

The Belgian “Example”



Weaknesses of the Federal Formula as Implemented in Belgium

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THE FEDERAL IDEA
A Quebec Think Tank on Federalism

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EXECUTIVE SUMMARY

This study examines the main characteristics of Belgian federalism. An in-depth analysis of this model clearly shows its weaknesses and limits. The specificities of Belgian federalism make it an example that other federations should be sure to avoid reproducing.

Prior to addressing the current conditions of this political system, the study examines the genesis of the Belgian federation, its political culture and evolution in recent decades. In proceeding with this task, it becomes clear that the legacy of “consociationalism”, i.e. permanent power sharing between the elites of deeply divided societies, is still perceptible today.

The consociative tradition that is proper to Belgium has favoured the creation of two types of overlapping federated entities, which remain on an equal footing (Regions and Communities). This structure generates confusion and does not function to unite the partners of the federation. Furthermore, the constituent entities do not participate in political decision-making since the Belgian Senate is not really a House for the federated entities, as is the case in most federations.

The Belgian model also suffers from the absence of national political parties. The latter usually play the role of a discussion forum enabling the creation of social and political ties between the different communities. Deprived of this common ground, Belgian political debate emphasizes opposition between the country's component parts rather than along ideological lines.

Despite many structural problems, Belgian federalism remains stable, and this, mostly by virtue of the same consociative tradition which privileges compromise between different actors. This stability can also be explained by the Constitutional formula, which prevents all unilateral political coups aimed at modifying the Constitution. Furthermore, given the heterogeneous character of Belgium, the country can only be governed by a coalition.

This inertia is one of the main factors working in favour of the preservation of Belgian unity. Indeed, the problem posed by the future of Brussels and the costs of an eventual scission constitute the ultimate guarantees of the survival of this federalism by default.

In the end, Belgian federalism is confronted with regular crises generated by confusion stemming from its core characteristics. Far from being a model to reproduce, the Belgian example is pertinent in the sole measure that it is used to prevent similar developments in other federations.

INTRODUCTION

The manner in which the Belgian federal structure was established and currently functions makes it a unique case in federalism studies. If we analyze it with the aim of drawing out lessons for other federations, emphasis needs to be placed on these specificities rather than on the manner in which Belgium has incorporated the standard characteristics of federalism. Ultimately, we shall see that the lessons to be drawn are deeply embedded. The Belgian particularities, arising directly from the country's political traditions, are hardly exportable. In fact, they illustrate to other countries what ought to best be avoided.

It would surely be impossible to identify all of the specificities of Belgian federalism, but we can consider three broad categories: (1) institutions (2) partisan political life and (3) public finances. These three headings cover the basic thrust of the finer demarcations proposed by Michael Burgess, who posits that comparative studies in federal political systems can be condensed into five main areas: "the structure of federations, the sociological bases of federations, the political economy of federations that explains the bases of ideology, political parties and party systems and constitutional reform and judicial review. Each of these provides an insight into different aspects and dimensions of a variety of federal systems that enhances our understanding and appreciation of how they work, what their priorities are and why they are vary, and how they adapt to change and development" (Burgess, 2006: 136).

Institutions

From an institutional perspective, we shall depict the structure of Belgian federalism at two levels: that of the Regions, on the one hand, which are federated entities holding powers linked to territory and economy, and that of the Communities, on the other, which manage cultural, linguistic and "personalizable" affairs, such as health care. Certainly, other federations, such as Russia, are also composed of constituent entities of a non-standard type. But the uniqueness of the Belgian model resides in the superimposition of these entities. The Belgian federation thus includes three levels of equal power. Furthermore, if each entity holds exclusive legislative authority in its specific jurisdictions, the distribution of this authority is ultimately subject to a degree of asymmetry, given that the Constitution grants each entity the capacity to transfer certain of its powers to others.

Political Life

Politically, it is clear that Belgium is evolving in two different systems. Indeed, the political and media landscapes are thoroughly compartmentalized. The cleavage point is both communal and linguistic. Since the scission of the socialist party in 1978, there no longer exist any national parties in Belgian politics. In fact, elections give rise to two different election campaigns, one in the north of the country and the other in the south. Even in Brussels, where citizens can choose between a Francophone list and a Flemish list, there are two distinct party systems at work. The fact that all the main parties participate in all of the elections, whether federal or regional, must also be taken into consideration. There is thus neither a distinctly federal party, nor one that is limited to just one level of power. This phenomenon is strengthened by the great mobility of political elites, as well as by general ignorance among citizens concerning the structure of federalism and the sharing of powers.

Public Finances

Finally, as within other federations, the Belgian system rests on a structure of solidarity in public finances which is facilitated through equalization payments, although this structure is increasingly limited in the Belgian case, which has distanced it from the typical federal model and that of neighbouring Germany in particular. The main functioning principle of the financial mechanism of the Regions is that of “territorial just deserts”. Fiscal powers aside, each entity collects federal transfers proportional to the wealth it has produced, which is not unproblematic, notably for Brussels. A certain degree of solidarity is nonetheless envisaged for poorer Regions. As for the Communities, their fiscal autonomy is extremely limited; they are therefore highly dependent on transfers. Financing law, the first version of which goes back to 1989, remains at the heart of current discussions aimed at implementing new state reforms. The Flemish (in the north) wish to have greater financial responsibility (i.e. each Community becoming the master of their own economic affairs), while Francophones (in the south) are preoccupied by the diminishing quality of life that this responsibility could incur.

