

The Current Challenges on the Belgian Federalism and the 6th Reform of the State

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Introduction

Since 1993, Belgium is officially a federal state, composed of – three – communities and – three – regions, as the – new at the time – first article of the Constitution proclaims. The history of federalism in Belgium is therefore quite recent. Nevertheless, the story is – much – longer since it starts with the independence of Belgium from the United Kingdom of the Netherlands in 1830¹. The very beginning of a state and the underlying causes of its creation, as well as its place on the map, the timing of its creation and the characteristics of the elites who take the lead and define the new state's nature are of crucial importance and these elements shape the country's political development for centuries². Nonetheless, although the beginning of any state sets up a path dependency³, there are also critical junctures along its political development which in turn influences the course of history. This is especially true for Belgium⁴. Here, history and politics are intrinsically interrelated. Indeed, the current challenges on the Belgian federalism find their roots in the country's history.

Three main challenges face Belgian federalism: an ethno-territorial challenge, a socio-economic challenge and a political challenge, that is to say the future of the country itself. In this endeavour to assess the current challenges on the Belgian federalism, three variables have to be taken into account. The first variable is *the territorial principle vs. personal principle debate*, which constitutes the backbone of the so-called Belgian community question; it is also intrinsically related to the first challenge: the ethno-territorial challenge. The second variable is the *political parties* because they have played and play the major role in Belgian politics and therefore in the Belgian federal dynamics. The third variable is made of the *people*; that is, at the individual level, the inhabitants or the citizens or the voters and, at the collective level, the language groups of Belgium. These three variables are at the heart of Belgium's

¹ For the Dutch, it is in 1839 (and not in 1830), when an agreement was reached between The Netherlands and Belgium about the – new – borders of the two countries.

² Peter Flora, Stein Kuhnle, and Derek Urwin, eds., *State Formation, Nation-Building, and Mass Politics in Europe: The Theory of Stein Rokkan* (Oxford: Oxford University Press, 1999).

³ Paul Pierson, "The Path to European Integration: A Historical Institutional Analysis," *Comparative Political Studies* 29, no. 2 (1996); ———, "Increasing Returns, Path Dependence, and the Study of Politics," *The American Political Science Review* 94, no. 2 (2000).

⁴ Kris Deschouwer, *Politics of Belgium: Governing a Divided Society*, Comparative Government and Politics Series (London: Palgrave Macmillan, 2009), 20.

past, present and future and continuously interact with one another. In order to offer a clear picture of these interactions, Belgium's history is conceptually divided into three periods: *before federalism* (1830-1960), *federalism* (1960-2007) and *after federalism* (2007-onwards). These three periods shed light on the background of the current challenges on the Belgian federalism. On this basis, the recent institutional agreement which gives Belgium her sixth reform of the state is analyzed as it provides – tentative – answers to the first two challenges. This all leads to the last challenge – the end of Belgium? – dealt with in the conclusion.

1. Before Federalism (1830-1960)

After having been under Spanish, Austrian and French rule, the territory of – the future – Belgium was united, by the Treaty of Vienna of 1815, to the United Kingdom of the Netherlands led at the time by William I of Orange. The religious – pro-Protestantism – and linguistic – pro-Dutch – policies⁵ soon fuelled a movement of contestation among the inhabitants, especially the bourgeoisie, of the southern provinces which led to their secession in 1830 and to the independence of Belgium, quickly acknowledged by the foreign countries⁶. Belgium was a brand new entity – even though the territories of this new country had been sometimes more or less united under the same ruler⁷. A new state – not at all federal – had to be created, and this is where the three key variables came already into action.

A. The Territorial Principle vs. Personal Principle Debate

Since its beginning, Belgium is composed of a majority of Dutch-speaking inhabitants. The first national census of 1846 counted 4.3 millions Belgians, of which 42 per cent spoke French, 57 per cent spoke Dutch and 1 per cent spoke German⁸. Nonetheless, Belgium was a unitary state and a unilingual country, where French was the unique official language but also the exclusive language in politics, in economy or in culture. As Kris Deschouwer mentions, “the choice of French as the sole official language of Belgium was an obvious choice for the political elites, but it was a choice for a language that was not spoken by a small majority of the population”⁹. This choice and especially its consequence on the life of Dutch-speaking Belgians, who were not allowed to use their mother tongue for official matters, gave birth to

⁵ Els Witte and Harry Van Velthoven, *Language and Politics. The Situation in Belgium in a Historical Perspective* (Brussels: VUB Press, 2000).

⁶ Xavier Mabille, *Histoire Politique De La Belgique : Facteurs Et Acteurs De Changement*, 4ème ed. (Bruxelles: CRISP, 2000), 83-97.

⁷ Kris Deschouwer, *Politics of Belgium : Governing a Divided Society*, Comparative Government and Politics Series (Londres : Palgrave Macmillan, 2009), 16-18.

⁸ Kenneth D. McRae, *Conflict and Compromise in Multilingual Societies. Volume 2, Belgium* (Waterloo: Wilfrid Laurier University Press, 1983).

⁹ Deschouwer, *Politics of Belgium: Governing a Divided Society*, 28.

the Flemish movement¹⁰. This movement, born with – or better in reaction to – Belgium, started to claim the recognition of Dutch as a second official language, at least in Flanders. Yet, these demands were fiercely rejected by the – French-speaking – Belgian elites throughout the country because they feared it would impede the development of the Belgian nation on the basis of French as the lingua franca from South to North, from East to West¹¹. This continuous refusal made way to a radicalization of the Flemish movement, slowly reinforced by the expansion of voting rights¹². It is only in the 1870's that the first laws were passed to formally allow the use of Dutch in the northern provinces in criminal courts and in public administration¹³. In 1898, the "Equality Law" recognized Dutch as an official language and thus put it on an equal footing with French, even though the latter remained the dominant language in the country.

