short background sketch of the basic ingredients of the Belgian divide. Part two describes the institutional solution that was gradually put into place at the end of the 20th century. Part three identifies the solution as typically consociational, with full emphasis on segmental autonomy and power-sharing devices. However, emphasizing autonomy and inclusion of both groups in the decision-making process does not guarantee a smooth functioning and even less a high capacity for decision-making and change. Part four presents an electoral reform – a country-wide electoral district – that we have been advocating along with colleagues from all Belgian universities and that would go some way, we shall argue, towards remedying the shortcomings of Belgium's federal set up.

1. Belgium's linguistic and territorial divide

The conflict that led to the territorial transformation of the Belgian state is in the first place a linguistic matter. When Belgium was created in 1830 after seceding from the short-lived Kingdom of the Low Countries, the political elite of the new state spoke French throughout the country, and French was therefore also the obvious choice as the language of government and administration. However, the majority of the population spoke no French. Belgium is cut in two by an old language frontier that runs from west to east (Geyl, 1962: 211). It divides the country into a southern area where French is spoken – now called Wallonia – and a northern area where Dutch is spoken – now called Flanders.

Nonetheless, the adoption of French as the sole official language was regarded as self-evident. Not only was French the language of the state-building elite – including those living in the north – but in 1830, French was also the language of modernity and liberalism, and the *lingua franca* of royal courts and diplomatic circles. Dutch, on the other hand, was the language of the northern Low Countries, i.e. precisely the country from which the new Belgium had seceded, and it was also perceived as the language of Protestantism, the dominant confession in the northern Low Countries, whereas both the Dutch-speaking and French-speaking parts of the new Belgium were, if religious at all, homogeneously Catholic. It also went without saying that Brussels would become the capital city of Belgium. The city is, however, located north of the language frontier. Its role as the capital city of the newly independent state rapidly strengthened its predominantly Francophone character, and fed its gradual expansion into its historically Dutch-speaking hinterland.

These facts are the raw material for understanding Belgium's modern language conflict, and conflict it becomes when in the course of the 19th century the inhabitants of the part of the country where varieties of Dutch are the vernacular of the mass of the people started asking for the formal recognition of Dutch as a second official language of Belgium, and in particular for the right to use Dutch for educational, administrative and political purposes in the Northern part of the country. This process almost naturally led to a territorial solution (Murphy, 1988). From the 1920s on, the rules governing the use of language by public authorities and the language used as the medium of education relied on the creation – or rather the acceptance of the existence – of three linguistic territories: one for Dutch, one for French, and one – the Brussels area – where both languages can be used.

Obviously, a territorial organization requires the drawing of boundaries. This is seldom easy when ethnic, linguistic or religious tensions are present. Belgium has been no exception. Until today two conflicting principles have been invoked. One stipulates that the language to be used for official business is determined permanently on the basis of the historical distinction between the north and the south of the country. The alternative principle stipulates that official linguistic boundaries can and should be adjusted in line with changes in the composition in the population. According to this principle, the boundaries can shift in order to accommodate demographic movement and linguistic shifts. Whenever they did shift, they led to the transfer of historically Dutch-speaking territory into the bilingual area, and sometimes eventually into the Francophone area. Unsurprisingly, the historical principle

has tended to be supported exclusively by Dutch-speakers, who feel that a safely protected territory is needed to safeguard their lower status language. French speakers, instead, tend to invoke the principle that official boundaries should track real-life trends, including the spread of the stronger language. The use of language has therefore gradually been organized on territorial premises, but without agreement on the operational principles for the drawing of the territorial boundaries.

Different languages, and different views on the way in which language shift needs to be given free rein or hemmed in, are not the only differences between the north and the south of Belgium. In terms of economic development, Flanders and Wallonia have differed from the very early days of the Belgian state. Industrialization came quite early, and was very much concentrated in the south, while the north remained agricultural for much longer. But after the end of the Second World War the steel-and-coal-based Walloon economy started declining, whereas Flanders attracted investments in new economic activities – for which the harbour of Antwerp was, and remains, a major asset. The economic balance of the country therefore shifted. In the early 1970s, GDP per capita became higher in Flanders than in Wallonia, and since then the gap has kept increasing. In 2006 GDP per capita was € 21.559 in Wallonia and € 29.992 in Flanders, while the unemployment rate was 5 per cent in Flanders and 12 per cent in Wallonia. This emphasis on Belgium's North-South economic divide is somewhat misleading, however, because well over one quarter of the country's GDP is produced on less than 1% of its territory, in the Brussels Region and its immediate surroundings. But the dramatic shift in the balance of economic power between Flanders and Wallonia is nonetheless a crucial ingredient in Belgium's present situation.

By contrast, the political difference between North and South has remained relatively stable. As soon as all layers of the population were allowed to participate in parliamentary elections, the north and the south returned quite different results. At the first elections with some sort of universal male suffrage in 1894, the 72 Flemish seats and the 18 Brussels seats all went to representatives of the Catholic Party. Of the 62 Walloon seats, 14 went to the Catholic Party, 20 to the Liberal Party, and the remainder to the Socialist Party, which first entered parliament with 28 representatives, all elected in Wallonia. Although the differences did not remain as sharp – not least because of the introduction of proportional representation in 1900 – the two parts of the country still display significantly different electoral behaviour. Table 1 shows the results of the federal elections of 2007 for Flanders and Wallonia separately per party family. These reveal that for each party family the results are very different. However, these regional differences do not increase over time. They have always been important.

Table 1: Results of the elections to the federal parliament in 2007 for Flanders, Wallonia and Brussels (percentage of the votes)

	Flanders	Wallonia	Brussels
Christian democrats	29.6	15.7	16.5
Socialists	16.3	29.5	23.4
Liberals	18.7	31.1	34.7
Populist radical right	18.9	5.5	6.0
Greens	6.2	12.7	15.0
Others	10.3	5.5	4.4

To these different electoral results one must add another crucial ingredient of the Belgian problem. The results in table 1 are presented per *party family*, and not per party, because there are no country-wide parties any more. The traditional parties – Christian democrats, liberals and socialists – fell apart into two separate and unilingual parties between 1968 and 1978. The Greens and the populist radical right parties are younger, but have never existed as Belgian parties. They have developed in the party system of each of the language groups separately. For the federal elections, it is only in the central electoral district of Brussel-Halle-Vilvoorde (BHV) – which comprises the Brussels region and 35 Flemish municipalities – that the parties of the two language groups compete with each other.

2. The institutions of the Belgian federation

The unitary Belgium of 1830 is now long gone. Several constitutional reforms have rebuilt the Belgian state into a federation. The linguistic regions that were created to regulate the use of language provide its building blocks, albeit in a fairly complex way. Belgium is both a federation of three territorial regions and three languages communities. The regions are called Flanders, Wallonia and the Brussels Capital Region, with clear (though not uncontested) territorial borders. They have been given a broad set of powers, e.g. over environmental policy, public works, public transport, housing, and important aspects of economic policy. The three language communities are called the Flemish Community, the French Community and the German-speaking Community. The communities basically offer services to individuals in the areas of education, culture and welfare policy. The Flemish Community offers these services in Flanders and in Brussels. The French Community offers them in Wallonia and in Brussels. Hence, in the territory of the Brussels Region the operations of the two main language communities overlap. The German-speaking Community, composed of some 73.000 people living in two areas next to the German border (transferred from Germany to Belgium after the First World War) offers its services in those areas, which are part of the Walloon Region. The twofold nature of the federation is rather awkward, but it is a subtle compromise. At a first level, it often presented a deal between pro-Community Flemings – who prefer a one-against-one conflict – and pro-Region Francophones – who might be advantaged by a two-against-one configuration. At a deeper level, it constitutes an attempt to articulate two types of concerns. The “community” component should assuage, at least for the time being, both many Flemings’ fear they will lose all control over Brussels, where the Flemish residential presence keeps shrinking, and many Francophones’ fear of a weakening of the solidarity between Brussels and Wallonia. On the other hand, the regional component reflects some awareness of the fact that efficient policy making requires all decentralized powers to be exercised by one government, responsible to all those sharing the same territory.

The first constitutional reform of 1970 laid down this double structure, but it was only in 1989 that Brussels was given the status of a Region, and only in 1995 that the roof was put on the house with the first direct election of the three regional parliaments. The constitutional reform of 1970 was also extremely important for the changes it introduced in the functioning of the central state. The rules laid down at that time define the way in which decision-making operates at the federal level today, as well as the way in which the constitution can be further modified. Two principles were then deeply enshrined into the Belgian political system: a neat separation between the language groups, and an obligation to govern together.

The separation between the language groups was introduced both into the parliament and in the government. All members of the House of Representatives, whatever their origins, belong to either the Dutch, or the French language group. That membership is defined by the territory in which the members of parliament have been elected. Those elected in constituencies of the Flemish region belong automatically to the Dutch language group and those elected in Wallonia belong automatically to the French language group. For MPs elected in the central Brussel-Halle-Vilvoorde (BHV) district the language in which they take their oath defines the group to which they belong. The full separation of the party system into

Francophone and Flemish parties actually predefines the choice that these MPs will make. Subsequent reforms of the electoral system and of the parliament, have only reinforced this split and the role ascribed to the descriptive representation of language groups. Since 1995, the Senate has been elected in two electoral districts: one for Flanders and the central BHV district, and one for Wallonia and the central BHV district. The Belgian members of the European Parliament are elected in the same way and, as in the Senate, with a fixed number of seats available for each language group and an overlap in the territory of BHV, where voters can choose for either of the two districts.

The members of the federal government also clearly belong to one of the two language groups. Again the split party system leaves no doubt about the membership. Since 1970 therefore not one single politician formally represents voters outside of his or her language group. Politicians might claim to do so, but their position in the institutions gives them a clear and unambiguous label.

The neat separation of the language groups allows for the organization of the second principle: the obligation to include both groups within the federal decision-making process. This is done in a variety of ways. First, the federal government (i.e., Belgium's cabinet) has to be composed of an equal number of Francophone and Dutch-speaking Ministers. Only the Prime Minister is supposed to be 'linguistically asexual', but the party to which he belongs leaves no doubt about his linguistic status. Since 1970 all Prime Ministers have been Dutch speakers, except for a one year period in 1972-73, and a two month period in 1978. The rule of decision-making in the federal government is unanimity. The cabinet never votes. This linguistic 'parity' assures the governing of the country by the two major language groups.

In the parliament the Flemish group is larger than the Francophone one, reflecting the 60:40 per cent demographic ratios. It can, however, not use that majority to impose its will on the minority. The normal rule of decision making for the federal House of Representatives is simple majority, but the minority has a veto power. It is called the 'alarm bell procedure'. Whenever three quarters of a language group declares that a proposal might be accepted that harms the interests of that group, it can activate the alarm bell. The parliamentary procedure is then suspended for thirty days, during which the government needs to find a solution. And with parity in its composition and unanimity as the decision-making rule, the solution of the government can only be one that is acceptable for both language groups. If no solution is found, the government will have to resign. But to form a new government, possibly after electing a new parliament, both language groups will still need to find a compromise. Moreover, to change the constitution a two-thirds majority is needed. Yet for most articles that define the political institutions of regions and communities, and for the so-called Special Laws that implement these basic principles, a majority is needed in each language group, i.e. a concurrent majority, as well as an overall two thirds majority.

The same logic of strict separation of the political personnel into language groups and the obligation to govern together and to avoid a veto by one of the language groups has been built into the institutions of the Brussels region. It has indeed become a fully-fledged region, as the Francophone parties requested, but, institutionally speaking it has not become a Francophone region, as the Flemish parties feared. Dutch-speaking parties are guaranteed 17 out of the 89 seats in the regional Parliament, and two out of the four ministerial positions in the regional government, while the minister-president supposed to be, like the federal Prime Minister, linguistically *a-sexué* (as the semi-official terminology puts it). To some extent this picture is a mirror image of the federal institutions. The Brussels institutions display the Belgian logic of separation and inclusion. This logic is a consociational logic, albeit one in which the parity principle usually outweighs the proportionality principle. With two actors, the proportional distribution of power and resources is not the most important device. The common agreement needed for governing lays far greater stress on the right of both actors to be present in the decision-making process and hence on the veto power of each language group.