Federalism of Disassociation

Belgian federalism is one of the rare examples in the world of a so-called “disassociative” federalism, since the country evolved from a unitary state to a federation. Furthermore, theirs is a fundamentally dynamic and transformative federalism, since a final agreement has never been reached throughout successive institutional reforms. Each negotiation period that gives way to a reform is followed by a “community break” that lasts only until the next roadblock. It is regularly asserted that the next stage will be confederalism or separation – confederalism here having a non-standard meaning, for what is in fact at stake is something closer to an extreme version of federalism. Once again, we thus find ourselves facing a unique case among federations.

In addition, two main factors work against the scission of Belgium. On the one hand, the Brussels situation is problematic, not so much because it is the capital as because it is a bilingual city (although with a French-speaking majority) hemmed into Flanders. Moreover, Brussels hosts numerous international organizations, which tend to establish themselves in politically stable areas. On the other hand, the country’s public debt is particularly high (130% of the GDP in 1995; 84.2% in 2007; 97.6% in 2009) and should be shared if the country breaks apart. Finding the right formula for dividing up the debt is itself not unproblematic. Should it be shared proportional to the means of each or the population of each?

Finally, it is pertinent to assess, if only briefly, the role played by citizens at the level of federal politics. Citizen propositions have been presented with the hope of strengthening the legitimacy of governing officials and the efficiency of political decision-making. However, the holding of a referendum remains legally impossible, as well as politically difficult to organize. Even if the Constitution allowed it, a major risk would reside in the spreading of extreme polarization in public opinion, thereby strongly requiring compromise, unless the matter were to be limited strictly to the law of numbers.

It is only after pondering all of these elements that we might better understand why Belgium’s problems have often been temporarily resolved by way of a “time out” – a tradition based on the principle according to which nothing will be agreed upon unless there is agreement on everything.

1 CLEAVAGES

Even though Julius Caesar underlined the bravour of the Belgians, the actual creation of contemporary Belgium dates back only as far as 1830, which is at once recent and ancient. Recent, because great European powers already existed and were in fact needed to validate the creation of this new state. Ancient, given that few states can trace their present-day frontiers back as far as 1830.

Created as a buffer state in Western Europe, Belgium did not suffer from the tensions it currently does back in 1830. In fact, the state apparatus, along with the economic world and even the electorate (it was originally a tax-based voting system), was essentially Francophone. Decades of struggle on behalf of the Flemish movement were required to obtain the recognition of Dutch as an official language. A potent symbol of this movement – but with regard to which the veracity remains contested – is linked to the First World War, whereupon Francophone officers only gave orders to soldiers in French, thus leading to the perennial expression “the same goes for the Flemish”. This memory, or potential myth, provides the basis for Flemish claims today aimed at defending each square centimeter of “historically Flemish” territory that has been encroached upon by Francophone elites.

Thus although the linguistic cleavage is highly relevant today, this has not always been the case. Independence from the Netherlands (from the Dutch, certainly, but also from the Protestants) was won due to a national alliance between Catholics and liberals, the latter of which were not yet organized as a party. Opposition between these two tendencies needed to be felt in order for the first political parties to emerge as a result of the cleavage between State and Church. The workers party, for its part, only emerged at the end of the 19th Century in opposition to the liberals (as well as to a Christian party), following an “elites vs. workers” cleavage.

These three tendencies, Catholic, liberal and socialist, came to form the organized structure of Belgian society. If political parties represent the clearest form of cleavage, they are themselves structured according to a series of organizational intermediaries. For, in Belgium, unions, insurance mutuals, certain newspapers, schools, youth movements and other institutions are woven into dense networks organized by each of the so-called traditional parties (Catholic, liberal and socialist). This “pillarization” of society is, however, unbalanced. Indeed, the three pillars do not have the same clout – the liberal pillar being less important than the other two, to the extent that some commentators even evoke the specter of a configuration of two and a half pillars (Seiler, 1997).

This structure, along with the establishment of the principle of proportional representation in the vote of 1899, made the formation of coalition governments inevitable. While the networks were little or not at all porous, their protagonists were from then onwards forced to come into contact with one another and to negotiate. Today, the pillarization is less significant for two reasons, notably the arrival of new political actors and the classical mutation of Western European societies. Yet it remains a structuring force.

The Dutch political scientist Arendt Lijphart has nicely depicted the consociative structure of Belgian society. According to him, it is in Belgium that “consociationalism”, a political system based on shared power in divided societies, has best “succeeded”, even if this system is not as strong today as it used to be. The consociative principle aims toward the sharing, dispersal and limitation of power. The different segments of society each hold a portion and each is autonomous in their own jurisdiction. Insofar as the autonomy of different groups is strictly limited within these spheres, they are forced to work collaboratively. Two consequences result from this. On the one hand, the majority (if indeed one segment has a majority) cannot count upon its numerical superiority to make

decisions involving the whole of society. On the other hand, the minority, though it has a veto right, must also take into account the aspirations of the majority. Consociationalism thus shares in the great principles of federalism, even if it can also be used by non-federal countries (i.e. Netherlands, Lebanon, etc.). Contrary to the country's federal organization, Belgian consociationalism was not established on the basis of the different linguistic communities, but rather with regard to the three pillars mentioned above.

Neocorporatism, as described by Lijphart, is a central characteristic of consociative societies. In Belgium, this corresponds to a type of functional decentralization. Each agent has significant leeway, particularly as concerns unemployment benefits (controlled by unions) or the reimbursement of health care fees (controlled by insurance mutuels). Decisions made by the central state on these matters follow from a consultation between these different socio-economic partners.