In 1921, the universal – male – does not modify the domination of the French-speaking bourgeoisie throughout the country, despite the increasing political weight of the Dutch-speaking citizens – and now voters. Yet, the Flemish movement's demands led to new linguistic laws in the years 1920's and 1930's which allow for the use of Dutch in many areas: notably justice, administration and education. In the meantime, the generalized bilingualism, i.e. throughout the country, is rejected by both French-speaking elites and Dutch-speaking elites; each group wanted first and foremost to ensure the protection of its own language on its own territory¹⁴. The logic of these linguistic laws is *territorial*. According to the language of the majority of its population, each commune – the smallest administrative division in Belgium – belongs to a unilingual linguistic region – Dutch, French or German –, with the exception of the communes in Brussels which are in the sole bilingual region. Brussels itself is at the heart of the issue. Initially a Dutch-speaking city in the Dutch-speaking region, it became rapidly a "Frenchified"¹⁵ city as its role of capital city of the country attracted the – French-speaking – elites and the administration. These territorial and linguistic issues are the foundations of the subsequent developments of Belgian politics and especially the

¹⁰ ———, "Comprendre Le Nationalisme Flamand," *Fédéralisme Régionalisme* 1(1999-2000).

¹¹ At the time, the population in the South, i.e. Wallonia, spoke Walloon dialects and not standardized French – only the elites used French as their primary language.

¹² Deschouwer, "Comprendre Le Nationalisme Flamand.," Kris Deschouwer and Maarten Theo Jans, "L'avenir Des Institutions, Vu De Flandre," in *La Belgique : Un État Fédéral En Évolution*, ed. André Leton (Bruxelles ; Paris: Bruylant ; L.G.D.J., 2001).

¹³ Aristide R. Zolberg, "The Making of Flemings and Walloons: Belgium: 1830-1914," *Journal of Interdisciplinary History* 5, no. 2 (1974); ———, "Les Origines Du Clivage Communautaire En Belgique. Esquisse D'une Sociologie Historique," *Recherches sociologiques* 7, no. 2 (1976).

¹⁴ Wilfried Swenden and Maarten Theo Jans, "'Will It Stay or Will It Go?' Federalism and the Sustainability of Belgium," *West European Politics* 29, no. 5 (2006): 879.

¹⁵ Witte and Van Velthoven, *Language and Politics. The Situation in Belgium in a Historical Perspective*.

transformation of country from a unitary state to a federal state. This is the ethno-territorial challenge in the making.

B. The Political Parties

The previous section has showed how important the behaviour and the choices of the elites were in the creation of Belgium and in her development. But who are the elites? The first part of the answer is: they are French-speaking throughout the territory and thus even in Flanders, where however the Flemish movement is led by Dutch-speaking leaders mainly from the small bourgeoisie and the middle-class. The second part of the answer is: not only does language divide but also religion and socio-economic issues. Belgian elites were unhappy with William I, the ruler of the Kingdom of the Netherlands, for two main reasons: religion and language. The Catholic Church played an important role in the new country and its strong position gave birth to the first political divide and party formation¹⁶. Indeed, although Catholics and liberals united to secede from the Netherlands and to consolidate the country with “unionist” governments from 1830 to 1840¹⁷, their differences were too important to be kept on the back burner. In 1846, the Liberal party was created in order to defend the separation between Church and state – the most contentious issue between the liberals and the Catholics – as well as a more democratic voting system and better working conditions for the working class. In 1884, the Catholics decided to formally create a political party, bringing together different catholic associations, in the wake of the first school war between the liberals and the Catholics.

While the liberals and Catholics were disagreeing on the school question, the Belgian Workers’ party was created in 1885 in order to improve the working conditions of the workers. As its potential voters had not the right to vote, its major demand was the universal suffrage, which it succeeded to obtain in 1893 with the universal but plural – that is some voters had more than one vote based on property, income or diplomas – suffrage and in 1921 with the universal – male – suffrage. The introduction of universal, albeit plural, brought about an important change in the political landscape in Belgium: the competition of three political parties. In addition, the distribution of the vote shares was remarkable. The Catholic party got a full monopoly in the northern provinces – Dutch-speaking provinces –, while the

¹⁶ Deschouwer, *Politics of Belgium: Governing a Divided Society*, 20-26.

¹⁷ Mabilie, *Histoire Politique De La Belgique : Facteurs Et Acteurs De Changement*, 103-46; Pascal Delwit, *La Vie Politique En Belgique De 1830 À Nos Jours*, vol. 6, Ub Lire Références (Bruxelles: Editions de l'Université de Bruxelles, 2009); Charles Terlinden, *Histoire De La Belgique Contemporaine 1830-1914*, vol. II (Bruxelles: Librairie Albert Dewit, 1929); Francis Balace, "Les Libéraux, Les Catholiques Et L'unionisme (1831-1846)," in *Le Libéralisme En Belgique. Deux Cents Ans D'histoire*, ed. Hervé Hasquin and Adriaan Verhulst (Bruxelles: Centre Paul Hymans, Editions Delta, 1989).

Workers' party got all of his representatives in southern provinces – French-speaking provinces – and the Liberal party keeping its electorate around Brussels¹⁸. As Kris Deschouwer writes, “this shed a very clear light on the meaning of territory in Belgian politics, even before the language issue became really salient”¹⁹. It is also a first indicator of the socio-economic challenge. Above all, it shows how the first variable – the territorial principle vs. the personal principle debate – interacts with the second variable – the political parties. These two variables also interact with the third variable – the people – through what has been called “consociationalism”.