3. Consociational Belgium

In a piece written nearly three decades ago, Arend Lijphart left no doubt as to how he wanted to label Belgium, 'What is remarkable about Belgium is not that it is a culturally divided society – most of the countries in the contemporary world are divided into separate and distinct cultural, religious, or ethnic communities – but that its cultural communities coexist peacefully and democratically. What is more, Belgium can legitimately claim to be the most thorough example of consociational democracy, the type of democracy that is most suitable for deeply divided societies' (Lijphart, 1981: 1). If the Belgian federation – still very much in the making when Lijphart wrote – is consociational, it needs prudent leaders willing to accommodate and to govern with the leaders of the other language group. The devolution of powers to the regions and communities, however, has taken away from joint decision-making quite a few powers for which the formulation and implementation of a common policy has been, or would be difficult. For the remaining federal powers a common policy is required and therefore an agreement is needed. That is obviously also the case for all matters relating to the state structure itself. Only an agreement between elites willing to compromise can offer a way out.

Functioning consociational democracy requires prudent leadership. Prudence may result from a learning process, from the awareness that a conflictual attitude leads to total gridlock, and possibly even to violent clashes (Lijphart, 1977: 99). Prudent leaders are willing to bridge the gap over the possibly deep differences which divide the population. Functioning consociational democracy also requires that the elites want to keep the political system alive and value the latter's survival above the interests of their own groups. It means that they are willing and able to play a double role, to be advocates on behalf of their own rank and file and compromise seekers at elite level. Compromising therefore needs to come at an acceptable price. If compromising leads to a substantial loss of trust (and hence votes) from the followers, prudent leadership is not likely to develop (Horowitz, 1985: 347).

This is indeed one of the major problems for the functioning of Belgium. If we look back at the last fifty years, we can observe the capacity to find compromises when needed. It was never easy, but exactly at times when terms like 'regime crisis' were being used by political commentators, a new, often unforeseeable, compromise was found. It is important to note though that these agreements were reached in a political system that was not yet a fully-fledged federation. Political agreements had to be found in the central government (and parliament). The absence of an agreement acceptable for both language groups meant the end of the current central government, or the non-formation of a government. That could go on for a while, but the longer it took, the more problematic it became for all parties. The very high systemic price to be paid for the absence of an agreement – for instance in terms of pressure on the currency or public sector deficits – provided the incentive for the elite to be both creative, and accommodating, and hence to concoct an acceptable compromise that could keep the system going again for a while.

This institutional environment has changed in ways that have tended to reduce the pressure to find a compromise, and increased the probability of long and enduring political crises. Since Belgium has become a federation, it has more than just a federal government. Many powers are now in the hands of the regions and communities. As a result, the formation or survival of the federal government is less important. In other words: the pressure to display an accommodating attitude in what used to be the only center of power is far weaker than it was before (Jans, 2001; Swenden & Jans, 2006; Deschouwer, 2005; 2006). This is also the case because of the expansion of the powers of the European Union. The melting of the Belgian frank into the euro, for example, strongly limits the dangers of a financial crisis when the country is not able to produce or to keep alive a working government. As a result of federal powers having shrunk from above and from below, it is both less important and more difficult to form federal governments and to keep them in place.

No less relevant have been the changes in the pattern of party competition. For a long time – actually until the end of the 1990s – there were two dominant parties in Belgium. Christian Democrats were by far the largest party in Flanders, and therefore almost always were a governing party. The Socialists were by far the largest party in the south. The most natural coalition was therefore one between the Christian democratic and the Socialist families.

Since the turn of the century, however, this domination has gone. In each of the two party systems party competition is very high. All potential governing parties are very much afraid of losing votes. Even a slight electoral decline can have quite important consequences. Consequently, party elites are more scared than ever of having to pay the electoral cost of the compromises they accept.

This increased electoral competition happened to materialize precisely when the electoral cycles for the different levels of the federation became desynchronized. In 1995 and 1999 the federal and regional parliaments were elected on the same day, but since then they have developed their own rhythm of five years for the regional parliaments, and four years for the federal parliament. In the absence of country-wide political parties, distinct from the linguistically defined parties that compete for the regional elections, the federal elections and the regional elections are not really different.

As explained earlier, by the late 1970s all three Belgium-wide parties had divided into two separate parties, one Flemish and one Francophone. Consequently, whatever the type of election, the same parties compete for the electorate of their own language group. The next election for all parties is not the next election at the same level, but the next election *tout court*. There have been elections in 2003 (federal), 2004 (regional) and 2007 (federal), and more elections are scheduled for 2009 (regional), 2011 (federal) and 2013 (regional). This is driving all political parties into a nearly permanent state of electoral campaign. As a result, the likelihood of an accommodating attitude on the part of politicians governing, or wanting to govern, at the federal level has been dramatically reduced.

4. A country-wide electoral district?

There is definitely something wrong with the functioning of the Belgian federation. Its federal governmental level lacks decision-making and problem-solving capacity, and most suggestions to improve the functioning of the federal state defend a further devolution of powers to the regions and communities: if the federal government does not work, it should be given less work to do. This thinking fits in neatly with the trend that has characterized Belgium's institutions since the 1970s: the gradual hollowing out of the powers of the central government. Suggestions to improve the decision-making capacity of the federal governmental level are seldom heard. There is, however, one idea that propped up now and then in the last couple of decades, was worked out in some detail shortly before the 2007 federal election and soon became the subject of a lively debate: the idea of creating a federal or country-wide electoral district for the federal elections.

When in 1979 Belgium had to decide on the procedure for the election of the Belgian members of the European Parliament, the idea of a country-wide electoral district appeared for the first time. It was suggested by the Flemish Christian-Democrat leader and then Belgian Prime Minister Leo Tindemans, who was hoping to score highly among both linguistic groups. His Francophone coalition partners were diffident, and the government opted instead for an election of Belgian MEPs in two separate unilingual community-wide electoral districts, in line with the classical 'splitting' logic outlined earlier. The idea reappeared in the 1990s, as Belgium was becoming a true federation, but this time applied to federal elections (see e.g. Van Parijs 2000a, 2000b). It did not arouse much interest, however, until a group of academics, known as the 'Pavia Group', and coordinated by the authors of this chapter, drafted a detailed scheme, tested it among politicians and lawyers, and then presented it to the press on February 14, 2007 (Deschouwer & Van Parijs, 2007; www.paviagroup.be). The proposal was picked up by some parties, fiercely attacked by others, and eventually made it to the institutional agenda.

A truly federal Parliament for a truly federal government

The basic idea is simple and straightforward. Of the 150 members of the federal House of Representatives, 15 should be elected in an electoral district that covers the whole territory of

the Belgian state — henceforth called the federal district. So far the federal House is elected in 11 districts, coinciding with the provincial boundaries, except for the central BHV district, which encompasses the whole of the Brussels Region and part of a Flemish province. Almost all MPs are therefore currently elected in unilingual districts where the parties of only one language group compete.

Once a federal electoral district is created, voters will have two votes. Their first vote will be cast for one of the lists — or some of the candidates featuring on one of the lists — presented in a provincial electoral district. The distribution of seats among these districts will be distributed, as now, in proportion to the population of each province. A second vote will be cast for one of the lists — or some of the candidates featuring on one of the lists — presented in the federal district, common to all voters, irrespective of where they live.

Any candidate will be allowed to stand both on a provincial list and on a federal list. And most, if not all, of the candidates on a federal list can be expected to do so, for the following reasons. They may not be sure of being among the fifteen elected in the federal district, and therefore it is safety call for them to be in a good position on a provincial list. Or, they are certain to be among the fifteen elected, but if they enjoy such popularity their party would be foolish not to also place them on a provincial list.

Thus fifteen out of the 150 people elected to the House will have a claim to being truly federation-wide MPs. But a far greater proportion of the 150 eventually elected, in all likelihood a significant majority among them, will have been candidates in the federal district. To win as many votes as possible in this district, it will be in their interest to campaign also in the other language group, with a fair chance of success if they manage to highlight their commitment to causes that are not divisive along linguistic lines. This will hold, in particular, for the top politicians of all the parties with the ambition to form and lead the federal government, those whose promises and declarations will be most binding for the action of the next government. Not only will their total personal vote affect, as it does now, their pecking order in their party and in the country, but this vote and the way it is distributed across the country will affect the legitimacy with which they will claim and exercise the functions to which they aspire.

For this reason, the number of seats to be allocated in the federal district is not that important. It could conceivably be increased beyond fifteen. But if this is done without a corresponding increase in the total size of the House, the district magnitude in the provincial districts would drop and that would create higher thresholds for the smaller parties. The degree of proportionality would be severely reduced, while the Constitution requires the electoral system to be proportional. On the other hand, increasing the number of seats in the federal House would be an unpopular measure, unless combined with an appropriate compensation. Bear in mind that the full implementation of the federal structure in 1995 increased the total number of parliamentary seats — federal and regional — from 369 to 503. However, increasing the number of seats in the House might possibly be compensated by a reduction of the number of seats in other assemblies. The most attractive and most probable version of such compensation would consist of scrapping the direct election of part of the senate — 25 Dutch-speakers and 15 French-speakers — thus leaving a Senate composed exclusively of people elected to the regional parliaments.

Whether fifteen or more members of the federal House are elected in the newly created federal district, the reform sketched would significantly alleviate the democratic deficit from which Belgium's federal system suffers. The current organization of elections without federal parties does not offer the possibility of a true dialogue between the governing elite at the federal level and the population of the federation as a whole. All those competing seriously in the federal district will face incentives to propose mutually acceptable solutions for institutional matters, instead of simply expressing the demands of their own language group. A federal district would re-introduce *pre-electoral incentives* — absent since the Belgium-wide parties fell apart — to display a disposition to compromise that is needed to govern, in power-sharing fashion, at the federal level. The proposal aims thereby to strengthen the potential for prudent leadership and political accommodation, by compensating for

institutional developments that have dramatically weakened it. Given the absence of federal political parties, the emergence of a federal system that reduced the importance of the central government has seriously reduced the capacity of the country's political elites to promote or at least accept the principles of power sharing.

Quota per language group

As is often the case with institutional engineering, however, it is crucial to anticipate the various political actors' response to the proposed set up, and to fine-tune the latter so as to avoid perverse effects. For this reason, the Pavia Group's proposal fixes before the election the number of seats allocated to each language group in the federal district. The proportions simply match as closely as possible the proportions of members of the House belonging to the two language groups in the previous legislature. If 15 seats are to be allocated, this means that 9 will go to Dutch-speakers and 6 to French-speakers. The lists put forward by the various parties in the federal district will accordingly consist of a maximum of 6, 9 or 15 names. Only lists containing 9 Dutch speakers and 6 French speakers can present 15 candidates.

Some simple and sufficiently uncontroversial criterion for recognition as a French speaker or a Dutch speaker will be required. In the light of past experience, and bearing the threat of political sanctions in mind, sponsoring by three members of the relevant language group of the previous House should do the trick. The allocation of seats between the lists and the candidates can proceed using the standard d'Hondt system, under the constraint of the linguistic quota. That means that a list can have its next candidate elected, as long as he or she belongs to a language group for which the quota has not yet been reached. If this quota has been reached, the seat is allotted to the next candidate on the same list from the other language group. If the list is unilingual, the seat is allotted to the next list that can claim the seat and has candidates from that language group (see table 2).

Table 2: Simulation of seat distribution for a federal electoral district

Imagine three lists are participating in the election. List A is a list with 6 candidates, all French-speaking. List B is a list with 9 candidates, all Dutch-speaking. List C has 15 candidates of which 6 are French-speaking and 9 are Dutch-speaking.

The proportional distribution of seats between the lists – using the D'Hondt divisors – gives list A 6 seats (numbers 1, 3, 5, 8, 10, 13), List B 6 seats (numbers 2, 4, 6, 9, 12, 14) and List C 3 seats (7, 11 and 15). On each list the candidates are ranked according to their preference votes. That defines the order in which they can be elected.

List A		List B	List C	Quota	
				Flemish	Francophone
Seat 1	First candidate				1
Seat 2		First candidate		1	
Seat 3	Second candidate				2
Seat 4		Second candidate		2	
Seat 5	Third candidate				3

Seat 6		Third candidate		3	
Seat 7			First candidate (assume Francophone)		4
Seat 8	Fourth candidate				5
Seat 9		Fourth candidate		4	
Seat 10	Fifth candidate				6
Seat 11			Second candidate – must be Flemish	5	
Seat 12		Fifth candidate		6	
Seat 13	Quota is full – seat cannot be filled				
Seat 14		Sixth candidate		7	
Seat 15			Third candidate – must be Flemish	8	
Seat 16			Fourth candidate – must be Flemish	9	
TOTAL	5	6	4		

Seat number 16 also has to be allocated, since seat number 13 could not be filled by list A. List A thus loses one seat because it is unilingual. An extra seat goes to the bilingual list C.