Territorial decentralization only came about later, with the set of processes known as “state federalization”. Given that Belgium is composed of Communities and Regions, the adjective “territorial” may be controversial. Nevertheless, if certain matters are linked to persons and to culture (community matters) and others to territory (regional matters), the limitation of “personalizable” powers (and thus of the communities) to specific territories must be recognized: three unilingual linguistic regions (Flanders with the exception of Brussels, Wallonia, and the German-speaking districts) and a bilingual region limited to the 19 districts of Brussels (the Brussels-capital region). In no case does the French Community have any powers affecting a Francophone citizen established in Flanders, and vice versa. Current tensions stem precisely from this territorial limitation – the Francophones in Flanders wanting to organize French teaching in certain districts. It is for this reason that accommodations were made to certain strong linguistic minorities (some of which have since become majorities) located in the other linguistic zone, but these accommodations remain administrative (for example, the right to address public servants in the other language). These “facilities” are contested by Dutch-speakers who consider them to be transitory, whereas French-speakers see them as permanent. The combination of this double vision of federalism and decision-making powers perfectly illustrates the split personality of Belgian society. The North and South live side by side without being able to find much in common.

The center-periphery cleavage that has historically characterized Belgium society became dominant in the 1960s. Whereas previously the cleavage opposed autonomous Dutch-speaking parties with the rest, the opposition was reinforced by the scission of autonomous linguistic wings within the traditional parties. Between 1968 and 1978, these three main parties split apart. Since then, all of the Dutch-speaking parties would basically find themselves on the periphery, with the Francophone ones taking up the center position. Up until 2007, the Francophone parties described themselves as “claimants of nothing”, that is, claiming to have no wish to participate in negotiations aimed at “reinforcing federalism”. Since then, they have agreed to participate in talks to reform the state (“reinforcing federalism” was interpreted as a greater transfer of power to the federated entities), but they still defend the existence of a center constituted by the federal government. Nevertheless, within the different political formations, there are currents in favour of greater autonomy for the regions or, at least, a more vigorous defense of the French Community (also known as the Wallonia-Brussels Community or even the “Federation of Wallonia-Brussels”).

A FEDERATION BY DEFAULT

From the 1960s onward, and increasingly following the progressive establishment of federalism, divergent viewpoints opposed the northern and southern parts of the country. In the north, after more than a century of struggles for the recognition of their language, Dutch-speakers put cultural issues at the top of their political priority list and demanded Community level powers. In the south, French-speakers, not to say the Walloons more generally, opted rather for regional powers of an economic nature, thus hoping to redress the Walloon economy, which was highly dependent on declining collieries and steel factories.

It is illusory, however, to pretend that political parties defend positions that are so rigidly defined. During the negotiations of summer 2010, Flemish parties even supported the option of a regionalization of certain powers linked to social security (mostly with regard to family allowance funds). Conversely, Francophone parties are not all inclined toward regionalization, at least not with regard to a transfer of power from the federal to the federated level. Certainly, regionalist tendencies exist and some political representatives openly support them, but the silent majority seems to accommodate itself with the ambiguities of the split personality that currently exists. If some factions promote a regionalization of powers to be transferred at some point in the future, they wish nonetheless to maintain the Francophone Community as the sole structure capable of offering a counterweight to the Flemish Community. The fact that some commentators have rechristened it “Federation of Wallonia-Brussels” is certainly not insignificant in this regard. It should be noted that no political representative has made a parallel between this semantic choice and the Bosnian federation, which is the only federal state to include another federation as a constituent entity.

Even today, then, a Belgian compromise is in the works, as no one opts for a clear-cut choice of one option over the other. Federalism is thus likely to progressively take root on the basis of a central state and six overlapping federated entities constituted by the different Communities and Regions. Not only will a unique type of federation be established, where there coexist two types of federated entity, but furthermore, there will never be a definitive agreement on the powers attributed to each of the main actors, at the federal, regional and community levels. We can therefore describe Belgian federalism as “federalism by default” insofar as it is not the outcome of a deliberate choice. Consequently, the federal state is, in a sense, being increasingly deprived of its role, or at least of those aspects which had become problematic to resolve collectively (Deschouwer, 2009). “Sensitive issues” for which agreements cannot be found are simply transferred to the federated entities.

Contrary to the situation that prevails in most federations, there is no normative hierarchy between (federal) laws and (federated) decrees, or even regarding the authority of Brussels. All are supposed to conform to the Constitution, but no prevalence mechanism of the federal over the federated level, or conversely, is foreseen in case of conflict. This was not envisaged since such a situation was theoretically impossible considering that each level had its own prerogatives. Typically, such a mechanism corresponds to the principle of the exclusive power of each entity in its area of competence, which corresponds to the definition of federalism given by American political scientist William H. Riker, that is, “a political organization in which the activities of government are divided between regional governments and central government in such a way that each kind of government has some activities on which it makes final decisions” (Riker, 1975: 101).


In reality, these powers are often highly fragmented. The question of mobility illustrates this nicely: the federal government manages the train lines and airline traffic, while the regional governments hold power over other forms of public transportation (bus, metro, streetcars) and even over the noise codes of planes. Finally, the community districts are responsible for the public roads on which regional buses circulate. A distracted observer might think the powers are shared, but in reality they are compartmentalized.