C. The People

Belgium is one of the most striking examples of consociationalism²⁰; that is to say a fragmented democracy which has managed to deal with its internal fragmentation through consociational devices which are used by elites: power sharing (or grand coalition) and segmental autonomy as well as – in complement of the first two devices – proportionality and minority veto²¹. In Belgium, three pillars – the catholic, the socialist and the liberal – had been taking care of every Belgian from cradle to grave²². Only elites of each pillar met with the other pillars and made together the decisions in order to ensure the stability of a divided society – both in terms of religion and in terms of socio-economics. In the pre-federalism period, the language issue was not as salient as the two other cleavages. In fact, it acted as a cross-cutting cleavage within and between the pillars and it was even reinforced by the difference in the power distribution between the regions: Dutch-speaking Catholics who had a strong majority in Flanders could offer protection to French-speaking catholic minority in Wallonia, while French-speaking socialists who were the major political force in Wallonia could protect the Dutch-speaking socialist minority in Flanders. All the ingredients were ripe for the emergence of federalism in a deeply divided Belgium.

2. Federalism (1960-2007)

¹⁸ Frédéric Bouhon and Min Reuchamps, eds., *Les Systèmes Électoraux De La Belgique* (Bruxelles: Bruylant, 2012).

¹⁹ Deschouwer, *Politics of Belgium: Governing a Divided Society*, 29.

²⁰ Arend Lijphart, ed. *Conflict and Coexistence in Belgium : The Dynamics of a Culturally Divided Society* (Berkeley: Institute of International Studies, University of California, 1981); ———, *Democracies: Patterns of Majoritarian and Consensus Government in Twenty-One Countries* (New Haven: Yale University Press, 1984).

²¹ ———, *Democracy in Plural Societies : A Comparative Exploration* (New Haven: Yale University Press, 1977).

²² Kris Deschouwer, "Falling Apart Together. The Changing Nature of Belgian Consociationalism, 1961-2000," *Acta Politica* 37(2002); Luc Huyse, *Passiviteit, Pacificatie En Verzuiling in De Belgische Politiek : Een Sociologische Studie* (Antwerpen: Standaard Wetenschappelijke Uitgeverij, 1970); ———, "Political Conflict in Bicultural Belgium," in *Conflict and Coexistence in Belgium : The Dynamics of a Culturally Divided Society*, ed. Arend Lijphart (Berkeley: Institute of International Studies, University of California, 1981).

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Federalism came about in Belgium as a conflict-management solution, not as a chosen solution²³. It was incremental and to some extent unintentional²⁴. However, in less than half a century, Belgium transformed from a unitary state to a full-fledged multinational federation²⁵. Here again the relationship history-politics and in particular the three variables play an important role in understanding these dynamics which are shaping today's challenges on Belgian federalism.

A. The Territorial Principle vs. Personal Principle Debate

The linguistic laws of the 1920's and of the 1930's created linguistic regions on the basis of the language of the majority in each commune. Yet, the increasing frenchification of the – Dutch-speaking – area surrounding Brussels was a very contentious issue; the Flemish elites feared Dutch-speaking communes would become bilingual or worse become unilingual French-speaking²⁶. To prevent any further frenchification, the question about the use of language at home was abandoned in the census and as a consequence the – hitherto – movable linguistic border was frozen in 1962-1963, although some Dutch-speaking communes, with a minority or even in some cases a majority of French-speakers, were forced to offer language facilities in French²⁷. In other words, it was the freezing of the territorial principle within the Belgian political system. This all fuelled the ethno-territorial challenge in Belgium.

In the meantime, another essential change was in motion: the economy of Flanders was surpassing the economy of Wallonia for the first time in Belgium's history. Until then, the Walloon industries had been the engine of the Belgian prosperity. But after World War II, the Walloon economy were quite declining, while the Flemish economy were picking up and entering an economic boom²⁸. As a response to this new economic situation, Walloon elites demanded autonomy, not on linguistic or cultural grounds, but on economic grounds as to be

²³ Kris Deschouwer, "Kingdom of Belgium," in *Constitutional Origins, Structure, and Change in Federal Countries*, ed. John Kincaid and G. Alan Tarr, *A Global Dialogue on Federalism* (Montréal ; Ithaca: McGill-Queen's University Press, 2005); ———, "La Dynamique Fédérale En Belgique," in *Le Fédéralisme En Belgique Et Au Canada. Comparaison Sociopolitique*, ed. Bernard Fournier and Min Reuchamps, *Ouvertures Sociologiques* (Bruxelles: De Boeck Université, 2009); Min Reuchamps and François Onclin, "La Fédération Belge," in *Le Fédéralisme En Belgique Et Au Canada. Comparaison Sociopolitique*, ed. Bernard Fournier and Min Reuchamps, *Ouvertures Sociologiques* (Bruxelles: De Boeck Université, 2009).

²⁴ Deschouwer, "La Dynamique Fédérale En Belgique."

²⁵ Jean Beaufays, Geoffroy Matagne, and Pierre Verjans, "Fédéralisation Et Structures Institutionnelles : La Belgique Entre Refondation Et Liquidation," in *La Belgique En Mutation. Systèmes Politiques Et Politiques Publiques (1968-2008)*, ed. Jean Beaufays and Geoffroy Matagne (Bruxelles: Bruylant, 2009); Michael Burgess and John Pinder, eds., *Multinational Federations* (New York: Routledge, 2007).

²⁶ Swenden and Jans, "Will It Stay or Will It Go? Federalism and the Sustainability of Belgium," 879.

²⁷ Rudi Janssens, *Taalgebruik in Brussel. Taalverhoudingen, Taalverschuivingen En Taalidentiteit in Een Meertalige Stad* (Brussel: VUB Press, 2001).

²⁸ Michel Quévit, *Les Causes Du Déclin Wallon* (Bruxelles: Vie ouvrière, 1978); ———, *Flandre - Wallonie : Quelle Solidarité ? De La Création De L'état Belge À L'europe Des Régions* (Charleroi: Couleurs livres, 2010). A. Lopez Basaguren and L. Escajedo San-Epifanio (eds.), *The Ways of Federalism in Western Countries and the Horizons of Territorial Autonomy in Spain*, Vol. 1, DOI 10.1007/978-3-642-27720-7_26, # Springer-Verlag Berlin Heidelberg 2013

able to develop policies more suited for their declining economy. Since then, the socio-economic challenge was putting pressure on the Belgian federal dynamics. There is also a second aspect to the socio-economic challenge: as the gross domestic product of Flanders was increasingly higher than the gross domestic product of Wallonia (and to some extent of Brussels), financial transfers flowed from Flanders to Wallonia in order to maintain an interpersonal solidarity. The salience of this dimension increased as the time went by and the gap between the two regions widen. As a consequence, the feeling that Walloons were benefiting undeservingly grew in Flanders.