The use of quota might at first sight be at odds with the spirit of the proposal. Yet it is not. The aim is to offer electoral incentives for politicians to campaign in both language groups. In the absence of quota, there is a risk — indeed a certainty in the foreseeable future — that many voters will be reluctant to support a politician from the other language group for fear of contributing to a reduction in the representation of their own group in Parliament. In the absence of quotas, the federal election would quickly degenerate into a race between the language communities — which it now is to a large extent in the BHV electoral district, where such a regime is in place. That is exactly what the federal district must not be. In the version of the federal district proposed by the Pavia Group, catching a vote from the other language group will not alter the numerical parliamentary representation of the language group to which a candidate belongs. It will not decrease but rather increase considerably the incentive for parties and candidates to court the voters across the linguistic border. If parties

and voters' strategies are no longer frozen by fear of disproportionality, there is far more to gain from making one's promises and actions more palatable to others. The quotas make it possible to leave intact the existing power-sharing devices. All members of the federal parliament will keep belonging to one language group. This is needed to protect the Francophone minority, and for the double majorities required for some institutional reforms. A country-wide electoral district is intended to strengthen the democratic legitimacy and the problem-solving capacity of the federal governmental level, but without destroying the existing power-sharing principles and devices. Its introduction would not ignore or attempt to erase the differences between the language groups. Nor is it intended to resurrect country-wide political parties.

It is precisely because there are no such parties that other devices are needed to link the federal politicians to the population of the federation as a whole. Parties belonging to the same ideological family might decide to form common lists for the fifteen federal seats. This would make them look better, as they could present a full list, and would also guarantee that they would never lose a seat in case one of the quotas is filled. Moreover, their leaders would be given a better chance of winning higher votes across the linguistic frontier, as each voter can tick several names on the same list. Parties belonging to the same ideological family could also present separate lists, while deciding to pool their votes, as allowed in the Pavia Group's formula. But in any event, they would still present unilingual party lists in both Flanders and Wallonia. Indeed, it cannot even be ruled out that, as regionalization deepens, separate Brussels parties may arise within each political family. The proposal of a federal electoral district is fully consistent with such developments. Its purpose is to provide an electoral set up that facilitates the government of a divided society in the absence of country-wide political parties.

Conclusion

By way of conclusion, we offer two remarks, one strategic and one philosophical.

It is seldom a piece of cake to get an electoral reform through, if only because those currently empowered to change the rules are in power thanks to the rules they are asked to change. The reform proposal described and motivated in this chapter is no exception. Its adoption requires small changes in two articles of Belgium's federal constitution, and hence a two thirds majority in both the House and the Senate. Is it possible to convince two thirds of Belgium's top politicians that a change of this sort is in their personal interest? We doubt it. Is it nevertheless possible to convince enough opinion leaders that this is a remedy the Belgian system urgently requires, to convince enough political leaders that there is something in it for them, if not for the sake of gaining power, at least for the sake of exercising it, and to put enough moral pressure on the rest, so that the required super-majority can be patched together despite the opposition of secessionist parties? The future will tell.

On the bright side, it may be noted that the Prime Minister who took over from Yves Leterme on the 30th of December 2008, Herman Van Rompuy, publicly expressed his support for the idea, and that his two deputy Prime Ministers in charge of institutional reform have been supporters of the Pavia proposal from the start. But it will be hard for the proposal to emerge from self-interested bargaining between the linguistic blocks of political parties. What is supposed to be in the general interest cannot be offered nor accepted as compensation for a concession on the most salient contentious issues, such as the splitting of the BHV electoral district or the expansion of the Brussels Region.

If there is hope, it comes from a linguistically well balanced pressure from "civil society". It was crucial for the proposal's prospects that it should be associated with a bilingual set of academics rather than with a linguistically tainted political party. And it is crucial that it should keep being supported by journalists, and other opinion leaders, from both sides of the linguistic frontier. The June 2007 federal election was won in a decisive way by Flemish Minister-President Yves Leterme. But it was won with votes garnered only on one side of the linguistic frontier, and celebrated only under Flemish flags. The government formation

process that followed was extraordinarily laborious. The government it eventually produced reached no deal on the key divisive issues, remained undermined by mutual distrust and did not survive what should have remained a minor incident. If enough people are able to see in this sad sequence of events, not the failings or bad luck of individual people, but a major defect of the system in which they are caught, progress is not out of reach.

Finally, let us briefly turn from political strategy to political philosophy. Among the many critiques expressed against the Pavia Group proposal in the course of the rich debate it triggered, the most profound is perhaps the one best articulated by Bart De Wever, president of the New Flemish Alliance (N-V-A), a Flemish nationalist party that formed an electoral cartel with Yves Leterme's Flemish Christian Democrats until its collapse in September 2008. Proposing a federal electoral district, on this view, is a form of 'creationism'. The Belgian state failed to create a Francophone Belgian nation in the nineteenth century. It gave up the idea of creating a bilingual Belgian nation in the twentieth century. The federal district is too weak an instrument, and it comes too late, to create a Belgian nation. All it can do, if anything, is hinder the process through which the Flemish nation and, if such a thing exists, the Walloon nation, can become full-fledged states. Only with the consolidation of two states matching these two nations will the never-ending process of transformation of Belgium's institutions come to a rest.

The political philosophy that underlies the Pavia proposal is different. No one could deny that being able to function in one language makes life easier for a democratic polity. For this reason, devolution to linguistically more homogeneous entities was a wise decision. The survival of Belgium is no aim in itself, and if all matters could sensibly be devolved in this way, why not? But they cannot, essentially because any sensible management of Brussels and its hinterland requires them to be under a single authority, and because neither an absorption of the Brussels Region by either of the other two nor an absorption by the Brussels Region of its hinterland (namely the richest provinces of both Flanders and Wallonia) belong to the realm of the possible. Instead of wasting one's time dreaming about nation-states that will never and should never exist, one must design and implement institutions that improve the working of polities that are not and will never become nation-states, including for the sake of moving more smoothly, as Flemish nationalists wish, towards more thorough-going devolution. Belgium is one such polity, and the European Union is another. Such institutional engineering is not a losing battle against the democratic imperative of linguistic homogeneity. It is an essential part of the piecemeal shaping of the sort of institutions that the countries and super-countries of today's world will increasingly need.

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Comments

A Federal Electoral System : Country-Wide Electoral District or Multiple Proportional Vote ?*

Laurent de Briey (University of Namur)

Creating a federal or country-wide electoral district aims at breaking the isolation of French-speaking and Dutch-speaking public spaces by encouraging the candidates running within this electoral district to address the voters from the other language community. It cannot be denied that the present system establishes two almost impenetrable public spaces and stimulates the radicalization of political leaders as well as public opinions. Language disputes and the lack of understanding between the two communities are expected to grow until the institutional system will stop encouraging centrifugal forces. This is why the wish of the advocates of the country-wide electoral district to reinforce centripetal forces by encouraging the main political leaders to look for a federal legitimacy, is excellent.

However, without questioning the salutary character of a change in the electoral system, it is necessary to ponder about the real efficiency that a federal electoral district might have in comparison with its aim. Failing that, isn't it possible to conceive an alternative electoral system, maybe more likely to reinforce the federal cohesion?

Limits to the Federal Electoral District

The main limit to a country-wide electoral district is that it forces electors to choose whether they vote for a French-speaking or a Dutch-speaking candidate. The elector is thus not really encouraged to vote for a candidate from the other community as it means that, for one of his votes, he has to give up the idea of influencing the election of his most direct representatives. For example, for a Dutch-speaking elector to decide to vote for a French-speaking candidate, he does not only have to think that this candidate expresses the French-speaking point of view as well as understands the Flemish expectations better than the other French-speaking candidates. More radically, he should feel better represented by a candidate from the other community than by someone from his own community. This can only be the case for a very limited number of voters, as is demonstrated by electoral behaviour in the central Brussels-Halle-Vilvoorde (BHV) district. This district, at the heart of the present inter-community dispute, is indeed a constituency where French-speaking and Dutch-speaking parties are both represented. However, far from being a pacification factor, it turns out to crystallize language identities.

The interest of voting for a candidate from the other community would even be slighter if seats were allocated to each community proportionally to the results obtained. In this case, the elector from a community who votes for a candidate from the other community makes his own community's representation decrease, which makes no sense. Hence the number of seats allocated to each language community must indeed be fixed in advance.

However, in such a case, the country-wide electoral district consists in two different polls – one to elect the French-speaking representatives and one to elect the Dutch-speaking representatives – but the voter has to choose in which one he wants to take part. Given that Dutch speakers are the majority, this raises an objection of principle for the French-speaking

* Translated by E. Ottaviani.

minority: the French-speaking representatives would be elected by a mainly Flemish potential electorate.

However, this objection is mainly theoretical because, for the reasons we have already explained, only a limited number of electors will vote for a candidate from the other community. But if this number is too limited, the country-wide electoral system does not reach its goal: as it seems unlikely that they will obtain a high number of votes from the other community, the candidates will continue positioning themselves according to the expectations of the members of their community and the political line of a unilingual party.

In order to really be effective, the country-wide electoral district requires a return to federal parties¹. If the parties running for the federal elections were federal parties and, as a consequence, were different from the parties running for the regional elections, the Belgian political dynamic would certainly be radically different. However, the question is to know if creating a federal electoral district limited to a few seats is the best way -or an adequate way- to encourage the emergence of such parties. Anyway, coming back to real federal parties seems highly unrealistic and in contradiction with the spirit of the Belgian consociational system, which is based on the explicit recognition of language communities. All things considered, the country-wide electoral district seems to me to pertain to another conception of federalism than the one which is currently in force in our country. Moreover, it could only marginally reinforce the federal dynamic.

An Alternative: the Multiple Proportional Vote

An alternative to the federal electoral district, more in accordance with the Belgian consociational federalism, can be suggested. This is based on the multiple proportional vote technique (MPV) and constitutes, in some way, a kind of country-wide electoral district limited to a percentage of the votes and not to a part of the seats in the Chamber of Deputies. Rather than offering a technical description of this electoral system, we shall rather specify the way it could be implemented in Belgium².

Just as would be the case with a country-wide electoral district, each elector receives two ballot papers. The first one is used to vote in one's home district, as is currently the case. With the second one, by contrast, electors have to choose between political parties from *the other language community*. It is, in the simplest version of the MPV, a system of closed lists. The elector votes for a party and not for a candidate.

The votes that parties obtain within the other language community are totalled and then divided by a reduction coefficient, let us say 4. Afterwards, they are shared out between the different provincial districts, proportionally to their size, and added to the votes cast within these districts in order to obtain the final electoral result³.

The main advantages of the MPV are the following:

It does not create a special category of federal representatives, about whom we do not really know if they have more or less legitimacy than the classic elected representatives. Every representative still represents his own community, but is encouraged to defend its point of view while remaining open to the other community. From this point of view, the reduction coefficient has an essential role: it must be significant enough to make sure that the weight of the votes cast by the other community remains lower compared to the weight of the votes cast within the candidate's community, but it must not be excessive, on pain of making the influence of the external votes marginal.

¹ Caroline Gennez, the President of the Flemish Socialist Party (SP.A), is aware of it. See Gennez (2008).

² For a detailed presentation, see de Briey (2000, 2006).

³ Note that if the same reduction coefficient is used in both language communities, the weight of Dutch-speaking voters on the election of French-speaking representatives would be higher than the weight of French-speaking voters on the election of Dutch-speaking representatives. The use of different coefficients can also be justified by reference to the protection of minorities.

Electors do not have to choose between a French-speaking and a Dutch-speaking candidate. They are not likely to weaken their own community by voting for a candidate from the other community. Likewise, electors must not feel better represented by a candidate from the other community than by a candidate from their own community in order to vote for one of them, but they could decide between the candidates from the other community, while still fully taking part in the election of their own representatives.

Political parties could not regard as insignificant the number of voters from the other community which are likely to really vote for one of them. They should address them and, in this way, put an end to the isolation of public spaces.

As such, the MPV seems to me much more likely than the country-wide electoral district to reinforce centripetal forces and to improve relationships between communities. Moreover, it seems more in accordance with the Belgian federal system, insofar political representatives explicitly remain the representatives of a language community.

Conclusion

While the present electoral system multiplies centrifugal trends, the Pavia group's ambition is to reinforce the existing centripetal forces within two language communities by encouraging the main political representatives to look for a federal legitimacy rather than competing in order to appear as the most radical supporter of a single community.