This logic of exclusive power is pushed to the extreme in international relations, where the federated entities are autonomous when their competences are at issue. This means that all Parliaments (federal and federated) are called upon to ratify certain international treaties (notably the recent Treaty of Lisbon). This situation explains the relative length of ratification procedures, even if in the case of the European Union loyalty to Europe is complete, no matter what the level of government. In matters of foreign policy, the federal and federated entities get together within an inter-ministerial conference of foreign policy to prepare European positions, among other things. It should be noted in this regard that the different entities are actively engaged because they share with the federal government the country's representation at different European meetings. Thus, during the recent Belgian presidency of the European union (July-December 2010), the Region of Brussels took on the presidency of the European Council of Research, while the Francophone Community presided meetings in the "culture" section of the Council of Education, Youth and Culture.

The Belgian presidency, which occurred right in the middle of a political crisis, proved to the country's European partners that, despite the tensions and stagnation of negotiations between political parties and the Communities, Belgium has put the necessary mechanisms into place, if only informally, to continue the work of public policy. Of course, it is not because Belgian political history has shown that obstacles linked to the long period necessary to form governments can be overcome by informal "survival" mechanisms that it is legitimate and viable to endlessly prolong each new round of institutional negotiations.

The different entities can secure cooperative agreements, as much horizontally (between federated entities) as vertically (between the federal and federated levels), so as to enable coordination in the decisions and implementation of public policies. Given that these agreements are highly dependent on the good will of each actor and on the confidence granted the negotiating partner, they remain fairly rare and are not always as effective as expected. Beyond such agreements, intergovernmental structures of consultation are intended to prevent conflicts of interest. Such structures are constituted by consultation committees bringing together the relevant federal and federated ministers. Consultation committees are also set up in the case of problematic situations where the "alarm bell" is rung (a type of veto power allowing a linguistic group to temporarily block a decision taken by another group in the federal Parliament, or in the Brusselian Parliament, if the decision is likely to be prejudicial).

In a federal system, the Senate usually plays a consultation role between federated entities. And yet in Belgium the Senate is actually not a chamber of this nature. Senators are elected directly or co-opted on a community basis. At best, there is supposed to be a quota of representation for residents of Brussels. Rather than representing the federated entities, as is traditionally the case in federations, the role of the Belgian Senate consists essentially of citizen representation. Furthermore, the role of parties is such that the process of consultation is distorted – the actual location of discussions being that of party headquarters.



Constitutional revision does not involve federated entities as such. A list of articles pending eventual revision was established, as well as a procedure for dissolving government chambers. On such an occasion, a vote is foreseen in both federal assemblies, with a 2/3 majority required, along with a majority in each linguistic group. This grants a de facto advantage to the Communities, but not to the Regions. In fact, given the incontrovertible role of parties in decision-making, the latter come to agree on the manner in which negotiations will unfold between accepted partners. As a general rule, there are three possible outcomes: discussions in parliament (not very frequent as of late), direct negotiation between party presidents, or the creation of a negotiating committee formed of party “sages”, whether old veterans of Belgian politics or key contemporary players.


3 INSTITUTIONAL ENTANGLEMENT

Asymmetry is the basis of the federated institutional organization, on the one hand, and of the division of powers between the federated entities, on the other. As early as 1980, when the federated entities were granted legislative and executive organs, the Flemish Regions and Communities (the territories of which are identical, except for Brussels, which is part of the Community but which is a Region onto itself) decided to merge. There is thus but one parliament and one government for these two entities, which typically goes by the name of “Vlaanderen” (Flanders). The two institutions therefore possess the powers granted to the Communities and Regions, although the six Dutch-speaking parliamentarians from Brussels cannot intervene on votes pertaining to regional matters. This also means that there exists only one administration. It is based in Brussels, just as are the headquarters of Parliament and government, all of which has been the cause of much controversy.

Because the superimposition of Communities and Regions in the “south” is more complex, such a fusion did not take place. In fact, the Walloon Region, predominantly francophone, has a German-speaking minority that holds its own Community for personalizable affairs, while the Francophone Community includes Brussels, with a Dutch-speaking minority as well as the francophone part of Wallonia. This territorial-linguistic entanglement prevents the fusion of the Walloon Region and the Francophone Community. Still, voices are currently being heard which demand a “Brussels-Wallonia Federation”, which would be established on the basis of the Community. This would offer Francophones a structure that is more capable of withstanding the power of Flanders. And yet it is unclear whether this would enshrine the preeminence of the communal vision over that of regional aspirations. On the one hand, the term “federation” presumes the recognition of both regions as essential components of a union, but on the other hand, this union could just as well constitute the main entity that could prepare the groundwork for a residual Belgium in case of scission. Furthermore, the place granted to German-speakers would need to be clarified in this institutional schema.

From an institutional perspective, Brussels constitutes a region onto itself, and this, even if it is impeded by several limitations to its autonomy. Nevertheless, given that the capital is an officially bilingual territory, the two communities remain in charge of matters of their responsibility on the territory. Two Community Commissions were established, one for each linguistic pole, and they hold the powers of the communities. Social services and public hospitals, matters which cannot be reduced to linguistic belonging (everyone must be able to go to a hospital of their choice) do not depend on the communities, but rather on a single Community Commission composed exclusively of representatives from Brussels. This new institutional entanglement illustrates the complexity which stems from the desire not to have to choose between communities and regions.