In this context, the linguistic and cultural autonomist (but also economic) demands from the North and the economic autonomist demands from the South gave birth to a quite unique two-layered federal system, composed of Regions and Communities, with a defined territory for each of these sub state entities²⁹. Nonetheless, the territorial principle vs. personal principle debate (i.e. the ethno-territorial challenge) has also influenced the federal organisation of the system. Indeed, the Flemish elites decided to merge the Flemish Community with the Flemish Region into one single entity. The French-speaking elites decided the French-speaking Community (which is now called the Wallonia-Brussels Federation) would be the – linguistic – link between the French-speakers in Wallonia and in Brussels. Above all, these choices reflect different visions of what Belgium should be: for – most of – the Flemish elites, it should be made of two Communities – Dutch-speaking and French-speaking – and for – most of – the francophone elites, it should be made of three Regions – Flanders, Wallonia and Brussels. Here is thus the Belgium's paradox: the Flemish prefer the linguistic ties of the Communities but need the Regions to entrench their borders and to obtain more autonomy, the Francophones prefer the regional division as a way to recognize Brussels as a Region but need the French-speaking Community to link Brussels and Wallonia.

B. The Political Parties

The freezing of the linguistic border and in general the ethno-territorial challenge through the language issue sparked heated debate in and out Brussels. These tensions had two major consequences on the political parties³⁰. On the one hand, the tensions led to the break up of the three tradition parties. The Catholic party – which had become Christian democratic – split up into two parties along the linguistic cleavage in 1968. It was followed by the

²⁹ Reuchamps and Onclin, "La Fédération Belge."

³⁰ Pierre Verjans, "Mutation Des Systèmes Partisans Et Résultats Électoraux : Proportion Congrue Et Gouvernabilité," in *La Belgique En Mutation. Systèmes Politiques Et Politiques Publiques (1968-2008)*, ed. Jean Beaufays and Geoffroy Matagne (Bruxelles: Bruylant, 2009).

splitting up of the Liberal party in 1971 and of the Socialist party in 1978. On the other hand, new parties were created. Among them, regionalist parties made their way quite quickly to the Parliament: in Flanders, the Volksunie (VU), in Wallonia, the Rassemblement wallon (RW), and in Brussels, the Front démocratique des francophones (FDF)³¹. Although they did not agree on the objective of the reforms, these parties made strong pressures on the political system to first initiate a process of state reform in 1968-1971 and then further the federalization of the country in subsequent state reforms in 1980, 1988-1989, 1993 and, to a lesser extent, 2001.

The splitting up of the three traditional parties and the emergence of regionalist parties had not only consequences on the electoral outcomes³² but also on the federal dynamics. Specifically the absence of federal – or national – parties has left the centre unprotected and made quite impossible for voters to vote across the linguistic border³³. In other words, elected representatives were only responsible before their own linguistic communities. In a centrifugal process, it does not help to temper one-sided demands – rather it may promote them – making it each time more difficult to find an agreement. But since the whole dynamics of federalism in Belgium relies on reaching agreements between the two main communities – each has therefore a veto –, this lack of electoral pressure to keep moderate demands or to accept moderate demands for more autonomy was likely to lead to deadlocks. Above all, the Belgian federation faces the so-called “Paradox of federalism”³⁴: “[t]he fundamental question, then, is whether federalism provides a stable, long-lasting solution to the management of

³¹ Kris Deschouwer, "The Rise and Fall of the Belgian Regionalist Parties," *Regional & Federal Studies* 19, no. 4 (2009); Emilie van Haute, "La Volksunie (Vu) : Triomphe Des Idées, Défaite Du Parti," in *Les Partis Régionalistes En Europe. Des Acteurs En Développement*, ed. Pascal Delwit (Bruxelles: Editions de l'Université de Bruxelles, 2005); Emilie van Haute and Jean-Benoit Pilet, "Regionalist Parties in Belgium (Vu, Rw, Fdf): Victims of Their Own Success?," *Regional & Federal Studies* 16, no. 3 (2006).

³² Kris Deschouwer, "Political Parties in Multi-Layered Systems," *European Urban and Regional Studies* 10, no. 3 (2003); ———, "Coalition Formation and Congruence in a Multi-Layered Setting: Belgium 1995–2008," *Regional & Federal Studies* 19, no. 1 (2009).

³³ ———, "Une Fédération Sans Fédérations De Partis," in *La Réforme De L'etat... Et Après ? L'impact Des Débats Constitutionnels En Belgique Et Au Canada*, ed. Serge Jaumain (Bruxelles: Editions de l'ULB, 1997); Jean-Benoit Pilet, Jean-Michel De Waele, and Serge Jaumain, eds., *L'absence De Partis Nationaux : Menace Ou Opportunité ?*, Science Politique (Bruxelles: Editions de l'Université de Bruxelles, 2009).