However, there is an unavoidable ambiguity in this proposal. Either the candidates elected within the country-wide electoral district are viewed as fully federal representatives, they must be "linguistically asexual". In this case, it is not necessary to define the quotas of Dutch-speaking and French-speaking representatives beforehand. as the candidates elected in this way will then be atypical representatives in the fringe of political parties, and not the leaders of these parties. Or we are aware that, even if they have been elected in a federal electoral district, these representatives still come from a clearly identifiable community. But, in this second case, it is not a question of nominating elected candidates who are independent from their community membership, but of encouraging elected candidates who remain members of a given community to express their community's concerns and wishes by confronting them to the other community's expectations. Far from denying community membership, it is important to make it possible for the dialogue between representatives from both communities and the promotion of the general interest to replace confrontation and the search for a more or less balanced compromise. However, the representatives from each community must then be elected mainly by members of their community.

This is why it seems to us that what the creation of a country-wide electoral district aims at could be better reached with the multiple proportional vote technique. Rather than choosing part of the representatives on the basis of electoral results entirely determined within a federal electoral district, all the representatives would be chosen on the basis of electoral results partially determined by the votes of all the citizens⁴.

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⁴ Although more attention was paid to the federal electoral district than to the MPV in the political debate, the Dutch-speaking MP from Brussels, Sven Gatz, proposed a bill in February 2009 in order to use the MPV-technique for the election of the members of the parliament of the Brussels-Capital Region.

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A Federal Constituency for Belgium: Right Idea, Inadequate Method*

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The survival of the Belgian state is an important matter—and not just to Belgium. If, in the physical and administrative heart of Europe, groups that have lived together peacefully for nearly two centuries decide that they must part, what does that say about the prospects for more fragile, more recently constructed democracies? Partition and secession are generally bad answers to serious ethnic conflict, answers that usually have an array of negative consequences (Horowitz 2003). For this among other reasons, the proposal of the Pavia Group is to be commended. It aims to break the deadlock in Belgian politics and provide politicians with incentives to speak for the country as a whole, rather than merely for members of their own group. Furthermore, it does this by a method intended to affect politicians: attempting to change the mix of votes on which they rely for their election. This is a very good first step.

The Pavia Group is not alone in attempting to give politicians the kind of reason politicians understand for modifying their behavior in an accommodative direction. Nigeria and Indonesia have adopted territorial distribution requirements, in addition to a bare plurality or majority of the vote, to elect presidents who will, in order to achieve adequate territorial distribution of the vote, become pan-ethnic figures. An array of proposals to use the majoritarian features of the supplementary vote or the alternative vote to prevent the election of parochial candidates have been advanced and sometimes adopted in local and national elections around the world, from mayoral contests in England to parliamentary contests in Papua New Guinea to presidential contests in Sri Lanka. Some political scientists have found that two-round runoff systems can produce significant votes across group lines in Switzerland, (Stojanović 2006), while others have proposed pooling of constituencies to create the heterogeneity that might be conducive to cross-ethnic appeals in Africa (Bogaards 2003). Electoral engineering to make politicians partially dependent on the votes of members of groups other than their own is, therefore, very much on the agenda of policy makers and scholars of divided societies.

The Pavia Group proposal can be viewed as an instance of constituency pooling to secure heterogeneity. The plan is to create 15 seats, 10 percent of the total federal House of Representatives, in a new nationwide territorial constituency. Each voter will have two votes. In addition to choosing from one of the party lists presented for their regional electoral constituency, voters will also vote for a list of candidates running in the nationwide federal constituency. The 15 seats will be allocated in proportion to the overall Flemish and Walloon population: 9 to Dutch-speakers and 6 to French-speakers. Parties will essentially have the option to present homogeneous lists of 6 or 9 candidates or a mixed list of as many as 15.

Because the numbers of Flemish and Walloon representatives from the federal constituency will be predetermined, there is no risk that, for example, a Flemish voter casting a vote that helps elect a Walloon candidate will be altering the ratio of Flemings and Walloons who are elected. The whole point of the plan is to free both candidates and voters of their inhibitions on making appeals and casting votes across group lines. As the authors say (Deschouwer and Van Parijs 2009: MS 14), “catching a vote from the other language group will not alter the

* I am indebted to Ong Kian Ming for research assistance and discussions on this subject.

numerical parliamentary representation of the language group to which a candidate belongs.” Then they go on to add that the 15 ethnically preallocated federal seats “will increase considerably the incentive for parties and candidates to court the voters across the linguistic border” (*ibid.*).

Is this likely to be true? It is, after all, one thing to relieve inhibitions and another to create incentives. In this case, the relieved inhibitions go only to apprehensions that voters who cross ethnic lines will affect adversely (for their own group) the ethnic proportions of members of the federal parliament. With that inhibition removed, what in the plan will cause parties to make cross-ethnic appeals or cause voters to respond favorably to such appeals if they are made?

It is impossible to answer this question in advance, but certain inferences from the overall structure of Belgian electoral politics are possible. According to the plan, 90 percent of the seats in the federal house will continue to be elected from constituencies that are wholly intraregional. Parties, too, are not organized across regional lines, as they once were; they are wholly ethnically based. Intraethnic party competition in each region is robust. The timetable of elections means that parties are “into a nearly permanent state of electoral campaign” (*ibid.*: 10), which will certainly make ethnically-based parties risk averse. Against this background, what is the basis for interethnic moderation? Will the parties in the same ideological stream, such as Christian Democrats, or Socialists, or Greens, put up joint lists in the federal constituency? Will individual parties put up interethnic lists of fifteen candidates, as opposed to homogeneous lists of six or nine, in the federal constituency?

The first reason to be skeptical of the plan is that the national federal constituency is not isolated from electoral politics in the rest of the Belgian system, which is dominated by regional ethnic dynamics. The proposed innovation affects only 10 percent of the total number of federal house seats, surely not enough to change the overall thrust of ethnic politics. A Flemish party can put up a national list of nine candidates and win seats on Flemish votes, just as a Walloon party can put up a list of six candidates and win seats on Walloon votes. Of course, there may be a temptation to win a larger number of seats if each such party adds, respectively, six Walloon or nine Flemish candidates to its list. But consider the position of such candidates when they appear on the list of a party identified as belonging to the opposite group. They may well be regarded as token candidates, not genuine representatives of the interests of their group; and, as such, they will be unlikely to attract many votes from their own group.

It would seem more likely that Flemish and Walloon parties of the same ideological family might cooperate by producing a single joint list of 15 candidates, with candidates of both groups placed high enough on the list to give the two partners a good chance to elect a mixed slate of candidates. The total vote obtained by such a list would be the product of both Flemish and Walloon votes. Yet it would still be clear that the Flemish voters and Walloon voters had cast their ballots for that list because it was produced by the ethnic party of each group, respectively, and victorious candidates of each group would understand that they owed their election to the ballots cast by voters loyal to one of the parties, rather than to both. And if some parties did not cooperate in this way and put up mixed lists, they would be likely to enjoy a competitive advantage over those that did.

Equally important will be the residual pull of the regional seats on the federal seats. As things now stand, there is no incentive for a party running candidates in Flanders to be especially solicitous of the interests of Walloons or Wallonia, and vice versa. Even in the mixed Brussels region, the parties all behave as ethnically-based parties. How can such parties, facing such overwhelming ethnic incentives that determine 90 percent of their electoral fortunes be expected to behave in a conciliatory fashion when it comes to the 10 percent of the seats in which they have a chance to pick up votes from groups not affiliated with their parties? They can scarcely make one set of commitments in regional elections and another in federal elections held simultaneously.

From the voter's point of view as well, the possibility of casting one ballot, the regional one, for a party affiliated with his or her group but casting a second ballot for a party not so

affiliated but which offers the possibility of electing some candidates from his or her group would seem to be far-fetched. The two votes are likely to be cast for the same party.⁵

In the background to all of this is the nature of the electoral system. Not only are voters overwhelmingly voting in homogeneous constituencies, but they are voting by list-system proportional representation. Now list PR has certain virtues, to be sure, even in ethnic politics. For example, where there are ethnic groups with prominent subethnic divisions, whether ideological or ascriptive, PR may allow the proliferation of parties within groups and so prevent ethnic bifurcation. In some ways, that is a description of its historical function in Belgium, in which socioeconomic and religious cleavages, as well as ethnicity, are expressed in the party system. There is, however, one function list PR typically does not perform, and that is providing incentives to bridge ethnic divisions. List PR is known as a centrifugal system (Cox 1990), and it is more appropriate for assuring descriptive ethnic representation than for fostering interethnic accommodation. What the Pavia Group proposals do by providing a federal electoral constituency is simply to add 15 seats elected from a heterogeneous constituency, but it is difficult to see how this would modify the ethnic-voting incentives of either candidates or voters.

The matter is made even more problematic by the open-list character of the PR system utilized. This might allow voters of one group to move candidates up or down based on their ethnic affinity, thus defeating the intentions of parties that put up mixed lists. There is at least some evidence of such voter behavior in other divided societies.⁶

To achieve its objectives, it would seem that the electoral system for the federal list would need to be different. If, for example, lists could only be elected if they achieved some territorial distribution threshold that testified to their interregional appeal, that standard for election would surely induce intergroup moderation on the part of candidates in such contests, and it would likely be reciprocated by voters. But, even then, the total effect on the political system would be mitigated by the tendencies emanating from the 90 percent of seats in which candidates are elected as representatives of ethnic interests. And it would be a very tricky task for any party to operate simultaneously in two electoral arenas—regional and federal—with such different electoral incentives.

The Pavia Group undoubtedly has the right idea—to put in place preelectoral incentives for intergroup cooperation. Now what it needs to do is to follow that idea to its logical conclusion and redesign the Belgian electoral system so that it produces more conciliatory results.

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Chassez le naturel...

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“If the federal system does not work, it should be given less work to do”. This has been, as Deschouwer and Van Parijs correctly argue, the logic behind the subsequent reforms of the state in Belgium. Due to the split-up of the national party system and the institutional reforms, Belgium has gradually evolved towards a confederal system. The confederal government functions as a permanent quasi-international conference (to quote foreign minister Karel De Gucht) where the two language communities try to reach an agreement on a “federal” policy.

This development has been mainly the result of structural societal changes in Belgium, rather than of elite voluntarism. In the sixties and seventies, the elites have attempted to maintain the national parties as long as possible. But this proved untenable because of the increasing cultural divergence in Belgium and the break-up of inter-community communication flows, resulting in two different public opinions. In other words, the social basis of the national parties and of a national government has gradually disappeared. This confederal logic has been taken a step further in December 2007, when for the first time an asymmetric “federal” government was formed. The separate political dynamics of party competition and coalition formation have resulted in a minority government in Flanders and a government of quasi-national unity in Francophone Belgium.

In my view, the obvious next step would be to abolish the “federal” election of the Chamber and Senate. This would imply that only the regional Parliaments are directly elected and that governments are formed on the community level, which would then together constitute a confederal government with limited competences. The problem of the ‘overcrowded’ electoral cycle (due to the separate regional elections) would thus be solved in a straightforward way. Eventually, this confederal dynamic will end in Flanders and Wallonia becoming separate member states of the EU.

With their proposal, the authors apparently want to reverse this development towards confederalism. But it is less clear why they would want to do so, especially since they appear to be averse to nationalism and thus can hardly be suspected of a nostalgic attachment to Belgium and its symbols and institutions. Indeed, Deschouwer and Van Parijs reject the nationalist dreams about homogenous nation-states that “will not and should never exist”. But that is not really the issue. The issue is whether it makes sense to maintain the Belgian entity as a separate member-state of the European Union and a future European federation. It is often argued (by the Belgian King amongst others) that the Belgian institutions are a model for the EU and that, consequently, Europe should evolve towards a Belgium at large. But when we take this reasoning seriously, the implication is that in such a completely “Belgianised” Europe, Belgium will disappear as a separate member state.

And yes, such a scenario will obviously require a highly complex solution for Brussels. This solution will probably involve a binational (or more precisely a bi-state) status and a substantial autonomy under the supervision of a confederal body. It has been possible to find a complex solution for Brussels within a “federal” Belgian framework. Why would this be impossible within a full-fledged confederal framework?

But even viewed from a more pro-Belgian perspective, there are some major problems with the proposal of Deschouwer and Van Parijs. Clearly, the introduction of quota’s is in blatant contradiction to the integrative logic of the proposal, as the authors themselves seem to realize. The proposal aims at creating a class of responsible Belgian politicians, who give

precedence to the general Belgian interests above those of their own group. But hardly is this damned ethnic divide between Flemings and Francophones chased away through the front-door, or it sneaks back in through the backdoor in the form of a quota-device. The new Belgian is hardly invented, or he already gets stamped as a “Fleming” or a “Francophone”. *Chassez le naturel, il revient au galop*.