The federated entities legislate by means of decrees that have the same status as federal law. An exception can be noted – yet another asymmetry – as concerns Brussels. The capital Parliament can only vote ordinances, which share the same status as decrees and laws in the Belgium normative hierarchy. Ordinances suffer from a potential limitation, however, since they can be subject to more juridical control than Flemish or Walloon decrees. Furthermore, ordinances pertaining to the image and function of Brussels as the national capital and an international city can be subject to cancelation by federal power, which would in turn trigger a consultation procedure.



With regard to the division of powers, here too asymmetries can be noted. These stem essentially from the transfers of power by the Francophone Community that have been taking place since 1993. The transfers can be explained by the financial difficulties that the community has faced (and continues to face). For pragmatic reasons, political representatives preferred transferring these responsibilities to the regions, which enjoy greater financial autonomy.

THE ABSENCE OF FEDERAL POLITICAL PARTIES

Authors such as British scholar Michael Keating (2001) point out that the Belgian partisan system has atypical traits for a federation, particularly as concerns the absence of federal parties. Indeed, since the scission of the three traditional parties between 1968 and 1978, no party organized on a bilingual basis has succeeded in breaking through. It is therefore said, in short, that there no longer exist any federal political parties. The new parties that have appeared in Parliament since the 1960s have never had a national structure, essentially because they have been regionalist in orientation. Neither the Volksunie in Flanders, nor the Rassemblement Wallon or the Front Démocratique des Francophones in Brussels have ever had national ambitions. The same goes for far-right parties which experienced their first successes in the 1980s. Green parties appeared during this period as well. While they never shared a common structure, it is to be noted that their collaboration extended beyond the linguistic divide, to the point that they constituted a common group in the federal Parliament.

The split personality of political parties explains the highly fragmented nature of the Belgium party system. This fragmentation can also be linked to the decline of traditional parties.

There can thus be found two parallel party systems in Belgium, forming a unique partisan configuration. Even in the electoral riding of Bruxelles-Halle-Vilvoorde, the only bilingual riding, two separate electoral competitions exist. Parties presenting candidates from both linguistic groups are rare, and even when this is the case, they are unable to surpass the threshold needed to gain a seat. In the Parliament of Brussels, while the region is bilingual, bilingual candidate lists are prohibited. Yet electors retain the individual choice to vote for the lists of the linguistic group of their preference (in any case, it is prohibited to force a Brusselian resident to claim any form of linguistic belonging whatsoever).

The two systems inevitably possess common characteristics since the first parties to have integrated them are those issuing from the linguistic scission of the 1960s and 70s. In an almost systematic manner, regionalist, green and far-right parties progressively joined in. If, on the Francophone side, the Rassemblement Wallon disappeared in the 1980s, the Flemish Volksunie only broke apart at the beginning of the 21st Century. Its progressive wing would end up being absorbed by the green party, while its radical wing (N-VA, New Flemish Alliance) is today the top party in the country (27 seats of 150 in the House). On the Dutch-speaking side, there are also a number of smaller parties that have met with mitigated success. In the 2010 federal elections, two populist parties succeeded in breaking through on each side of the linguistic divide, even if less so in Wallonia. Furthermore, old political families have undergone distinctive trajectories, certainly with regard to electoral successes, but sometimes also for (social-Christian) ideological reasons. The north of the country has historically been fertile ground for the Catholic party, while the south is predominantly socialist, Brussels remaining a liberal bastion. Finally, the system of Francophone parties is less fragmented than the Flemish one. If they still share a common base, it remains that after the last 40 years of political developments these two party systems share less and less elements in common.

In the same way that there is no unitary or national party, the Belgian political landscape does not include any party with solely federal or regional ambitions. The regionalist parties run not only at the regional level but also at federal elections, where they have found surefooted successes (recall that the N-VA, the nationalist Flemish party, became in 2010 the top party in the House; the FDF, which linked its destiny to the liberals in the beginning of the 1990s, is largely responsible for maintaining the liberals as the top Brusselian party). This situation brings to light a certain paradox for Flemish nationalists, insofar as they present themselves to the electorate with a program geared

toward Flemish independence and the end of the Belgian state. At the moment of writing the present article, they are first in line to constitute a federal government and must regularly specify that their plan for scission will take place in steps – the first step being the accentuation of federalism by way of a reinforcement of the federated entities.

Interaction between levels of power is such that the parties maintain a preference for the establishment of symmetrical coalition governments between the federal and federated levels, and now even speak in favour of the organization of simultaneous elections, while previous federal reforms anticipated legislatures of a length of four years at the federal level and five at the federated level. Thus, since the federal elections of 2003, Belgium has experimented with asymmetric coalitions of power between the federal and federated levels, which is typical of all federations. Up until then, the electorate had little reason to distinguish between the federal and federated track records on Election Day, given that the coalition partners were identical. The election would sanction the parties in a manner indifferent to the level of power linked to their achievements. Accordingly, parliamentary opposition was constituted by the same parties at the federal and federated levels.

If we combine these elements with the obligation to vote, we understand why the Belgian elector grants the same degree of importance to federal elections as to regional ones. There is no elections of first or second order and the elector's sanction is to be understood as a global expression of satisfaction vis-à-vis a party. This is another specificity of the Belgian political system in relation to that of other Western federations.

Of course, as Keating notes, the federated level is not an intermediary one, but rather “a level of government with its own electoral ridings and a series of powers and responsibilities. These serve a different agenda than regional politics, if compared to national or municipal politics” (Keating, 2003). In Belgium, however, political parties do not necessarily adapt their program in function of the level of power.