³⁴ Lawrence M. Anderson, "Exploring the Paradox of Autonomy: Federalism and Secession in North America," *Regional & Federal Studies* 14, no. 1 (2004); David Cameron, "The Paradox of Federalism: Some Practical Reflections," *Regional & Federal Studies* 19, no. 2 (2009); Dave Sinardet, "Futur(S) De La Fédération Belge : Paradoxes Fédéraux Et Paradoxes Belges," in *Le Fédéralisme En Belgique Et Au Canada. Comparaison Sociopolitique*, ed. Bernard Fournier and Min Reuchamps, *Ouvertures Sociologiques* (Bruxelles: De Boeck Université, 2009); Jan Erk and Lawrence Anderson, "The Paradox of Federalism: Does Self-Rule Accommodate or Exacerbate Ethnic Divisions?," *Regional & Federal Studies* 19, no. 2 (2009); Allen E. Buchanan, *Secession : The Morality of Political Divorce from Fort Sumter to Lithuania and Quebec* (Boulder: Westview Press, 1991); Louis Balthazar, "The Quebec Experience: Success or Failure?," *Regional & Federal Studies* 9, no. 1 (1999); Kristin M. Bakke and Erik Wibbels, "Diversity, Disparity, and Civil Conflict in Federal States," *World Politics* 59, no. 1 (2006).

conflict in divided societies or is, instead, a temporary stop on a continuum leading to secession and independence. A federal arrangement that formally recognizes ethno-linguistic diversity to help manage the political system can also set this newly – or increasingly – federal state on a path to eventual disintegration”³⁵. In Belgium, in the consociational tradition, the political parties were the major actors of the political system and therefore those dealing with the process of integration vs. disintegration. Yet, they did so on the basis of what they perceived to be the public opinion.

C. The People

As a consequence of consociationalism, the people had not much to say – elites were taking care of the political business. This separation between the people and the elites explained why so many reforms could be achieved in so few years – comparing to another countries such as Canada, for instance³⁶ – but it also led to the creation – or at least the reinforcement – of two separate publics: one Dutch-speaking and one French-speaking. There were not only increasingly separate on political terms, but also on cultural terms³⁷. The well-known Flemish – the *Bekende Vlamingen* – are for the most part totally unknown in French-speaking Belgium and vice-versa. In other words, the process of federalization was not accompanied by a mitigating process of “refederalization”: it was a one-way process towards more autonomy. Autonomy called for more autonomy. And the more it seemed difficult to find an agreement at the federal level, the more it was voiced to have transfers of powers from the federal level to the regional and community levels. Here, the ethno-territorial challenge and the socio-economic challenge reinforce each other and increase the pressure on the federal system.

During the period 1960-2007, the two public opinions kept on diverging: an increasing number of the Flemish were willing to give more autonomy to Flanders, and a large number of the French-speakers unwilling to do so because they were afraid that would lead to the end of the country³⁸. In this dilemma, the members of the two Communities who held different

³⁵ Erk and Anderson, "The Paradox of Federalism: Does Self-Rule Accommodate or Exacerbate Ethnic Divisions?," 192.

³⁶ Bernard Fournier and Min Reuchamps, eds., *Le Fédéralisme En Belgique Et Au Canada. Comparaison Sociopolitique*, Ouvertures Sociologiques (Bruxelles: De Boeck Université, 2009).

³⁷ Dave Sinardet, "De Communautaire Koorts: Symptomen, Diagnose En Aanzet Tot Remedie," *Samenleving en Politiek* 10, no. 3 (2003).

³⁸ Marc Swyngedouw and Jaak Billiet, eds., *De Kiezer Heeft Zijn Redenen. 13 Juni 1999 En De Politieke Opvattingen Van Vlamingen* (Leuven: Acco, 2002); Marc Swyngedouw, Jaak Billiet, and Bart Goeminne, eds., *De Kiezer Onderzocht. De Verkiezingen Van 2003 En 2004 in Vlaanderen* (Leuven: Universitaire Pers Leuven, 2007); André-Paul Frogner and Anne-Marie Aish, eds., *Élections : La Fêlure ? Enquête Sur Le Comportement Électoral Des Wallons Et Des Francophones* (Bruxelles: De Boeck, 1994); André-Paul Frogner, Lieven De Winter, and Pierre Baudewyns, eds., *Élections : Le Reflux ? Comportements Et Attitudes Lors Des* A. Lopez Basaguren and L. Escajedo San-Epifanio (eds.), *The Ways of Federalism in Western Countries and the Horizons of Territorial Autonomy in Spain*, Vol. 1, DOI 10.1007/978-3-642-27720-7_26, # Springer-Verlag Berlin Heidelberg 2013

opinions than the majority were unheard, and in fact constituted an underserved public since no political parties were defending their visions of Belgium³⁹. The situation was ripe for post-federalism, which was triggered by the emergence of the autonomist party, the Nieuw-Vlaamse Alliantie (N-VA), an heir of the former Volksunie, which shared with this former party the essential stance on the importance of the Flemish's interests but adopted a denationalize strategy in order to obtain more autonomy for Flanders⁴⁰.

3. After Federalism (2007-onwards)

Belgium was created as a unitary, albeit already divided, state and was transformed to a federal state. Because the ethno-territorial challenge had not been entirely resolved by the federalization of the country, it has continued to stress the whole federal system. In a context of dual division of the parties and of the people, the federal context was therefore quite explosive in Belgium. The first explosion happened in the wake of the federal elections of 2007 with the victory of the regionalist/autonomist platform made of the Flemish Christian democrats and the N-VA⁴¹. Negotiations started in order to find an agreement on a new reform of the state, i.e. another step towards more autonomy in order to answer both – at once – the ethno-territorial challenge and the socio-economic challenge. Yet, the divisions between the two camps proved to be so big that no agreement could be found. One of the reasons was that the French-speaking parties were not demanding anything (“they were asking for nothing”); and this was new in the federal formula. Hitherto, both groups were coming to the table of negotiations with specific demands and compromises could be found – some times at a very expensive cost for the state budget – by basically giving enough to each Community. But in 2007, the old recipes were not working anymore. It took 194 days to form a – Christian democrat, liberal and French-speaking socialist – coalition which however had not been able

Élections En Belgique (Bruxelles: De Boeck, 2007); Marc Swyngedouw et al., eds., *Kiezen Is Verliezen. Onderzoek Naar De Politieke Opvattingen Van Vlamingen* (Leuven: Acco, 1993); ———, eds., *De (on)Redelijke Kiezer. Onderzoek Naar De Politieke Opvattingen Van Vlamingen. Verkiezingen Van 21 Mei 1995* (Leuven; Amersfoort: Acco, 1998); André-Paul Frogner and Anne-Marie Aish, eds., *Élections : La Rupture ? Le Comportement Des Belges Face Aux Élections De 1999* (Bruxelles: De Boeck, 2003); ———, eds., *Des Élections En Trompe-L'oeil. Enquête Sur Le Comportement Électoral Des Wallons Et Des Francophones* (Bruxelles: De Boeck, 1999).