The arguments for the quota-system are not convincing. They seem to be based on the implicit assumption that the Francophone voters will want to be represented by ‘genuine’ Francophone politicians rather than by Flemish politicians who – in order to obtain Francophone votes – will adopt a moderate program taking the Francophone interests into account. In other words, the authors assume that (in a system without quota’s) the Francophones will distrust the Flemish politicians to such an extent that they will not vote for them, however Belgian and moderate they are. An argument which, incidentally, illustrates how deep the cleavage between Flemings and Francophones has become. This brings to mind one of the arguments which Arend Lijphart (1991) uses against Donald Horowitz’s proposal of an AV-electoral system as an integrative institutional tool. From Lijphart’s consociational perspective, it is vital that a group is represented by its own members, rather than by moderate members from another group.

In conformity with this consociational logic, the Belgian MP’s are divided into two language groups and the special laws require a majority in both of them. Members of the Dutch language group represent the Flemish interests, members of the French language groups the Francophone interests. Clearly, the federal constituency is completely at odds with this consociational device. The two language groups and the federal constituency are pieces of two different jig-jaw puzzles. It is impossible to make them fit without resorting to awkward mechanisms, such as creating a third category of linguistic ‘asexual’ MP’s or the quota-device defended by the authors. In sum, the proposal of a federal constituency with quota’s mixes up the logic of a the consociational and the integrative models of institutional accommodation. This proposal is simply light-years away from what a “coherent institutional package” should look like.⁷

The result is a system that is (particularly because of the quota rule) highly complex. If I were in favour of maintaining the Belgian entity, I would argue for a much simpler electoral device to create an incentive for moderation, namely the direct election of the Head of State in a national constituency. The presidency would be the highest political office in the state, and therefore a coveted prize for politicians (even if the presidential powers were only ceremonial). It probably would not even be necessary to resort to distribution or rotation formulas in order to achieve the desired result. Both under a simple plurality system as under a majority system, a Flemish politician would admittedly stand a better chance to win the election than a Francophone politician. But a Fleming able to appeal to the Francophone voters with a moderate pan-Belgian appeal would have an enormous competitive advantage over the more radical candidates appealing to the Flemish electorate only. In order words, the Francophone votes would be decisive in a de facto intra-Flemish competition. This would create a strong incentive for politicians aspiring for the highest office to behave moderately so as to be popular and to remain ‘presidential’ in both communities.

Of course, I readily acknowledge that such a proposal is not very realistic. But whether the proposal of Deschouwer and Van Parijs does better in that respect remains to be seen.

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Belgium and Its Thoughtful Electoral Engineers

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The importance of being Belgian

Belgium matters, and to more than just its Flemings, Walloons, and the denizens of Brussels. In its ports and towns, the tourist is obliged to decide whether Belgium's medieval cities, its beers, its chocolate, its "frites", or its visual arts are the best in Europe – or the planet. Belgium matters not just because Brussels is the capital of the European Union, Strasbourg's pretensions notwithstanding. For the comparative political scientist and constitutional lawyer what truly matters is that Belgium's history and continual survival showcase, in almost exquisite institutional evolutions, the proposition that it is possible to combine modernity, peace, prosperity and cultural co-existence without a mono-national or a monolingual state.

Belgium is rightly thought of as a modern state, but it has existed since 1830, which makes it one of the world's oldest continuous polities. It also has one of the most continuous of parliamentary governments – its institutional longevity punctured only by the German invasions and conquests of the two World Wars. To the outsider Belgium, it appears, long ago mastered the art of largely peaceful change. It seceded from the Netherlands without violence. Male universal suffrage was introduced after a fairly civil general strike. After World War II the country managed a peaceful change in its monarch – after popular consultation. In the late twentieth century it became a federation without tumult. It has also witnessed the quite remarkable and unique constitutional moment of a monarch abdicating for a day to enable parliament to pass abortion legislation.

There have, of course, been dark sides to Belgium's history. Externally, partial collaboration with the Nazis is widely recalled in Europe. Outside its parliamentary institutions Belgium's monarchy initiated and presided over one of the most exploitative of racist colonial regimes in the Congo (Hochschild 2000). Their additional colonial and immediate post-colonial record in Rwanda and Burundi puts Belgians high in the league-table of European imperialists with shameful records in Africa (Lemarchand 2008). But, just as the institutions of Athenian democracy can be evaluated and deemed meritorious apart from the slavery that marred them – as famously argued by A.H.M. Jones (1969), so it is possible to admire Belgium's domestic institutional developments and evaluate them in distinction from its imperialist past. Internally, Belgium has shared in the apparent recent increase in visible corruption among the elected political classes of western democracies, and has had its own distinct policing and religious scandals, but it is difficult to maintain that in these respects it is more radically unkempt than any of its peers in the European Union.

Yet in most recent characterizations, domestic but especially foreign, Belgium is treated as on the verge of collapse. To North Americans it is introduced as the Canada of northwestern Europe, except that it is its non-French speaking community that is seen as the likely secessionist. Belgium's possible collapse would, of course, add weight to the claims of those who argue that pluralist federations and consociations are necessarily doomed.⁸ By contrast, Belgium's survival and future flourishing, despite its multiple regime crises, would support those who maintain that even in places with strongly dualist nationalist antagonisms it is possible to avoid violent break-up, secession or partition, and to have functioning power-sharing federations. That is Belgium's wider significance, and it is of far more import than a

⁸ These arguments are reviewed and some of their critical weaknesses observed in McGarry and O'Leary (2009).

technical puzzle in comparative politics.

For these reasons, among others, the publication of the elegant central essay of this book, Kris Deschouwer and Philippe Van Parijs's "Electoral Engineering for a Stalled Federation" should be warmly welcomed. These two professors, from Dutch and French-medium universities respectively, have made innovative proposals, in the neutral language of English (neutral for them). They may serve to prove to some that on occasion the application of two political approaches to constitutional design, sometimes treated as strictly incompatible, may be fruitfully combined. They are those of consociation and pluralist federation.

Consociational reformers not abolitionists

Our two authors, though unhappy with some of the consequences of past consociational practices in Belgium, do not propose to challenge any of the federal Kingdom's current consociational arrangements, namely,

1. *Cross-community executive power-sharing* in the federal government among politicians from the two major linguistic communities (which currently primarily takes the form of a cabinet that requires parity of representation among its major linguistic communities, and unanimity as its conventional decision-rule);
2. *Proportional representation* of the two major communities in key federal political institutions;
3. Group *autonomy* (through the three territorial and three community governments) in matters of core concern; and
4. *Veto-rights* over constitutional change (e.g. the alarm-bell procedure, and the combination of concurrent majority and qualified majority requirements in the processing of amendments).

Though Deschouwer and Van Parijs acknowledge that their own proposal requires constitutional amendments, which will make its passage problematic, it is advanced, very wisely, as an emendation to the existing order: to make power-sharing work better, not to replace it. They propose to reform Belgium's consociational arrangements through the creation of a federation-wide electoral district, to supplement not supplant the series of mostly unilingual (and therefore largely uninational or unicommunal) electoral districts used to form the House of Representatives. Their expectation is that the formation of this district will increase the likelihood that politicians will be elected from each of Belgium's two major linguistic communities who will make executive power-sharing in the federal government function better.

While they want to modify – through the addition of one federation-wide district – the constituencies through which politicians are elected, they are fully intent on preserving the consociational use of proportional representation. Their proposal rests on using the d'Hondt allocation system of list-Proportional Representation, as used elsewhere in Belgium, and as invented by a Belgian.⁹ And if I have understood them correctly, they would use open rather than closed lists in this federal district, but with a distinctive quota requirement. In this latter respect, they are *corporately consociationalist*. A liberal consociationalist wants voters to be able to select their representatives freely, whereas a corporate consociationalist favors at least some elements of pre- rather than self-determination (Lijphart 1995; O'Leary 2005; McGarry and O'Leary 2007; McGarry, O'Leary and Simeon, 2008).

Deschouwer and Van Parijs wish to use linguistic group quotas in the federal electoral district because they fear that their absence would lead to straightforward vote-maximizing competition between the linguistically based parties, and thereby favor confrontationalists. They are nevertheless liberals because – at least as I read them – they are willing to see the

⁹ Strictly speaking d'Hondt's invention was a re-invention: Thomas Jefferson had already invented this allocation process for allocating districts to states for elections to the US House of Representatives (Balinski and Young 1982: Ch. 3).

relevant quotas change periodically according to recent electoral results. Their proposed federal electoral district would for now be filled through a 3: 2 ratio of Flemish to French speakers, the same as that produced in the most recent elections (and similar to estimates of the current demographic ratios in Belgium – no linguistic census can currently be taken because of political sensitivities). Given that 15 seats have to be filled in the proposed federal district that would presently deliver a 9: 6 ratio. The twist in the authors' argument is that the quota will provide an incentive for joint lists to be presented, or for the option of *apparentement* to be organized in the federal-wide district by the ideologically related Flemish and Francophone parties. These possibilities will promote a more accommodative cohort among those elected to the federal district than might otherwise occur without quotas - and as currently occurs with no federal-wide district in existence. They also suppose that the procedure for electing the federal-wide district will have positive ripple-effects: the status of those competing for these positions will be higher with the wider electorate, and have knock-on effects, increasing, if only slightly, the number of accommodationist candidates to be elected in the unilingual districts.

Deschouwer and Van Parijs also do not challenge any group's current form of territorial or community self-government, though it is fair to infer that they would like there to be more effective shared federal government in Belgium, and they do not appear to be persuaded that there is any case for further hollowing out of the functions of the federal government.

Lastly, they propose no changes to the forms of constitutional amendment in Belgium, and do not propose to weaken the veto-rights of the smaller of the two largest communities in Belgium, namely the Walloons. Indeed, they advocate the quota in the federal electoral district, and, by implication, keeping parity in the cabinet, to protect the smaller French-speaking population from the potential majoritarian power of the Flemings. They also do not challenge the constitutional convention – not law – of unanimous decision-making within the federal cabinet. So, in short, these authors are reforming consociationalists, not anti-consociationalists, and that, it appears to me, is their own correct self-understanding.

I have made this lengthy observation about the reformist consociational character of their proposals for two reasons. One is that some will want to interpret Deschouwer and Van Parijs's essay as proof of the 'stalling' and 'immobilist' features of consociations - and to suggest that their proposals merely tinker at the edges of these problems. I think that is unfair. The authors' diagnoses and proposal are highly intelligent, and, if the proposal were applied, and if it worked out as intended, it would certainly make Belgian power-sharing work better. Their analysis shows that there are more rigid and more flexible forms of consociation, and their idea is to add an institutional fix that positively nudges trends and tendencies latent within existing Belgium politics in a clearly productive direction.

But their proposal will also make any critical reader reflect whether there are any other consociational methods, other than those proposed by Deschouwer and Van Parijs, to re-introduce the requisite flexibility and governability in Belgium's system. Belgium's consociational federation is currently quite rigid in its power-sharing mechanisms at federal level. The requirement of parity of representation of language communities within the cabinet (Constitution of Belgium, Article 99 (2)), and the convention of unanimity in cabinet decision-making, makes government-formation especially likely to be protracted, precisely because the cabinet cannot directly reflect election outcomes and because every possible government-maker knows that they are granting every cabinet member a veto. These problems are exacerbated, argue our authors, by de-synchronized but continuous regional, provincial, federal (and European Union) elections, which now reward stalwarts rather than accommodationists in each linguistic camp. Deschouwer and Van Parijs's clever suggestion is intended to ease government-formation, and to make government-maintenance more likely. But it requires for its success a rather roundabout mechanism, the introduction of a federal electoral district to inject a more accommodationist ethos within the political class, which in turn, they hope, will ease federal government-formation and maintenance.

My initial inward response to Deschouwer and Van Parijs's proposal was not to question their analysis, which is quite convincing, but instead to ask: Why not seek less backdoor ways

around the identified problem?

One pair of ideas, which would be best as a pair, would occur to any defender of Northern Ireland's novel consociational arrangements (see McGarry and O'Leary 2004: especially Ch. 1 and 9; and McGarry and O'Leary 2009 in Taylor (ed.) 2009: especially Part I and Part III). Namely,

1. *Why not organize parity through two co-equal prime ministers* (nominated by the largest Flemish and largest Francophone parties respectively) instead of through equal numbers of cabinet members? The two premiers would maintain a key symbolic (and decision-making) component of parity, but their existence could also be compatible with ending the convention of unanimity in the cabinet.