Furthermore, parties maintain amongst themselves the non-differentiation of their agendas. References to the federal level are made in regional programs, and conversely. Such a situation becomes possible by virtue of the weak knowledge citizens have with regard to the sharing of power between the different levels of government.

The mobility of political elites also contributes to this confusion. During the federal elections of June 2010, for example, only one regional minister was not a candidate and could thus dedicate himself entirely to his federated mandate, while the others were all on the campaign trail (without having resigned from their portfolio). The mobility factor is also evident during the inauguration of new assemblies following elections, when ministers briefly resign from one level of power in order to take oath at the assembly of the other level.

TWO MEDIA LANDSCAPES

The federalization of the Belgian state began in the early 1960s, when some national departments were organized into two different linguistic wings. This is notably the case of National Education, Culture and Sports. At the same time, two different public broadcasting services were established. While they both still share the same building today in Brussels, they have no programs in common. Like the private media, whether television or print, the public operators address only their own community and opt for highly different approaches: the form and content of the information aired is not identical. The rules and procedures of regulation are also different. In the Francophone Community, for example, the public service provider and local television stations are not permitted to provide access to far-right political parties.

This particularity is at the origin of the controversy that broke out during the electoral campaign of June 2010, when there was a question of organizing a grand federal debate. All of the main parties were supposed to take part in the event, including the Flemish far-right party, Vlaams Belang. But the administrative council of the Francophone station refused, which was badly perceived. After much hesitation and several political interventions, a compromise was finally reached.

The poor mastery of Dutch evidenced by most of the francophone political elite should also be mentioned. Each party was certainly able to delegate a bilingual spokesperson to the televised debates, but only one party president was present. During the government “pre-formation mission” that the King had delegated to Elio Di Rupo (the president of the francophone socialist party), the latter showed continuous good will by systematically opening each of his press conferences in Dutch, even if his accent was highly noticeable. The possibility that Belgium might end up with a francophone Prime Minister became a real one at this point. This would be without precedent in federal Belgium given that the last Walloon to have assumed this responsibility was Edmund Leburton in the middle of the 1970s and the last Brusselian was Paul Vander Boeynants at the end of the same decade.

OBSTACLES TO THE SCISSION

The prospect of scission is commonly evoked in Belgium. During the first tensions of the 2010 negotiations, the threat of a plan B was brandished by francophone political representatives, mostly from the socialist camp. The idea is not new and, typically, there are two obstacles that are invoked – obstacles which optimists consider to be the cement of the federation: Brussels and the shared public debt.

Brussels


Given the prohibition of asking Brusselians to specify their linguistic belonging, there are no official statistics on the distribution of French-speakers and Dutch-speakers in the capital. French has become the lingua franca and, furthermore, more than 90% of residents proclaim to speak French well or very well (Van Parijs, 2007: 6). In fact, the Brusselian population is largely cosmopolitan.

Article 194 of the Constitution indicates that Brussels (in reality just one of the 19 municipalities which form the agglomeration) is the capital of Belgium and the seat of government. Brussels is also the seat of the government and parliament of the country's two main communities, which thereby chose to underline the bilingual aspect of the city-region, while also emphasizing that the latter is under their governance. Indeed, each of them aims to reclaim Brussels in case of scission: Flanders because Brussels is geographically and historically Flemish and the Francophone Community because the city is predominantly French-speaking (the figure of 90% is regularly put forward). Neither community wants to take the risk of leaving the city to the other. Tensions are created by the “Frenchisization” of the portion of Brussels that is in Flanders, which also explains the will of the Flemish to avoid the spread of the francophone “oil stain” into their region and to control each parcel of Flemish territory.

The Flemish parties are the site of intense debates concerning Brussels. While the Brusselian sections of most parties recognize Brussels as a region onto itself, the federal administrators are not entirely in agreement with them and continue to demand a special status for the capital. According to them, Brussels remains a city and therefore cannot enjoy the status of a region, or in any case should not share the same level of autonomy as Wallonia or Flanders.

Currently, Brussels faces three sorts of (potential) limitations. Besides the fact that its parliament legislates through “ordinances” and that some of its decisions are potentially subject to federal recourse, it is important to note that, contrary to the federated entities, it does not dispose of constitutive autonomy. It cannot reform its structures or revise the number of parliamentarians or ministers without an agreement with the federal government, and thus with the two main communities. On this point, there is clearly bi-communal control over Brussels.

The capital is all the more an obstacle to scission insofar as a recent poll showed that its residents would largely opt for a scenario of “solitary” autonomy in opposition to the more classic scenario of integrating Wallonia within a Brussels-Wallonia federation. In fact, Brussels is an obstacle to scission because it is disputed – originally by the Flemish and Francophone Communities, but increasingly by Brusselians themselves. Nonetheless, and without claiming this poll to be a substitute for a referendum, the regionalist ambitions of Brusselians count for little in comparison to the will of political parties that remain organized on a community basis. The core specificity of Belgium federalism is that despite the structure of two-times-three-entities, in reality, the regulation of tensions takes place within an essentially bipolar system.



The Belgian Constitution does not provide a mechanism for the implementation of a process of scission. In December 2006, a public French language television program imagined a scenario of unilateral scission following a vote by the Flemish Parliament for the independence of Flanders. While contested and decried for its simplicity, the program nonetheless had an impact on the public and forced francophone political representatives to take this possibility more seriously.