³⁹ André-Paul Frogner, Lieven De Winter, and Pierre Baudewyns, "Les Wallons Et La Réforme De L'état. Une Analyse Sur La Base De L'enquête Post-Électorale De 2007," in *PIOP* (Louvain-la-Neuve: Pôle Interuniversitaire sur l'Opinion publique et la Politique, Université catholique de Louvain, 2008); Marc Swyngedouw and Nathalie Rink, "Hoe Vlaams-Belgischgezind Zijn De Vlamingen? Een Analyse Op Basis Van Het Postelectorale Verkiezingsonderzoek 2007," in *Onderzoeksverslag Centrum voor Sociologisch Onderzoek (CeSO)* (Leuven: Instituut voor Sociaal en Politiek Opiniononderzoek (ISPO), 2008).

⁴⁰ Dave Sinardet, "Des Accents Flamands Au Canada," *Le Soir*, 22 octobre 2009.

⁴¹ ———, "Belgian Federalism Put to the Test: The 2007 Belgian Federal Elections and Their Aftermath," *West European Politics* 31, no. 5 (2008); Jean-Benoit Pilet and Emilie van Haute, "The Federal Elections in Belgium, June 2007," *Electoral Studies* 27, no. 3 (2008).

to find an agreement on a state's reform⁴² and therefore the ethno-territorial and the socio-economic challenges were left unanswered. Then came the second explosion in 2010.

A. The Territorial Principle vs. Personal Principle Debate

There is one issue which is as old as Belgian federalism (and which is at the heart of the ethno-territorial challenge), the question of BHV – that is the electoral and judiciary district of Brussels (which is the bilingual region), Halle/Hal and Vilvoorde/Vilvorde (which are in the Dutch-speaking region)⁴³. In this district, French-speakers enjoyed facilities most notably in terms of voting rights – they can vote for French-speaking lists, if they wish to do so, and in fact they do so – and of judiciary rights – they can go to court in French. Yet, these privileges are in opposition with the territorial principle since these citizens live in Flanders. From problematic, the issue became even more problematic in 2003 when the smaller electoral districts were merged at the provincial level, except for BHV. The Constitutional Court saw a rupture of equality in this situation which therefore required a different solution. Several solutions could be thought of but the Flemish parties saw as the unique solution the division of BHV into two districts: on the one hand, a bilingual district in Brussels and, on the other, a unilingual district in the Flemish Brabant including Halle/Hal and Vilvoorde/Vilvorde. In other words, it was a solution in the line of a strict application of the territoriality principle. This was, quite predictably, unacceptable for the French-speaking parties. It was one stone of contention in the formation of the coalition in 2007 but they decided – as it was often done in Belgium – no to decide and leave it for later. In 2010, the Flemish liberals, one of the ruling partners, decided it lasted for too long and stepped back from the coalition, calling the citizens to the booth.

The outcome of the 2010 elections was quite remarkable. First, in Flanders, the autonomist party N-VA won the elections, leaving the three Flemish traditional parties far behind. Second, in Wallonia, the Socialist party (PS) came first. So on two important dimensions of politics, quite a few Flemish and Francophones voted in opposing directions: for more autonomy and more to the right with the N-VA and for more Belgium – or at least to not so much autonomy – and more to the left with the PS. This electoral outcome is a perfect example of how the ethno-territorial challenge interacts with the socio-economic challenge in Belgium. But it proved very hard to resolve them at once. Indeed, the two winners of the elections, the N-VA and the PS, started negotiations but without any success. Everything was

⁴² Bart Brinckman et al., *De Zestien Is Voor U. Hoe België Wegzakte in Een Regimecrisis. Het Verhaal Achter De Langste Regeringsvorming Ooit* (Tielt: Lannoo, 2008).

⁴³ Dave Sinardet, "From Consociational Consciousness to Majoritarian Myth: Consociational Democracy, Multi-Level Politics and the Belgian Case of Brussels-Halle-Vilvoorde," *Acta Politica* 45, no. 3 (2010).

on the table of negotiations, making the whole exercise even more complex. The question of BHV was still unresolved and more generally the question of Brussels had also to be resolved. Indeed, as Kris Deschouwer puts it “even today it is and remains a very divisive issue, but its very location is at the same time why the end and the splitting up of Belgium is not an easy and obvious way out of the conflict”⁴⁴. The political parties were stuck in difficult negotiations, but this difficulty is also a historical legacy.

B. The Political Parties

Federalism in Belgium was implemented to pacify the community conflicts (the ethno-territorial challenge). On that regard, it did quite well – Belgian federalism was a successful story. Nonetheless, it did not prevent for further conflicts and, on the contrary, it actually fostered the conflicts – it is why forty years later we still have to deal with the ethno-territorial challenge. Political parties have always played a major role in shaping the federal system but the federal system has also shaped their behaviour. As it was mentioned above, the splitting up of the parties combined with the existence of two distinct electoral arenas left the federal system without federal parties. In addition to this and because of this division, elites do not know each other anymore since their political socialization differ. It is therefore more difficult to negotiate with people you do not know very well. Yet, the solution has to be found by the political parties, since the idea of public consultation, i.e. a referendum, is still somewhat taboo in Belgian politics⁴⁵. The only such public consultation that was held in the country was during the Royal question in 1950 and the results were quite different from one region to another, bringing the country in the brink of the civil war⁴⁶. Finally, political parties have also to adapt to the evolution of the public opinions which also have been shaped by the old and more recent history of federalism in Belgium.