2. *Why not organize cabinet formation through the d'Hondt rule, using it both to decide which parties get which share of the available cabinet seats (allocation rule), but also the sequence within which they select them (sequential rule)?* This mechanism, provided the number and content of cabinet portfolios are fixed, enables fast cabinet-formation, because the allocation process grants parties entitlements to ministries in proportion to their strength in parliamentary seats, without requiring a pre- or even a post-electoral coalition (O'Leary, Grofman, and Elklit 2005). Since Belgium limits cabinet size to 15 ministers by Article 99 (1) of its Constitution no constitutional amendment would be required to fix the size of the cabinet.

Using the d'Hondt allocation mechanism would prevent any party from vetoing cabinet formation. Though a d'Hondt allocation and sequential process could enable the formation of a Flemish-speaking majority in the cabinet, it would not enable any party or list to exclude from the cabinet any party or list with a significant share of the vote. Moreover, and importantly, the d'Hondt mechanism could be combined with a qualified majority decision-making rule in the cabinet. Given Belgium's recent history a qualified majority rule is certainly necessary to ensure that the change in cabinet formation would not lead to straightforward majoritarianism. That goal could be achieved by requiring the cabinet to make all decisions by a concurrent majority of the Flemish and Francophone ministers in the cabinet – or to make all decisions in this way when sought by a majority of the Francophones in the cabinet.

These elements would also make government maintenance easier. A concurrent majority on issues would be easier to obtain than unanimous agreement. Any party that resigns from the cabinet would hand the relevant ministerial portfolios to other parties, and that therefore would act as an incentive against unilateral resignation. The shift to a proportional rather than parity basis for representation in the cabinet would enable the cabinet to reflect shifts in electoral opinion. So Belgium's current arrangements, in which there is something like center-right and center-left alternation in authority, could be maintained, but without the need to exclude the losers in the left-right contest from any access to the cabinet.

The first idea, the joint premiership, would solve the issue of finding an asexual or neutered prime minister, and the second idea, more interesting perhaps, would bring d'Hondt, a Belgian invention, back to its homeland, but with an application (sequential allocation of ministerial portfolios) not used in Belgium. A worked example, using the June 2007 election results, is given in Table 1 below.

These two prescriptive suggestions are targeted at modifying the rigidity of Belgium's cabinet formation. They are, however, intended to preserve both parity and proportionality principles, but in ways that would ease both cabinet formation and cabinet maintenance. These proposals are not advanced with the absurd spirit that what works in Northern Ireland works best everywhere else; and they are certainly not advanced with any of the sensitively detailed knowledge of Belgium's historic and current dynamics which Deschouwer and Van Parijs display in their essay. It may be that these alternative proposals would be deemed unrealistic, not just because they would require constitutional amendments, but also because Francophone parties may be unwilling to surrender parity of membership and the convention of unanimity in the cabinet for the arrangements just suggested.

That may well be so, but these ideas nevertheless confirm an essential analytical and prescriptive point. The ways of re-engineering consociations are multiple, and the defeat of Deschouwer and Van Parijs's proposal, were that to happen, would not mean that the consociational repertoire of ideas is exhausted. The Northern Irish inspired ideas (themselves partially derived from Belgian and EU experiences) that are sketched here should not be treated as an exclusive alternative to the proposal of Deschouwer and Van Parijs – they could, conceivably, be combined with it. Indeed, there may be case for arguing that while my proposals would be looked on more favorably by Flemish speakers (since their majority status would be reflected in the cabinet – though without majoritarian power), the proposals of Deschouwer and Van Parijs may seem more pro-Francophone (since they are geared toward making the federal government work better), and so the two might profitably be combined as a balanced package.

Table 1. Allocating Belgian Cabinet positions using the d'Hondt formula, applied to seats won in the June 2007 elections.

	LIST															
	CD&V NVA		MR		PS		OPEN VLD		VLAAMS BELANG		SP. A - SPIRIT		CDH		ECOL	
DIVISOR	S	M	S	M	S	M	S	M	S	M	S	M	S	M	S	M
1	30	(1)	23.0	(2)	20	(3)	18	(4)	17	(5)	14	(7)	10	(11)	8	(14)
2	15	(6)	11.5	(8)	10	(10)	9	(12)	8.5	(13)	5		4			
3	10	(9)	7.7	(15)	6.7		6		5.4							
4	7.5															
TM	3		3		2		2		2		1		1		1	

Key: S = Seats won; M = Ministries won in order of choice; TM = Total Ministries.

Explanatory Notes:

(i) The leading List (CD & V NVA) nominates the prime minister, and the 2nd placed list (MR) nominates the co-premier, provided he or she is from a different language group, in this case a Francophone. The CD & V NVA would have the premier and the 6th, and 9th choices of ministerial portfolios. The MR would have the co-premier, and the 8th and 15th choices of ministry.

(ii) Where there is a tie during the allocation, e.g. in the choice of the 9th ministry, it is broken by prioritizing the list with the higher share of the popular vote.

Deschouwer and Van Parijs's proposal certainly merits the careful attention of the Belgian political class and its civil societies. Anyone who would condemn their proposal faces the fair question: do you have any better proposals for making power-sharing work more effectively and that are fairly easily made compatible with Belgium's evolved constitutional ethos - and therefore have some prospect of being adopted?

A second reason for emphasizing the pro-consociational features of Deschouwer and Van Parijs's proposals is that they are historically sensitive to the evolution of Belgium's history. They thereby implicitly rule out the applicability for Belgium of proposals from the 'centripetalist' school of conflict-regulation (Reilly 1997; 2001; Reilly and Reynolds 1999), correctly, in my view, given Belgium's political sociology.

Deschouwer and Van Parijs put matters this way, "A federal district would re-introduce pre-electoral incentives - absent since the Belgium-wide parties fell apart - to display a disposition to compromise that is needed to govern, in power-sharing fashion, at the federal level." On this account it was the breakdown of electorally integrationist pan-Belgian parties, followed by federalization, that weakened accommodationist incentives, not consociation *per se*. Before 1970 each major party was, roughly speaking, internally consociational (sharing

power and positions proportionally across the different language speakers), which facilitated coalition governments in the then unitary state. It was, on our authors' account, the breakdown of these parties along the ethno-linguistic line, followed by federalization, that created the current difficulties that they seek to redress, while – they do not forget to add – resolving many inter-group conflicts (through territorial autonomy and complex arrangements for Brussels).

What is especially interesting about Deschouwer and Van Parijs's proposals is they do not seek to pursue what standard centripetalist advocates, inspired by Donald Horowitz, might suggest, that is, strongly incentivizing the formation of federation-wide bi-lingual parties. Deschouwer and Van Parijs know that these parties once existed; and that they have broken down; but they have little expectation that such parties can be restored. While mildly regretting their non-existence they waste no time in romantic proposals to resurrect them artificially. The current parties might of course, stoutly resist any such suggestions. Nor do they seek to rig the electoral system, as Donald Horowitz – or a Horowitzian – might want, in favor of federation-wide parties through 'distributive requirements.' Such requirements might constrain parties to compete throughout the federation in all electoral districts, or require parties to obtain minimum support levels in all (most or a plurality) of the federation's districts before achieving representation in parliament (or the cabinet).¹⁰ Instead, Deschouwer and Van Parijs' proposals are explicitly conceived of as a way to compensate for the absence of federation-wide parties, and to compensate for the loss of previous pre-election incentives to support conflict-regulation rather than conflict-aggravation. Their proposals would not weaken the equality of the vote of each person in each part of Belgium – unlike some possible distributive proposals. Instead they advance one consociational distributive proposal – a fair quota in a federation-wide district, which they think might better promote federation-wide interests through incentivizing politicians toward more accommodative postures. So, while they favor Horowitz's oft-repeated insistence on the importance of electorally incentivizing conflict-regulating behavior among politicians, they do so through consociational proposals, a quota within the family of list PR.

Pluralist federalists

Deschouwer and Van Parijs are decidedly not against Belgium's secular shift and formal constitutional transformation into a federation over the last two generations. Moreover, they certainly do not favor re-making Belgium along the lines of an *integrated federation* – i.e. majoritarian in the federal government, centralized in fiscal and legal powers, and mono-national in identity. Instead, they favor *pluralist federations* – i.e. consensual in their decision-making at the federal center, decentralized in constitutional powers, and pluri-national in the management of identities (O'Leary 2005b).

But their essay shows that they are alert to three dangers, which we might call the limits to Belgium federalism. They fear that consensus may be increasingly less feasible because the electoral system currently rewards confrontationalists, i.e. Flemish nationalists who wish to disembowel the federal tier of government, and Francophones who wish to stave off any change, at any cost. Deschouwer and Van Parijs also appear to fear that the decentralization dynamic has reached the end of the road – because to concede any further autonomy to Flanders would deeply damage the residual but important elements of shared Belgian statehood. Lastly, Deschouwer and Van Parijs think that a fully nationalist resolution of

¹⁰ Deschouwer and van Parijs do not consider Donald Horowitz's favored electoral prescription, the alternative vote, which is strongly majoritarian in single member districts – and utterly irregular in multi-member districts (see Lijphart 1991). Even Horowitz would have to temper his enthusiasm for the alternative vote in Belgium given that the only relevantly heterogeneous constituencies would be in Brussels, and that the use of the alternative vote in that city would almost certainly strikingly over-represent Francophone candidates. Deschouwer and van Parijs also do not consider Horowitz's counsel to make a federation's regions ethnically or linguistically heterogeneous, e.g. through re-drawing federal regions' boundaries to cut across the existing language divide, or to increase the number of federal regions. I infer that Deschouwer and van Parijs do not consider Horowitz's proposals, even though the authors have plainly read Horowitz's major book, *Ethnic Groups in Conflict*, precisely because our authors are consociationalists, and perhaps because they know that any such proposals would be treated by most Belgians, Flemings, Walloons and Brusselers, as unworkable provocations.

Belgium's conflicts – the secession of Flemings from Belgium - cannot occur, or at least cannot occur easily. That is because of Brussels, a Francophone majority-region, but an enclave within the Flemish region, the site of a disproportionate amount of the production of Belgium's GNP, and historically a Flemish rather than a Francophone city. But Deschouwer and Van Parijs nevertheless fear that the project to advance a sovereign and independent Flanders might trigger catastrophic antagonism at some juncture. Their proposed electoral district therefore has a lot of work cut out for it. It is clear how it is intended to weaken the impetus for confrontationalists to be successful in elections, but whether it will be sufficient to hold off the threats to Belgium's integrity remains to be tested.

It should now be clear why it is fair to read Deschouwer and Van Parijs's paper as a successful synthesis of consociational and federal logics. The much tougher question is to assess whether it might work. There are, however, no obvious technical problems. There are absolutely no good institutional or democratic reasons why one cannot combine a federation-wide electoral district along with other region-based districts. The quota requirement, as they present it, would present some problems before some supreme courts, since it appears to advantage some parties or lists (those willing to run a full complement of Francophone and Flemish speakers) ahead of others, but that might be deemed the precise act of public policy required to bind the federal union together, and it is likely that the European Court of Human Rights would deem any such measure as within the margin of discretionary decision by constitution-makers.

How the law will prevent the running of fake Francophones or Flemings to make a list eligible to win all 15 seats is doubtless a problem that can be addressed – though perhaps not very elegantly. In any case that scarcely matters because the point of the change – to have some prospect of genuine cross-community jointness in electoral competition will hardly be damaged by fake jointness. But, let me be clear that I doubt the capacity of this proposal, on its own, to reverse the impetus behind Flemish nationalism, though it may help slow down the capacity of hard-line Flemish nationalists to make Belgium ungovernable – if that is what they wish to do. This, of course, is not argument against the proposal – merely to caution that it may not be able to accomplish all that the authors want.

A last word. No short focused paper, even by two highly eminent and very brilliant scholars, can address everything. But to an outsider two matters need greater attention from the intellectuals involved in Belgium's constitutional debates. The first is the place of Europe's migrants and the rest of the world's migrants, especially in Brussels. If, and it is a major if, the European Union consolidates, and grows, then Brussels will have an even larger metic population that will have a legitimate claim to a stake in the running of the Belgian federation and consociation. Will a Brussels EU district have to be carved out of the Brussels region that will be outside of the Belgian federation? How should the Belgian federation as well as the Brussels region deal with the fact that the *Bruxellois* will increasingly be comprised of *Brusselers* – those who reside in Brussels but whose working language will be English? The second, related question, is how to prevent Flanders from losing its connections to Brussels. That steady loss both inspires Flemish nationalism, and makes it more likely that one day that there will be a viable secessionist project, provided Flanders is willing to live without Brussels.