The cost of scission

In case of the scission of Belgium, it is relevant to inquire about its costs, something which researchers have already done. As far back as 1996, the Coudenberg group published a piece entitled “Cost of Non Belgium”. The question is legitimate in various regards, the most important of which is certainly the manner in which the debt of the Belgian state will be spread among the different entities that will form separate and independent states. This, however, is not the only issue that is at stake.

Indeed, a whole series of variables will need to be taken into account: the commercial interest in new states when compared with the image of the “Belgium brand”; the eventual loss of confidence of investors, the decline of the country’s credit rating, etc. For Brussels, the eventual departure of European and other international institutions (notably NATO) is also invoked, along with the associate decline of benefits for the city that would result.

In the case of scission, because of the loss of solidarity between the different federated entities, the number of states created would have an important impact on government revenues and the overall well-being of citizens. Indeed, it is in the hope of cutting their losses that francophone representatives support a federation between Wallonia and Brussels.

In estimating the costs of scission, the time needed to negotiate between what will remain Belgium partners until the creation of the new states must also be considered. Scission will not be immediate, despite the collective self-image prompted by the Bye Bye Belgium television program, and reinforced by the quick and amiable separation of the two entities of Czechoslovakia in 1992. On the contrary, and this has been a stumbling block for all older federations, a scission will require much more difficult debates than those which occurred in previous reforms of the Belgian state. Indeed, scission of the state also means scission of the whole set of political powers, but especially of the means to ensure the operation of these powers, while for the moment, all that is discussed is the transfer of certain fiscal revenues to the federated entities. Furthermore, negotiators will have to find a solution as concerns the different minority groups: the status of German-speakers in Wallonia, Dutch-speakers in Brussels and the French-speakers in the periphery of Brussels. In sum, negotiations over scission would concentrate all of the sources of tension between the North and South.

A FEDERALISM OF CONFUSION

Given the successive political crises that Belgium has been going through over the last few years, it would seem more logical to ask what Belgium can learn from other federations rather than the opposite. To underline Belgian specificities in relation to other federal states is almost to emphasize things not to do. In reality, given that Belgian federalism functions in the manner of federalism by default (it is surely more precise to speak of federation by default than federalism proper), the lessons which can be learned can only ever be lessons by default as well.

Belgian federalism is recent. If we refer to the Constitution, it is only 20 years old. In actual fact, the first federated entities were granted legislative and executive powers in 1980, but already a discrepancy existed insofar as Brussels was not enshrined as a constituent part of the federation. It would take another nine years to finally arrive at a balanced federal structure, with each entity potentially possessing the same powers. The structures put into place typically do not last for more than ten years before there arises the felt necessity of a new reform. Belgium is therefore not an institutionally stable federation, or at least not stable in any kind of permanent sense. Rather, its persistence rests on the heritage of a political culture arising from consociationalism, which has structured Belgian society and continues to be felt, although to a lesser degree.

It should also be noted that, contrary to federalist vocabulary, the term “federation” is never used in Belgium and that “state” refers to the federal level. When commentators take the risk of speaking of “states” to refer to the federated entities, reactions and protests are quickly heard. The only times that “federation” is used on the francophone side is to identify the Francophone Community, which is a federated entity.

The Belgian case is not only federalism by default, then, but also a still recent federalism in which political representatives would seem to be having trouble finding their bearings. In contradistinction to mature federations where various mechanisms have been introduced, where confidence has been built up and a federal formula has been (almost) definitely established and accepted by all, Belgian political representatives have different visions of the federation’s center of gravity, depending on the entity they are defending. Between political parties (of a same community), or even within parties themselves, positions can vary vertically (federal or federated) or horizontally (region or community), with all combinations being possible. Public opinion, which is rarely queried in a scientific and representative manner, is no less confused about its orientations within this matrix.

Neither is there any consensus regarding the direction that the Belgian federation should take. It seems certain, since the summer of 2010, that the centre of gravity will irreversibly displace itself from the federal state toward the federated entities, but this does not tell us which entity will prevail: region or community? Undoubtedly, here too we are moving toward a solution by default. Nothing will be clear, and decisions will be evaluated according to the means of each entity (which have, it should be recalled, asymmetric powers) and especially according to the interpretations that political representatives wish to make. The Belgian political vocabulary remains a highly polysemous one and, if there is a deliberate choice, it is surely this one.

This semantic ambiguity can be found in the choice of scenarios that could apply following negotiations. There is the possibility of a further accentuated federalism, confederalism and separatism, to borrow the terms which are most frequently used. A tentative definition can be offered at this point. In the Belgian political vocabulary, the expression “a further accentuated federalism” simply means federalism. There is general ignorance by the members of the political class regarding the juridical and political content of these terms, which is normal enough

considering that this is not their profession. On the Francophone side, a myth is maintained to the effect that a federation can only have but one (federal level) juridical system. Accordingly, francophone political representatives take for granted that residual powers must remain within the ambit of the federal state, which clearly contradicts the mode of functioning of most other federations.


In the juridical sense, confederalism and separatism stem from the same process: the scission of the federation and the creation of distinct and sovereign states. In reality, only the final structure would vary here given that in the case of a confederation, the independent states would arrange a union a minima, while in the scenario of a pure and simple separation, total autonomy would be enshrined, without any links between the different countries except for treaties.