C. The People

At first glance, the results of the elections show the division between the two language groups. However, there are in fact more divisions within the language groups. While everyone acknowledges federalism, understood as a negotiation process (not so much the distribution of powers between the federal state, the regions and the communities *per se*), is not currently

⁴⁴ Deschouwer, *Politics of Belgium: Governing a Divided Society*, 23.

⁴⁵ Nonetheless, very recently, on 11 November 2011, an original event – the G1000 – gathered more than 700 “ordinary” Belgian citizens to discuss important topics for the future of Belgium: social security, distribution of wealth and immigration. It was not a referendum, but rather a first attempt to introduce some form of deliberative democracy in Belgium: Min Reuchamps, “Le G1000,” *Politique: Revue des débats*, no. 72 (2011).

⁴⁶ Mabilie, *Histoire Politique De La Belgique : Facteurs Et Acteurs De Changement*.

working in Belgium, the solutions for this stalemate diverge between citizens⁴⁷. One group of them, in Flanders (5%-10% of the population) but also in Wallonia (5%-10%), believes the separation should be the way out of the conflict. Next to this separatist group, there is a large group of autonomist, again both in Flanders (50%) and in Wallonia (35%). There are also groups of citizens willing to keep the status quo (25%) or willing to give more power to the federal state (20% in Flanders, 30% in Wallonia). A last group calls for the transfers of all the competences back to the federal state (5% in Flanders, 10% in Wallonia). To say the least, the population is quite divided⁴⁸; yet a majority favours a deeper autonomy for the Regions and the Communities. This is the next step in the evolution of the Belgian federalism.

4. Answers to the Current Challenges

The first three sections have shown how the ethno-territorial challenge and the socio-economic challenge have emerged in Belgium and how they have challenged Belgian federalism. Since 2010, the country was in an impasse because of the absence of joint decision-making on how to resolve these two challenges. After several months (more than a year of negotiations), eight political parties reached an agreement about a new reform of the state, on 11 October 2011⁴⁹. The negotiations were led by the president of the PS, Elio Di Rupo, and involved the Flemish Christian democrats (CD&V) but without the NV-A which was eventually (after several months of failed attempts of negotiations) perceived as not willing – enough – to come to a compromise, the French-speaking liberal party (MR) but without the FDF which did not accept the agreement because it was not meeting its minimal expectations, the Flemish liberals (OpenVLD), the Flemish socialists (SP.a), the French-speaking Christian democrats (cdH) and the green parties of both language groups (Ecolo and Groen!). Altogether the eight parties reached a quite far-reaching package deal which offers – tentative – answers to Belgian federalism's main challenges in four chapters: political renewal, BHV and Brussels, more autonomy and a new financial equalization system.

A. Political Renewal

The first chapter of the agreement signed by the eight parties calls for a political renewal. The political crisis has definitely eroded the trust in political institutions in Belgium. The first aim of the state's reform is therefore to improve political trust through several

⁴⁷ Kris Deschouwer and Dave Sinardet, "Taal, Identiteit En Stemgedrag," in *De Stemmen Van Het Volk. Een Analyse Van Het Kiesgedrag in Vlaanderen En Wallonië Op 7 Juni 2009*, ed. Kris Deschouwer, et al. (Bruxelles: VUB Press, 2010).

⁴⁸ Min Reuchamps, *L'avenir Du Fédéralisme En Belgique Et Au Canada. Quand Les Citoyens En Parlent*, Diversitas (Brussels: P.I.E.-Peter Lang, 2011).

⁴⁹ Accord institutionnel pour la sixième réforme de l'Etat, "Un Etat Fédéral Plus Efficace Et Des Entités Plus Autonomes," (Bruxelles 2011).

reforms. One of them will be the creation of an independent ethics committee which will be in charge of writing a code of deontology for holders of public responsibilities. The parliament will be reinforced in its missions of control of the executive and of policy making. Moreover the Senate (Belgium's higher chamber) will be transformed as of the next regional elections in 2014. On the one hand, it will be made of 50 indirectly elected Senators (29 Dutch-speaking, 20 French-speaking and 1 German-speaking), on the basis of the results of the regional elections. On the other hand, there will be 10 co-opted Senators, i.e. chosen by their peers (6 Dutch-speaking and 4 French-speaking), on the basis of the results of the elections for the Chamber. The Senate will play a more limited role, but it will be the Chamber of the substate entities, to some extent. However, these are principles which have now to be discussed and elaborated in a working group made of representatives of the eight parties.

Beside several other elements such as the vote of Belgians living abroad or the idea of a cooperative federalism, the main point of this chapter is the re-synchronization of the federal and the regional elections. Until 1999, federal elections were held every four years and regional elections (along European elections) were held every five years. It was decided to hold federal (i.e. elections for the Chamber – given the reform of the Senate) elections every five years, as of the next European elections (and therefore the regional elections) in June 2014. This is basically to avoid too many elections and also avoid – too many – incongruent coalitions between the different levels of government. Nonetheless, Regions are granted to right (through constitutive autonomy which is also extended to the Region of Brussels-Capital and to the German-speaking Community) to decide the length of each legislature and the date of the election of their assembly. So the next main general elections in Belgium will be held in June 2014 – the outcomes of these elections will affect the composition of each assembly in the country (in addition to the Belgian MPs elected in the European Parliament): the Chamber of Representatives, the Senate (indirect composition on the basis of the elections of the regional parliaments and the Chamber), the Flemish Parliament, the Brussels Parliament, the Walloon Parliament, the Parliament of the French-speaking Community (indirect composition with MPs elected in the Walloon Parliament and MPs elected in the French-speaking group of the Brussels Parliament) and the Parliament of the German-speaking Community.