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Reply

Anything (even) better than the Pavia proposal ? A brief response to four constructive critics

Kris Deschouwer (VUB) & Philippe Van Parijs (UCLouvain)

We are grateful to all four of our critics for insightful remarks that are bound to enrich the debate and move it forward. Most of these critical remarks challenge the Pavia Group proposal of a federal electoral district as the most effective way of pursuing the objective we ascribe to it, while some challenge the objective itself.

Why we need a better federal democracy

For us and for our colleagues in the Pavia Group, Belgium is not, it hardly needs saying, an aim in itself. The objective of our proposal is to make Belgium's federal democracy serve better the interests of the population affected by the decisions it produces (or fails to produce) for as long as it exists and wherever its operation leads to. Among our four critics, only Bart Maddens challenges this objective, because he has given up on federal Belgium and hence advocates as the best next step scrapping federal democracy altogether and restricting direct elections to the regional level or (even better in his view) to the community level, thus turning Belgium into a confederation of democratic communities.

This view does not lack coherence. Nonetheless, it is misguided. Even Bart Maddens should share our objective of making federal Belgium work better, for two distinct reasons. The most fundamental one, but possibly the one hardest for him to accept, is that any feasible version of the confederal path towards separation is undesirable in his eyes too. Why so? Because of the "Brussels problem" about which he has the honesty of confessing some embarrassment. In a nutshell, the problem is that neither Flanders nor Wallonia could secede from Belgium taking Brussels with them and that the overwhelming majority of both the Walloons and the Flemings — including, we suspect, Bart Maddens — would not want to leave Belgium without Brussels. In the hope of dodging this dilemma, some have been dreaming of a formula whereby the Flemish Region would conquer its full independence while retaining control over Brussels, if necessary as a "condominium" shared with Wallonia. Anyone sincerely believing (as distinct from pretending for tactical reasons) that this is a feasible scenario has lost all touch with major aspects of 21st century Brussels. If Bart Maddens has not, it should not be difficult for him to draw the relevant conclusion. If he has, more time and space would be needed to convince him than we could reasonably devote to it here.

There is, however, another reason for Bart Maddens and other sceptics to endorse our objective, one that requires far less fieldwork in order to be substantiated. Institutional reform, in the Belgian context, including — as the Brussel-Halle-Vilvoorde (B-H-V) saga demonstrated — those reforms that require in principle no more than a simple majority, cannot be imposed by one community to the other. The current combination of segregated electoral competition and the requirement of inter-community consensus for a federal government to get off the ground leads to the sort of spectacular stalemate that followed the June 2007 electoral victory of the CD&V/NVA cartel. To those like (we trust) Bart Maddens who really want to catch the "fat fish" of greater devolution to Flanders — rather than spend their time whining or sulking about its absence — it must have occurred that there is something structural about the frustrating lack of progress in recent years. If one is to prevent

the pan from remaining desperately empty, there is bound to be a safer and quicker way than the current alternation of vociferation and bitterness.

This is the second reason why Bart Maddens should share our objective, which is precisely to provide a way for the federal government not only to run in a more efficient and legitimate way the powers currently entrusted to it but also to push through the institutional reforms which will enable our federal state to better serve our regions and our regions to work better, including of course by acquiring more autonomy.¹¹

Maddens' elected head of state

In the service of this objective, however, the institutional reform advocated by the Pavia group and now endorsed by both liberal parties, both green parties and various prominent socialists and Christian-democrats, may not be the most effective means. All four of our critics think that there may be more promising options. As we care far more about the objective than about the particular way of getting there, we would be delighted if they were right.

In addition to having the merit of making us think harder about our objective, Bart Maddens takes the trouble of articulating an alternative constructive proposal. The latter consists in having the head of state elected by universal suffrage. Though most likely to be a Fleming, a candidate who manages to get strong support on both sides of Belgium's ethnic divide will tend to enjoy a serious competitive advantage. The leading candidates will campaign throughout the country, shape their programmes accordingly and try to create a cohesive support base by linking like-minded political formations in the three regions. As a simple version of a run-off majority system in an ethnically heterogeneous district, such a proposal is bound to attract Donald Horowitz's sympathy. But for the desired dynamics to arise in a country like Belgium, so Maddens suggests, it may not even be necessary to impose regional or ethnic thresholds, as in the Nigerian and Indonesian cases hinted at by both Horowitz (positively) and O'Leary (negatively).

Maddens's proposal is of course not original (nor is it meant to be). Indeed, it is actually in use in a number of other multiethnic countries, from post-Soviet Bulgaria to the Democratic Republic of the Congo and the United States of America. A crucial question is of course how much power the head of state so elected would be given. If the function is essentially symbolic, as in the version Maddens has in mind, the associated dynamics will be too weak to offset the dynamics stemming from the mono-ethnic electorates on which parliamentary majorities and hence the choice of governments will keep depending — hardly better for our purposes, it seems, than the hereditary system now in place. If it is substantial, on the other hand, we are talking about a shift towards a presidential system, i.e. an institutional revolution incomparably more radical than merely scrapping the little that is left of the monarchy's powers or indeed than implementing our very modest proposal.

This is not the place to discuss the respective advantages of (more or less) presidential versus (more or less) parliamentary regimes. Jumping to a presidential regime may or may not have disadvantages that will more than compensate the undeniable advantage that well designed majoritarian systems tend to possess, with ethnically heterogeneous electoral districts, in terms of the dynamics we want to strengthen. The game in which we deliberately chose to play with our proposal is a pretty conservative one, which satisfies a strong constraint of short-term political feasibility as we see it. With the strong (and only relevant) interpretation

¹¹ For this reason, it can be misleading to characterize the aim of the Pavia Group proposal as "centripetal" versus "centrifugal" (as de Briey and O'Leary both do). Our proposal does aim to encourage citizens and politicians not to remain confined within their own community and instead to listen and talk to each other across the language border. This should help identify and implement win-win reforms. But there is no need to believe that a win-win concern should amount to concentrating as many competences as possible at the "centre". If only for this same reason, our proposal is also by no means more "pro-francophone" than O'Leary's alternative proposal (contrary to what he incidentally suggests). It is in every region's interest to have a federal government moving speedily towards win-win reforms, whether decentralizing or not, and more generally to have an efficient federal government. Only those Walloon *rattachistes* and Flemish separatists who believe Belgium will suddenly explode can feel served by the federal government's inefficiency, and in particular its inability to reform.

of his proposal, Maddens is inviting us to a quite different game which implies a far more radical reform of Belgium's institutional architecture. This is by no means a sufficient reason for refusing to think about it. But the exploration of its many effects in the Belgian context will unavoidably need to be far more speculative than what is required by our modest proposal. Probably too speculative for this option to ever be proposed seriously, not only tongue in cheek.¹²

O'Leary's proportional cabinet

No less revolutionary are Brendan O'Leary's two proposals, both inspired by the Northern Ireland consociational settlement which he helped bring about. His first idea is that we should have "two co-equal prime ministers", respectively nominated by the largest Flemish party and the largest Francophone party, as an alternative to "the convention of unanimity in the cabinet". This convention — which can more aptly be said to apply to the "kerncabinet", i.e. to the chief ministers of each party in the government coalition — is of course a sheer corollary of the government's need to retain the confidence of a parliamentary majority. Hence, dual premiership would not make that convention redundant. And as the premier function is not particularly in trouble, it is not clear what problem dual premiership would solve. Perhaps the reason why such a proposal makes sense in the Northern Irish context and not in the Belgian one is that it is far easier to be(come) linguistically *asexué* than religiously *asexué*. Jean-Luc Dehaene and Guy Verhofstadt, once in power, have quickly acquired strong popular support on the other side of the linguistic border.

More intriguing is O'Leary's second proposal, which he develops at greater length. Why not take D'Hondt to the very top of his homeland's political power? Why not use for the composition of the federal executive, and not only the various legislative assemblies, the list system of proportional representation first articulated by the Belgian Victor D'Hondt (1878) and first introduced in Belgium (1899) before spreading in waves to many other countries throughout the world? The fifteen minister positions in the federal government, with predefined competences, would be allocated sequentially to the various parties as a function of their shares of the seats in the Chamber, using the formula currently used for the allocation of these seats to the lists as a function of the popular vote. This sequence would determine the order in which the various parties could choose portfolios. One likely consequence is that the biggest party would automatically get the Prime Minister position and the second biggest party the deputy Prime Minister position. This obviously provides an alternative to the parity principle as a way of securing a balanced representation of both communities in the federal government. It would also have the advantage, O'Leary argues, of enabling us to dispense with the unanimity rule and go for a less constraining majority rule.

However, when looking at O'Leary's application of his proposal to the outcome of the June 2007 election, these two features are not the first ones that will strike any Belgian observer, but rather a spectacular violation of the *cordon sanitaire* to which all "democratic" parties have scrupulously stuck so far in order to keep out of power, at all levels, the extreme-right anti-immigrant party Vlaams Belang. Two leaders of the Vlaams Belang would be graciously offered two minister posts, with predictable consequences for the atmosphere at government meetings. This particular consequence illustrates the general defect of O'Leary's scheme in the Belgian context: overkill. It is essential to the good working of Belgium's federal system that both communities should be sufficiently represented in the executive, but not that all

¹² The countries in which the system is in place are sufficiently different from Belgium in a sufficient number of relevant dimensions for any inference to be made very cautiously. But they do provide a starting point for such speculation. Perhaps the closest case is that of the Republic of Macedonia, where the proportions of native speakers for the two main language groups are not that different from those that prevail in Belgium (64/25 versus 56/36) and where parliamentary elections see two sets of parties address two de facto separate electorates (of Macedonians and Albanians) under a multi-district PR system. At presidential elections, both Macedonian and Albanian parties present candidates in the first round. In the second round, the top two candidates are kept, both Macedonians predictably. Neither of them, so far, tries to appeal directly to the Albanian voters, whether from the start or in the second round. But they both try to strike a deal with the leadership of one of the Albanian parties in order to enlist its support. (See Bieber 2008 and Petrov 2009.) Not quite the dynamics aimed at in Maddens' proposal, nor perhaps the one that can be expected in the Belgian case.

political tendencies should be present in it. As Guy Verhofstadt's two liberal-socialist governments (1999-2007) have shown, it is even no longer necessary for the government's legitimacy that the two sides of the old cleavage between Catholics and non-Catholics (the cleavage that prompted *L'Union fait la force* as the national motto in 1830 and later made Belgium a paradigm of consociationalism) should be represented in the government. It is true that O'Leary's scheme would make it conceivable to dispense with the unanimous agreement of all parties of the government. Indeed, this would be indispensable to prevent constant blockages. But there is no reason to expect qualified majority support among the large set of parties O'Leary wants to bring into the government to be easier to achieve than agreement among all members of the subset of parties that form the governmental majority (in the present situation). Our conviction, therefore, is that the cohesion of a government, its capacity to act and its electoral accountability are all better served under the present system of government formation, which requires simple majority support in the Chamber combined with the support of at least some significant parties in each language group.

All this, however, does nothing to undermine Brendan O'Leary's fundamental point, which his Northern Irish inspired proposals are only meant to illustrate. His point is that once a problem is identified, it is fruitful not to remain stuck with one pet idea and instead to seek inspiration from how other divided countries might have successfully solved analogous problems, possibly in a "less backdoor way". O'Leary emphatically dismisses "the absurd spirit that what works in Northern Ireland works best everywhere else". And it is in the light of a "sensitively detailed knowledge of Belgium's historic and current dynamics", whose importance he stresses, that we believe his proposal would not fix our problem. The reason why O'Leary conjectured it might do is that it would make the formation of a government an automatic consequence of the parliamentary elections, instead of the outcome of the sort of protracted negotiation we witnessed after the June 2007 election. Such negotiation, however, is about the substance of the government's program far more than about the distribution of portfolios and the reason why it happens before the new government taking office is to prevent constant blockages and governmental instability later on. What the Northern Irish formula would do is shift these tensions and blockages into the working of the government once formed and probably make them worse, because of the guaranteed presence of hard liners from both communities. The consequences are likely to be crippling, with the government basically reduced to a caretaker role far beyond the realm of inter-community issues. Or at least this will be the case as long as the prior electoral process keeps inducing parties from both sides to make strong and salient but incompatible promises to their separate electorates. This is the fundamental problem we face, and O'Leary's two interesting proposals do not address it.