In addition, no definition of confederalism imposes on member states the requirement of having had a separate existence prior. If it were a question of putting an end to the Belgian federation, it would thus be politically conceivable to negotiate at once a scission and the creation of a confederation, whereupon the whole package would be voted by different parliaments the same day. It would thus be federal and federated representatives that would negotiate the scission, the federal parliament that would vote for ending federation and the ex-federated parliaments that would enshrine the establishment of a confederal system. In this sense, it is fair to say that confederalism is not the same as separatism. It is also worth recalling that, in the Belgian Constitution, there is no “exit” mechanism. A secession or dissolution scenario was not anticipated, which means that the implementation of an ad hoc institutional system would have to suffice in order to declare the secession of Flanders or even the end of the Belgian federal state altogether.

A positive point must nonetheless be emphasized, even if it is rarely perceived as such: despite recurrent political crises, the Belgian system is relatively stable. The country has not faced a revolution since its independence (1830). This can be readily explained by the heterogeneous and consociative character of Belgian democracy insofar as this requires that the country always be governed by a coalition.

In addition, the Constitution and its mode of revision prevent any political coup de force. There needs to be a minimum of two legislatures to modify the Constitution, even though these legislatures can be (noticeably) short-circuited by the convocation of early elections. As such, qualified majorities will always be required. Contrary to federations where double majorities are needed (with a majority of both states and citizens), in Belgium the federated entities are not active participants in institutional reform, at least not officially. They may be consulted in the process, but this is not at all required. It is thus conceivable that only certain partners participate in the negotiations (the two main communities) but not the others (Brussels and the German-speaking Community). The federated assemblies do not therefore declare their support for the solution that is held out, nor with regard to eventual new powers being attributed to them, or taken away. There is no referendum, either. Only the vote of federal parliamentarians counts insofar as they are representatives of the entire nation, as stipulated in the Constitution.

The fact that there is no political representative elected by the whole nation certainly allows us to temper the importance of the federal parliament in taking decisions with regard to institutional reform. Indeed, this enshrines the importance of the communities insofar as they durably structure the party system and the Belgian political landscape. Not only are laws, decrees and ordinances equal, but furthermore, there is no hierarchy between the two types of federated entity. In fact, this ambiguity is carefully maintained. It is therefore the parties of the



communities that structure political life. Federal parliamentarians are elected by their own community since there is neither a federal party, nor a federal constituency. Paradoxically, the community parliamentarians are not directly elected, but rather are elected by way of the regions. The latter are the most fiscally autonomous entities, alongside the federal state, while the communities are dependent on financial transfers.

In addition, the asymmetry in terms of powers and administrative capacities of the different entities reinforces confusion and difficulties of understanding, and not only for the citizen. Following the 2010 election, there was a proposal to negotiate only the content of new state reforms and only later to consolidate a majority government agreement. If these negotiations persist, are interrupted and even blocked, it is precisely because the partners are trapped in the confusion surrounding Belgian federalism by default.

CONCLUSION

Belgian federalism has few lessons to provide to already existing federations. Perhaps the most it can offer is food for thought with regard to necessary safeguards that should be put into place. For federations in-the-making, we can firstly identify the difficulties inherent to the maintenance of a bipolar system, which forcibly bring about a zero-sum game.

Secondly, the Belgian consociative tradition pushed toward the creation of two types of federated entities, each overlapping with the other but placed on an equal footing. If this solution was certainly the most appropriate during the initial transformation of the Belgian state, it is unsustainable over the long term. Far from solving the discrepancies of vision and ambition of the two main partners of the federation, this formula has sustained confusion and merely comforted each partner in their choice.

Thirdly, while a series of mechanisms of conflict prevention are anticipated for a case in which a partner perceives a threat to federal loyalty, these have more to do with consociationalism than with federalism. With the exception of Venezuela, federations have organized their legislative power into two assemblies, one of which is considered as the House of the federated entities. In Belgium, this system is very limited, imperfect and does not guarantee taking into account the whole set of actors within the federation, notably regarding decisions which engage them. The lesson here points toward making each constituent entity politically responsible: making them participate in political decisions would oblige them to back and shoulder these decisions.

Fourthly, the Belgian experience would recommend maintaining ties between the different component parts, in different domains. The Belgian framework does not lend itself to this, to say the least, but the lesson that Belgium could take from the experience of other federations is an interest in the existence of federal parties to maintain a sense of attachment, even if limited, between the different entities. Electoral competition could thus focus on ideological opposition rather than on the opposition between the different components of the federation. At a political level, the Belgian solution could be a federal constituency where federal parties can accrue the electoral legitimacy of representatives by making them accountable and requiring them to campaign before all citizens and not just those of their community. Additionally, even if the point has not been taken up here, education should also permit greater familiarity with the other partners, of their language and reality.

Fifthly, in matters of public finance, it seems unwise to make certain entities entirely dependent on financial transfers, especially if powers are transferred but without providing the means to use them. If asymmetry is not in itself a cause of tension, forced economic asymmetry can only be problematic. On this particular point, it would be important for Belgium to learn from foreign experiences, even though it would seem that the permanent ambiguity between Communities and Regions, as well as the destabilizing economic situation, are at the heart of the current blockage.

Finally, it should be noted that the consociative tradition is beneficial insofar as compromise has always been emphasized. Thus even if the federation is wobbly, a capacity for compromise provides the overall system with a margin of stability. The cooperation inspired by the socio-economic sphere makes for the success and reputability of the neo-corporatist character of Belgium. In case of a blockage, a conciliator is called upon to meet the partners and to create openings and options. This avenue was in fact pursued by the King in the fall of 2010 following institutional negotiations. It could potentially serve as a positive lesson that the overall Belgium experience (not just its federal experience) could bring to other federations.

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