B. BHV and Brussels

The dual question of BHV and Brussels is the core of the ethno-territorial challenge. For the former – BHV –, two decisions were made: to split the electoral district of BHV (but with guarantees for the Francophones who live in the six communes of the periphery; they are

allowed to vote either for the – mostly Flemish – candidates in the district they live in – i.e. the Flemish Brabant district – or for the candidates – Flemish or Francophone – in the Brussels-Capital district) and to split the judiciary district of BHV (but with guarantees for the Francophones who live in Halle/Hal and Vilvoorde/Vilvorde – this includes the six communes of the periphery – which will imply some changes in the composition of the jurisdictions). For the latter – Brussels –, given its important role in the federal dynamics but also in terms of its socio-economic weight, Brussels and its so-called hinterland (that is around 1.8 millions inhabitants who live in over 30 communes in both Flanders and Wallonia next to Brussels) will be considered as a “metropolitan community”, which has still to be defined more precisely. Moreover in Brussels itself (the Region), there will be a simplification of the institutions notably towards a reinforced and integral security scheme and an increased homogeneity in the distribution of the competences (in terms of urbanism, social housing, mobility, parking, cleanliness, sports’ infrastructures, professional training, tourism, bi-cultural institutions of regional interest). As for the reform of the Senate, these reforms for Brussels will be dealt with by a working group, made of Brussels’ representatives of the eight parties.

C. More autonomy

In order to give an answer to the ethno-territorial challenge and to the socio-economic challenge, several competences are transferred from the federal state to the substate entities; that is to say they have more autonomy. The first package is made of competences related to the job market (which go to the Regions), but social security remains federal (as well as a social dialogue and wages’ policy). Health care is further devolved to the Communities, but interpersonal solidarity remains federal (that is to say an equal access to health care throughout Belgium; i.e. the INAMI – the Belgian statutory national medical insurance Institute – will still be controlled by the federal government). In order to have coherent (albeit sometimes different) policies between the Communities, agreements of cooperation will have to be signed between them and the federal government. Family allowances go to the Communities (in Brussels to the Common Community Commission – COCOM). To make sure no Community will get rid of them, the right to family allowances will be written in the Constitution. In terms of justice, in their own competences, substate entities will have a bigger say – an agreement of cooperation will have to be signed however. This is, for instance, the case for the sanctions against young people which are of the responsibility of the Communities (COCOM in Brussels). Finally, there is devolution in several other areas:

mobility (quite a lot of rules go to the Regions but not the road code itself), economic and industrial policy, energy, agriculture, urbanism, housing, local administration. Indeed, this is a large-scale devolution of competences. It amounts to a total of 16,898 millions EUR. In addition to these transfers, the reform brings about a new financial equalization system.

D. New financial equalization system

The objective of the new system is twofold: to give more fiscal autonomy and to make the entities more accountable, while maintaining solidarity throughout the country. Several principles guide this reform: prevent too much fiscal competition between the entities, keep a progressive tax scheme for personal income tax, do not structurally impoverish one or more entities, ensure the long term viability of the federal state and maintain its fiscal powers in order to ensure the interpersonal solidarity, increase the fiscal accountability of the regions for their competences, take into account the specific socio-economic context and the role of Brussels, use criteria based on population and pupils, maintain a solidarity between the entities, ensure financial stability for the entities, have the entities contribute to the improvement of public finances, and check the relevance of the models through simulations. As one can imagine, it was definitely not an easy reform to negotiate, since so many variables had to be taken into account. It would be too tedious to explore every detail of the new equalization system. Three key points should be mentioned however.

First, the Regions are granted substantial fiscal autonomy (through a proportion of the personal income tax on which they can apply their own rate); it amounts to a total of 10,736 millions EUR. In addition to this fiscal autonomy, Regions will receive direct payments from the federal state for the new competences. Second, since in Brussels the two Communities are competent on the same territory, Communities have much less fiscal leverage. Therefore, they get their financial means through direct payments from the federal state (on the basis of the value added tax and a proportion of the personal income tax collected by the federal government). Third, the Regions of Brussels-Capital receive extra means (for a total of 461 millions EUR) because a large number of people work in Brussels but do not live in Brussels, and therefore do not pay taxes there. The application of the new equalization scheme will take several years. It will start in 2012 but its full-effects will only come ten years (and in some instances even more) from now. Thus the impact of the new equalization system has still to be assessed.

Conclusion: The End of Belgium?

Belgian federalism is – still – at a crossroad. Both from inside and from outside, it is increasingly complex to understand why Belgium had been stuck in an impasse, on the one hand, while still functioning, on the other hand. The challenges facing Belgian federalism and the answers that have been provided in the different waves of state's reform explain why this country, once a unitary state then a federal state and probably in the future a post-federal state, has been embedded in such a paradoxical situation. Federalism was gradually, reform after reform, implemented to pacify the ethno-territorial issue creating Regions and Communities in order to give autonomy to the different people of Belgium. In the meantime, the federalization reinforced the tensions by institutionalizing them, often bringing the federal level to a stalemate.

Thus, the last current challenge on the Belgian federalism is the by-product of the first two challenges – the ethno-territorial challenge and the socio-economic challenge. It is, simply put, the question of the very existence of Belgium. Since the beginning of Belgium, and in particular for the last fifty years, the community conflict (which is not only ethno-territorial but also socio-economic) has sparked intense tensions. On top of this, for over 500 days Belgium was without a full-fledged federal government (it had an interim government nonetheless), this inevitably stressed seriously the whole architecture of the country, even though the five other governments were functioning. Now that a full-fledged government is working the spectre of the end of Belgium has diminished but the question “still Belgium?” remains. In fact, federalism in Belgium has come about through subtle compromises. The last reform of the state, which still has to be enacted through the revision of the Constitution and the special laws, belongs to this category of – typical Belgian – subtle compromises. Yet, subtle compromises, while they have often provided a short-term solution, were as often the sources of further tensions. No one can predict whether this will be the fate of the sixth reform of the state but no one can exclude it.

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