De Briey's double vote

Laurent de Briey's proposal does address this problem.¹³ It is, moreover, significantly less radical than either Maddens' proposal or O'Leary's, and is therefore a closer competitor to ours. Like us, de Briey wants all electors of the federal Parliament to have a second vote in addition to the one cast in their own provincial electoral district. But whereas in our proposal, the second vote is cast on a unilingual or bilingual open list presented in a country-wide electoral district, de Briey wants the second vote cast on a closed unilingual list from the other community.

In order to prevent one community from having too much of an impact on who represents the other (and in particular to prevent the Flemish majority from having more say than the Francophones themselves in determining who will represent the Francophones), the votes cast across the linguistic border lose three quarters of their value on the way. In order to avoid many complications and by-pass the problem of insufficient information about

¹³ A significantly different version of this proposal, with open lists and no reduction coefficients, was presented by UCLouvain law professor and CdH senator Francis Delpérée (see Delpérée & Dubois 1999 and the discussion in Van Parijs 2000). In February 2009, Open VLD deputy Sven Gatz made a proposal closer to de Briey's (open lists with reduction coefficients) for the Brussels regional elections (see www.vldbrussel.be/page.php/nieuws/dossiers/2009022601).

individual candidates, on the other hand, the second votes are cast on closed party lists and distributed across provincial electoral districts in proportion to the votes obtained in each of them by the parties concerned. Here again, as under Maddens' proposal, we can reasonably expect that parties on each side will pay significantly more attention to the other side than is the case under the present set up, at least if electors bother to use their second vote in significant numbers.

For the level of complexity of the voting system to remain manageable, this double-vote system is not realistically combinable with ours. The question is then whether there are any good reasons to prefer one to the other. The main advantage of de Briey's proposal is that his second vote, unlike ours, is wasted if it is not used across the language border. As most voters are likely to have at least some preference between the parties on the other side, many of them are likely to make use of this second vote, and anticipating this response (even with an impact dampened by the coefficient) will induce the leaders of the various parties to care more for the citizens and the media of the other community. In our proposal, it could be said that the guarantee is weaker, since the "federal" vote of each citizen could be cast exclusively on candidates from her own community. We believe, however, that this advantage is more than offset by a conjunction of disadvantages which make the proposal of a federal electoral district both more realistic and more promising in terms of the dynamics it will trigger.

Firstly, in de Briey's proposal unlike in ours, there is no competition between individual candidates for the favours of voters from the other side. As a result, one of the expected effects of our proposal is given up: the encouragement of a selection and self-selection of candidates more suitable for responsibilities at the federal level. Secondly, like the coexistence of two electoral colleges (French-speakers and Dutch-speakers), de Briey's scheme prevents the formation of bilingual lists. It thereby rigidly asserts and tends to reinforce the priority of the dichotomic "ethnic" political identity over all others, with ideological differences playing only a secondary role. Our own scheme, despite the linguistic quotas to which we shall return, is far less rigid. It makes room for (without imposing) bilingual lists which give precedence to ideological over linguistic identity, and could also easily be adjusted if regional identities started overshadowing linguistic identities. Finally, the asymmetry implied by the coefficients means that the members of the federal government are not equally accountable, electorally speaking, to each citizen of the country: the vote of a citizen from the other community matters to him four times less than the vote of someone from his own. In our proposal, each voter matters equally to each member of the government.

It may, however, be argued, that speculations about the possible consequences of de Briey's scheme are pointless because its political feasibility faces a decisive obstacle. Owing to his proposal's closed-list aspect (for which he argues convincingly), the bridging between communities will arguably tend to take the form, not of vote-fetching by individual candidates, but rather of deals between political parties. Each party will tell its voters to allocate their second vote to the party with which it managed to strike a reciprocal deal. If this is anticipated (whether correctly or not) by the various parties, the proposal will be strongly opposed both by those who will have no party to make a deal with (which would presumably be the case for NVA or VB) or only a comparatively much smaller one (which would be the case, under present conditions, for the CD&V, the PS or Ecolo). Especially if the proposal is coming from those parties that stand to gain most from the scheme (CdH, Groen!), this proposal will therefore look *cousu de fil blanc* by all others, and unlikely to get anything like the required majority. As our proposal is consistent with each party standing alone and receiving its usual share of the second votes, it does not create a similar obstacle.

Before concluding that the scheme we propose is definitely better than second vote schemes of the type advocated by de Briey, it is important to answer one important objection to be found in both de Briey's and Horowitz's comments. Both of them fear that the incentives triggered by the creation of a federal electoral district will remain weak, if only because of the relatively small number of seats involved in the Pavia version of the federal district proposal (15 out of 150) or even in the versions favoured by the political parties that support the

federal district (30 to 40 out of 180 or 190). In response, we need to stress three crucial points insufficiently appreciated, it seems to us, by our critics.

Firstly, there is no doubt that all the party leaders and most likely members of the federal government to be formed after the election will be standing in this federal electoral district: it will be in the interest of their parties to put them on these lists simply because of the appeal they will have outside their province (not necessarily outside their region), and in an age in which TV appearance is more important than door to door canvassing, how weighty the “federal” candidates are is far more important than how numerous they are. Secondly and for the same basic reason, even though most of the MPs will be elected in a provincial seat, most will have been candidates in the federal electoral district. Finally, the possibility of multiple voting on the same list, which is standardly offered in all Belgian elections, makes it far more likely that voters will seriously consider voting for a salient candidate from the other community providing (s)he stands on a bilingual list and thereby enable voters to vote simultaneously for him/her and for one or more candidates from their own community.

Contrary to a frequent and understandable interpretation to be found for example in O’Leary’s comment, our argument is emphatically *not* that there will be a special category of MPs who will represent, and feel they represent, the whole of the country, while the others represent their region or their province. Our argument is rather that the leaders of all parties and most of the MPs (whether elected in the federal or in a provincial electoral district) will have something to gain — and not, as now, only to lose — by listening to voters from the other side and accommodating their concerns in the programmes they propose and the commitments they make.

Horowitz’s regional thresholds

Now, as Horowitz points out, it remains true that the reform we propose merely opens a possibility, without any guarantee that it will be used. If voters consider that they can only be truly represented by members of their own linguistic group — as de Briey fears they will —, there will be nothing for politicians to gain from looking across the linguistic border. But is there any fundamental reason why voters should find it more difficult to feel properly represented by MPs belonging to the other linguistic group than by MPs belonging to the other gender or to another age group? It is arguably crucial that voters should feel their representatives understand them and care for them. The lack of any shared language is admittedly a formidable obstacle to both the feeling and the reality of being understood, but a difference in native languages need not be such an obstacle: it only appears to be so when the institutions — as opposed to “nature”, which, when we try to squeeze it out, returns galloping¹⁴ — make it so. And if voters are to feel that candidates from the other language group care for them, enabling these candidates to gain from caring for them — which is precisely what our proposal does — should definitely help.

Nevertheless, if our proposal is to achieve its objective rather than be counterproductive, it is essential that voters should not feel that by giving their vote (or one or more of their votes for individual candidates) to someone from the other community, they risk contributing to their own community being underrepresented. As noted by Horowitz, the open list character of Belgium’s PR system (which we wish to keep) opens the possibility of block voting on bilingual lists for candidates belonging to one linguistic community. The widespread occurrence of such block voting can be anticipated to trigger the collapse of bilingual lists and the spreading of active campaigning for voting for the unilingual lists of one’s own community. Pre-established quotas, simply fixed by the ratio of the linguistic groups in the outgoing parliament, are therefore indispensable if this perverse dynamics is to be inhibited.

Unfortunately, with the exception of O’Leary, our critics do not like our quotas. They seem to feel that they introduce an unwelcome impurity into our proposal: they turn the latter into

¹⁴ “Chassez le naturel. Il revient au galop.”, Bart Maddens’s title half-says. Perhaps the truly natural behaves in this way. But in human matters, what looks “natural” is generally the (sometimes subtle) product of “artificial”, and hence presumably modifiable, institutions.

an uncomfortable hybrid of consociationalist power-sharing (which relies on salient distinct identities) and trans-community bridge-building (which strives to make these distinct identities less salient). We do not care about purity. Nor do we care about whether our proposal can be regarded as truly “consociationalist” or truly “centripetalist”. What we care about is results in the country as it is. And this country is one in which linguistic identities are strong enough for most people to care about the overall representation of their community in the national parliament. But it is also one in which for most people these identities are not so strong as to make it unimaginable for them to vote for a congenial candidate from the other community. This is why quotas are essential to our proposal. This is also why, contrary to what is sometimes suggested, our proposal does not amount to swelling B-H-V to the country as a whole.¹⁵ The fact that the electoral system within the current B-H-V electoral district does not involve quotas is precisely one major reason why federal elections there amount to something like a conflict-ridden linguistic census that drives communities against each other instead of building bridges between them.¹⁶

It is therefore correct to say that quotas are for us a way of creating, in Horowitz’s words, “preelectoral incentives for intergroup cooperation” by switching off the voter’s defensive inhibition. Horowitz suggest that we should “follow that idea to its logical conclusion”, instead of clinging to what looks like a remnant of consociationalism. How? By including far more seats in the federal district so as to mitigate more effectively “the tendencies emanating from the [provincially allocated] seats in which candidates are elected as representatives of ethnic interests”. But also perhaps, more imaginatively, by stipulating that “lists could only be elected if they achieved some territorial distribution threshold that testified to their interregional appeal”.

The Pavia Group did discuss variants of this idea, for example imposing a list-level eligibility condition that prevented allocating seats to lists that do not reach at least 5% of the vote in each Region (a percentage that would need to be safely above the estimated percentage of Francophones living in Flanders), or perhaps at least 0.5% of the vote in each of the eleven provincial districts. Were a condition of this type to be imposed, the incentive to form a country-wide list would obviously be greater than under our proposal. But there is a big danger. Some parties may deliberately opt for sacrificing seats on that electoral district in order to denounce both the “undemocratic” character of a system that denies representation to nationalist parties and the despicable collaboration of their competitors with the “other camp”. Their success may easily be so great as to block any “collaborationist” majority in the federal parliament. Of course, this could be prevented by allocating most seats to the multiple-threshold country-wide electoral district. But the discrepancy between parliamentary majorities in the federation and in the regions would then tend to become explosive.

On reflection, therefore, the Pavia Group opted for a milder variant that does not make it impossible for mono-ethnic parties to get candidates elected in the federal electoral district. Common lists are encouraged by the fact that unilingual lists, in our proposal, will look incomplete (only 9 candidates on unilingual Dutch lists, only 6 on unilingual French lists) and by the premium given to bigger parties by the D’Hondt PR system, at least if district magnitude is not too large. True, our allowing vote pooling between distinct lists reduces this encouragement. But this optional pooling seems to us an appropriate way of creating solidarities across the linguistic boundary when the level of trust is not sufficient for the creation of common lists, while not preventing these solidarities from paving the way to the latter. Moreover, the ability to gather both components of a political family in single list will be an attractive prospect for political leaders who want to become federal prime minister, as they will thereby be able to attract far more easily large numbers of votes spanning the whole

¹⁵ See de Coorebyter (2007) and Maddens (2007). For a more detailed argument on the importance of quotas, see Van Parijs (2006).

¹⁶ By contrast, the Brussels regional elections, which operate with a 17/72 pre-established quota, display a less divisive dynamics. However, they are organized in two unilingual electoral colleges which prevent bilingual lists and turn border-crossing voting into an anomaly (see Van Parijs 2009). Some analogue of the Pavia Group proposal should be explored for the Brussels Region’s electoral system in order to avoid this defect without lifting minority protection.

country, thereby gaining both greater authority within their own party and a more legitimate claim to leading the government of the whole country.

If our proposal is to be improved in a direction Horowitz should welcome, therefore, it may be by stipulating that the leader of the list that gains most votes in the federal electoral district should automatically be put in charge of trying to form the next government (instead of the choice being left to the King, as is now the case). Horowitz is likely to welcome this way of increasing the extent to which politicians with the ambition to rule a divided country are made “partially dependent on the votes of members of groups other than their own”. And Maddens is certain to do so. For in our own modest, conservative way — parliamentarian and proportional rather than presidential and majoritarian — we are thereby going a long way towards a direct election of the head of the government, while eroding the little that remained of the current head of state’s political power. Yes, there is perhaps something better than the Pavia proposal. Warm thanks to our critics in any case for having moved the discussion forward.

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